

Assembly Bill No. 2630

CHAPTER 412

An act to amend Sections 55901, 55922, 56631, and 56652 of the Food and Agricultural Code, relating to farm products.

[Approved by Governor September 11, 2000. Filed
with Secretary of State September 12, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2630, Ashburn. Farm products: processors and produce dealers.

Existing law regulates the licensing of processors of farm products and produce dealers as well as certain commercial transactions and other related activity engaged in by processors and dealers. Except as specified, any misdemeanor prescribed for a violation of the provisions governing both processors and dealers is punishable by a fine of not less than \$500 or more than \$2,000, or by imprisonment in a county jail for not more than one year, or by both the fine and imprisonment. Additionally, any person that violates those provisions is liable civilly in the sum of \$500 for each and every violation.

This bill would increase the maximum fine for a misdemeanor violation to \$5,000 and revise the civil penalty to provide for a sum of not less than \$500 or more than \$1,000.

This bill would also incorporate additional amendments to Sections 55901, 55922, 56631, and 56652 of the Food and Agricultural Code proposed by SB 1535.

The people of the State of California do enact as follows:

SECTION 1. Section 55901 of the Food and Agricultural Code is amended to read:

55901. Except as specified in Section 55902, any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 1.5. Section 55901 of the Food and Agricultural Code is amended to read:

55901. (a) Except as specified in Section 55902, any misdemeanor which is prescribed by this article is punishable by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.



(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall adopt regulations to implement this subdivision by June 1, 2002.

SEC. 2. Section 55922 of the Food and Agricultural Code is amended to read:

55922. Any person that violates any provision of this chapter is liable civilly in the sum of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) for each and every violation, this sum to be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 2.5. Section 55922 of the Food and Agricultural Code is amended to read:

55922. (a) Any person that violates any provision of this chapter is liable civilly in the sum of five hundred dollars (\$500) or more than one thousand dollars (\$1,000) for each and every violation, this sum to be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered under this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.



SEC. 3. Section 56631 of the Food and Agricultural Code is amended to read:

56631. Except as specified in Section 56632, any misdemeanor which is prescribed in this article is punishable by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

SEC. 3.5. Section 56631 of the Food and Agricultural Code is amended to read:

56631. (a) Except as specified in Section 56632, any misdemeanor which is prescribed in this article is punishable by a fine of not less than five hundred dollars (\$500) or more than five thousand dollars (\$5,000), by imprisonment in the county jail for not more than one year, or by both the fine and imprisonment.

(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.

SEC. 4. Section 56652 of the Food and Agricultural Code is amended to read:

56652. Any person that violates any provision of this chapter is liable civilly in the sum of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) for each and every violation. This sum shall be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered pursuant to this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.

SEC. 4.5. Section 56652 of the Food and Agricultural Code is amended to read:

56652. (a) Any person that violates any provision of this chapter is liable civilly in the sum of five hundred dollars (\$500) or more than one thousand dollars (\$1,000) for each and every violation. This sum shall be recovered in an action by the secretary in any court of competent jurisdiction. All sums which are recovered pursuant to this section shall be deposited in the State Treasury to the credit of the Department of Food and Agriculture Fund.



(b) For a violation of the offense described in subdivision (a), the department may recover investigative costs, excluding attorneys' fees and administrative overhead, for those charges where there has been a conviction in a court of law, or a settlement of a stipulated agreement has been reached in lieu of a court action. Nothing in this section allows the department to recover investigative costs for an administrative licensing action or any action that has not been filed in a court of law.

(c) Any person or entity responsible for investigative costs under this section shall be allowed to audit the department's investigative costs. The audit must be performed by a third-party Certified Public Accountant and paid for by the person or entity requesting the audit. The department shall promulgate regulations to implement this subdivision by June 1, 2002.

SEC. 5. Section 1.5 of this bill incorporates amendments to Section 55901 of the Food and Agricultural Code proposed by both this bill and SB 1535. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 55901 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 1 of this bill shall not become operative.

SEC. 6. Section 2.5 of this bill incorporates amendments to Section 55922 of the Food and Agricultural Code proposed by both this bill and SB 1535. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 55922 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 2 of this bill shall not become operative.

SEC. 7. Section 3.5 of this bill incorporates amendments to Section 56631 of the Food and Agricultural Code proposed by both this bill and SB 1535. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 56631 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 3 of this bill shall not become operative.

SEC. 8. Section 4.5 of this bill incorporates amendments to Section 56652 of the Food and Agricultural Code proposed by both this bill and SB 1535. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2001, (2) each bill amends Section 56652 of the Food and Agricultural Code, and (3) this bill is enacted after SB 1535, in which case Section 4 of this bill shall not become operative.

