

AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE APRIL 28, 2010

AMENDED IN SENATE APRIL 19, 2010

AMENDED IN SENATE APRIL 5, 2010

SENATE BILL

No. 1157

Introduced by Senator DeSaulnier

February 18, 2010

An act to add Section 17615 to the Education Code, and to amend ~~Section~~ Sections 12841 and 13183 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1157, as amended, DeSaulnier. Education: Healthy Schools Act of 2010.

(1) Existing law generally regulates pesticide use and requires the Department of Pesticide Regulation to promote and facilitate the voluntary adoption of integrated pest management by school districts. *Existing law requires every person who sells a pesticide product for use in this state that has been registered by the Director of Pesticide Regulation to pay an assessment at a specified rate.*

This bill, commencing January 1, 2014, would require all schoolsites to adopt an integrated pest management program as established, administered, and enforced by the department. *This bill would also*

require, beginning January 1, 2012, that the rate of the assessment on registered pesticide products be augmented to reimburse the department, local agencies, and school districts for the cost of adopting integrated pest management programs at schoolsites.

Because the bill would impose new duties on school districts, it would impose a state-mandated local program.

~~This bill would require the Department of Pesticide Regulation, beginning January 1, 2012, and annually thereafter, to set an adequate fee on manufacturers and brokers of pesticides used at schoolsites. The bill would require the department to develop and adopt regulations to establish the amount of the fee, as specified.~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

- 1 SECTION 1. (a) The Legislature hereby finds and declares
- 2 all of the following:
- 3 (1) Pesticides have been linked to numerous acute and chronic
- 4 illnesses, including cancer and asthma.
- 5 (2) According to the federal Centers for Disease Control and
- 6 Prevention, children between 6 and 11 years of age have higher
- 7 levels of commonly used pesticides in their bodies than any other
- 8 age group, with an average of six pesticides per child. According
- 9 to research conducted by the University of California, San
- 10 Francisco, children's diseases and conditions linked to pesticide
- 11 exposure, which include learning disabilities, cancer of the brain
- 12 and leukemia, birth defects, and asthma, have increased
- 13 dramatically over the past 30 years. Because children's bodies and
- 14 brains are still developing, exposure to pesticides can have
- 15 irreversible detrimental effects.
- 16 (3) Recognizing the impact of pesticides on the school
- 17 community, the Department of Pesticide Regulation has developed

1 an Internet Web site, written training materials, and conducted
2 regional training sessions to assist schools that have chosen to
3 adopt least-toxic integrated pest management techniques and to
4 eliminate use of the most dangerous pesticides.

5 (4) However, many California public schools continue to use
6 highly toxic pesticides. Least-toxic pest management activities
7 have actually decreased from 2004 to 2007, inclusive, as measured
8 by the report titled, 2007 Integrated Pest Management Survey of
9 California School Districts, prepared for the Department of
10 Pesticide Regulation. Forty-two percent of school districts that
11 responded to the survey stated that they were still broadcast
12 spraying pesticides, one of the highest risk practices for exposing
13 children and staff and contaminating the environment. Of the
14 school districts that claimed to be implementing integrated pest
15 management practices, 62 percent stated that the costs were the
16 same or less than using chemical-intensive methods.

17 (5) According to the State Department of Education, there are
18 over 1,000 school districts, and about 9,900 schoolsites in
19 California servicing over 6,000,000 pupils.

20 (6) It is necessary to take precautionary measures to protect the
21 health and safety of California schoolchildren and teachers, and
22 better ensure a safe learning and working environment.

23 (b) This act shall be known, and may be cited, as the Healthy
24 Schools Act of 2010.

25 ~~SEC. 2. Section 17615 is added to the Education Code, to read:~~

26 ~~17615. (a) A fund is hereby established in the State Treasury~~
27 ~~to be known as the Healthy Schools Act of 2010 Fund. Moneys~~
28 ~~deposited in this fund may be expended by the Director of Pesticide~~
29 ~~Regulation, upon appropriation by statute, for the purposes of~~
30 ~~implementing the Healthy Schools Act of 2010.~~

31 ~~(b) The Department of Pesticide Regulation shall, beginning~~
32 ~~January 1, 2012, and annually thereafter, set the amount of a fee~~
33 ~~on manufacturers and brokers of pesticides used at schoolsites,~~
34 ~~that the department determines to be sufficient and limited to~~
35 ~~reimburse the department for the cost of administering and~~
36 ~~enforcing the Healthy Schools Act of 2010 and to reimburse~~
37 ~~schooolsites for the costs of implementing the Healthy Schools Act~~
38 ~~of 2010.~~

1 ~~(c) The Department of Pesticide Regulation shall develop and~~
2 ~~adopt regulations to establish the amount of an adequate fee for~~
3 ~~purposes of implementing the Healthy Schools Act of 2010.~~

4 ~~(d) The Department of Pesticide Regulation shall borrow moneys~~
5 ~~from the Department of Pesticide Regulation Fund to cover the~~
6 ~~department's costs in developing and adopting regulations and~~
7 ~~establishing a fee for purposes of implementing the Healthy~~
8 ~~Schools Act of 2010. The department shall repay the loan using~~
9 ~~moneys from the Healthy Schools Act of 2010 Fund as they~~
10 ~~become available.~~

11 *SEC. 2. Section 12841 of the Food and Agricultural Code is*
12 *amended to read:*

13 12841. (a) It is unlawful for a person to sell for use in this state
14 any pesticide products that have been registered by the director
15 for which the mill assessment established by this article, and the
16 regulations adopted pursuant to it, is not paid at the times specified
17 in Section 12843.

18 (b) Except as provided in subdivision (d), every person who
19 sells for use in this state a pesticide product that has been registered
20 by the director shall pay to the director the applicable assessment.
21 Those sales expressly include all sales made electronically,
22 telephonically, or by any other means that result in a pesticide
23 product being shipped to or used in this state. There is a rebuttable
24 presumption that pesticide products that are sold or distributed
25 into or within this state by any person are sold or distributed for
26 use in this state.

27 (c) (1) Upon application of a registrant, the director shall
28 determine whether a fertilizer or paper product is used as a carrier
29 for a pesticide, and is sold in combination, and whether the mill
30 assessment under this article shall be on the pesticide value only,
31 when the product is designed, developed, and manufactured, and
32 sold primarily for other than a pesticide use. If the director finds
33 that the combination product has such a major component and is
34 designed, developed, manufactured, and sold primarily for other
35 than a pesticide use, the assessment provided by this article shall
36 be paid on the equivalent percentage of the sales price of the active
37 ingredients of the pesticide product. The director shall establish
38 this percentage of the sales price. The percentage shall be the ratio
39 of that portion of the sales price attributable to the pesticide portion
40 to the total sales price of the combination product.

1 (2) For purposes of this section, “active ingredient” means any
2 active ingredient that is required to be stated on the label on any
3 registered pesticide under Section 12883.

4 (d) Assessments provided for in this article for sales of registered
5 pesticides that are sold for use in this state shall be paid by the
6 registrant except as follows:

7 (1) In those cases where the registrant did not first sell the
8 pesticide into or within this state or have actual knowledge, at the
9 time of its sale, that the pesticide would be sold for use in this
10 state, the assessment shall be paid by the licensed pesticide broker,
11 licensed pest control dealer, or other person who first sold the
12 pesticide for use in this state.

13 (2) A person is not required to pay an assessment on registered
14 products that are labeled only for use in further manufacturing or
15 formulating of pesticides.

16 (e) It has been and continues to be the intent of the Legislature
17 that this division requires the department to register all pesticides
18 prior to their sale for use in this state and, except as otherwise
19 provided by law, requires the department to regulate and control
20 the use of pesticides in accordance with this division. Except as
21 provided in Section 12841.1, the department shall continue to
22 collect the assessment as provided in this article at the same rate
23 on all registered agricultural and registered nonagricultural
24 pesticides.

25 (f) (1) The mill assessment shall be paid at the following rates
26 per dollar of sales for all sales of pesticides for use in this state:

27 (A) From January 1, 1998, to March 31, 1999, inclusive, the
28 rate shall be 15.15 mills (\$0.01515) plus any additional assessment
29 authorized by Section 12841.1.

30 (B) From April 1, 1999, to December 31, 2002, inclusive, the
31 rate shall be 17.5 mills (\$0.0175) plus any additional assessment
32 authorized by Section 12841.1.

33 (C) From January 1, 2003, to December 31, 2003, inclusive,
34 the rate shall be 17.5 mills (\$0.0175).

35 (D) (i) For all transactions on or after January 1, 2004, the
36 actual rate shall be that set by regulations adopted by the director
37 at a rate adequate to support the department’s annual expenditures
38 authorized in the annual Budget Act and provide a prudent reserve.
39 The rate set by the director shall be no greater than 21 mills
40 (\$0.021). However, if regulations are not adopted before a payment

1 is due, payment shall be made at the rate of 17.5 mills (\$0.0175),
2 and, upon adoption of regulations, payment of any additional
3 amount due shall be made.

4 (ii) *Beginning January 1, 2012, the actual rate shall be*
5 *augmented, as set by regulations adopted by the director, at a rate*
6 *adequate to reimburse the department for the cost of administering*
7 *and enforcing Section 13183, and reimbursing local agencies and*
8 *school districts for the cost of implementing Section 13183.*

9 (2) The regulations adopted pursuant to this section, or any
10 amendment thereto, shall be adopted by the director in accordance
11 with Chapter 3.5 (commencing with Section 11340) of Part 1 of
12 Division 3 of Title 2 of the Government Code. However, the
13 adoption, amendment, readoption, or repeal of these regulations
14 shall be considered by the Office of Administrative Law as an
15 emergency, and necessary for the immediate preservation of the
16 public peace, health, safety, and general welfare. Notwithstanding
17 any other provision of law, the regulations shall remain in effect
18 until amended by the director. The director shall make available
19 to the public, upon the adoption of an emergency regulation
20 establishing a new rate, the information upon which the director
21 has calculated, based, or determined the new rate.

22 (g) The revenue collected pursuant to this section shall be
23 deposited in the Department of Pesticide Regulation Fund and
24 distributed as follows:

25 (1) Notwithstanding Sections 2282 and 12784, the director shall
26 pay, in accordance with the criteria set forth in Section 12844, the
27 following amounts to the counties as reimbursement for costs
28 incurred by the counties in the administration and enforcement of
29 Division 6 (commencing with Section 11401), this chapter, Chapter
30 3 (commencing with Section 14001), Chapter 3.4 (commencing
31 with Section 14090), and Chapter 3.5 (commencing with Section
32 14101):

33 (A) From January 1, 1998, to March 31, 1998, inclusive,
34 five-eighths of the money received during that period pursuant to
35 this section.

36 (B) From April 1, 1998 to June 30, 2004, an amount equal to
37 the revenue derived from 6 mills (\$0.006) per dollar of sales for
38 all pesticide sales for use in this state.

(C) Beginning July 1, 2004, an amount equal to the revenue derived from 7.6 mills (\$0.0076) per dollar of sales for all pesticide sales for use in this state.

(2) All funds not otherwise distributed pursuant to this subdivision shall remain in the Department of Pesticide Regulation Fund and shall be available for expenditure, upon appropriation, to support the department's operations.

SEC. 3. Section 13183 of the Food and Agricultural Code is amended to read:

13183. (a) The Department of Pesticide Regulation shall promote and facilitate the voluntary adoption of integrated pest management programs for schoolsites, excluding privately operated child day care facilities, as defined in Section 1596.750 of the Health and Safety Code, that voluntarily choose to do so. For these schoolsites, the department shall do all of the following:

(1) Establish an integrated pest management program for schoolsites consistent with Section 13181. In establishing the program, the department shall:

(A) Develop criteria for identifying least-hazardous pest control practices and encourage their adoption as part of an integrated pest management program at each schoolsite.

(B) Develop a model program guidebook that prescribes essential program elements for schoolsites that have adopted a least-hazardous integrated pest management program. At a minimum, this guidebook shall include guidance on all of the following:

- (i) Adopting an IPM policy.
- (ii) Selecting and training an IPM coordinator.
- (iii) Identifying and monitoring pest populations and damage.
- (iv) Establishing a community-based school district advisory committee.
- (v) Developing a pest management plan for making least-hazardous pest control choices.
- (vi) Contracting for integrated pest management services.
- (vii) Training and licensing opportunities.
- (viii) Establishing a community-based right-to-know standard for notification and posting of pesticide applications.
- ~~(xi)~~
- (ix) Recordkeeping and program review.

1 (2) Make the model program guidebook available to schoolsites
2 and establish a process for systematically updating the guidebook
3 and supporting documentation.

4 (b) Commencing on January 1, 2014, all schoolsites shall adopt
5 an integrated pest management program consistent with Section
6 13181, as established, administered, and enforced by the
7 department.

8 (c) The department shall promote and facilitate the voluntary
9 adoption of integrated pest management programs at child day
10 care facilities, as defined in Section 1596.750 of the Health and
11 Safety Code, through the following:

12 (1) Modifying the department's existing integrated pest
13 management program for schoolsites as described in subdivision
14 (a) for the child day care setting.

15 (2) Creating or modifying existing educational and informational
16 materials on integrated pest management for the child day care
17 setting.

18 (3) Making the materials available to child day care facilities
19 and establishing a process for systematically updating them.

20 SEC. 4. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.