

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 25, 2008

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 2168

Introduced by Assembly Member Jones

February 20, 2008

An act to amend Sections 47000, 47001, 47002 ~~and~~, and 47003 of, and to add Article 5 (commencing with Section 47030) to Chapter 10.5 of Division 17 of, the Food and Agricultural Code, and to amend Section 113789 of, to add Section 113778.2 to, and to add Chapter 12.5 (commencing with Section 114375) to Part 7 of Division 104 of, the Health and Safety Code, relating to farm stands.

LEGISLATIVE COUNSEL'S DIGEST

AB 2168, as amended, Jones. Farm stands: direct marketing: retail food.

Existing law sets forth various findings and declarations relating to the direct marketing of agricultural products.

This bill would state that it is the intent of the state to promote the consumption of California-grown produce, as specified.

Existing law authorizes the Secretary of Food and Agriculture to adopt regulations to encourage the direct sale by farmers to consumers of all types of California agricultural products, as specified.

This bill would, instead, authorize the adoption of those regulations to encourage the direct sale by farmers to the public of all types of California agricultural products. The bill would also specify that the

regulations may include provisions to ensure that selling activities are conducted without fraud, deception, or misrepresentation.

Existing law provides for the direct marketing of agricultural products, including through certified farmers’ markets or at a retail stand located at or near the point of production, subject to specified conditions.

This bill would delete language authorizing this direct marketing by retail stands located at or near the point of production, and would instead authorize retail stands, as defined, to engage in similar direct marketing, subject to similar conditions. This bill would also establish farm stands, as defined, subject to certain specified requirements, as another form of direct marketing outlet. The products available from, and the restrictions and requirements that apply to, these direct marketing venues would vary, as specified.

Existing law provides that any violation of these provisions is a misdemeanor.

Because this bill would create a new crime, the bill would impose a state-mandated local program.

Existing law, the California Retail Food Code (CRFC), provides for the regulation of health and sanitation standards for retail food facilities by the State Department of Public Health. Existing law defines “food facility” for these purposes. A violation of any provision of the CRFC is a misdemeanor.

This bill would include farm stands, as defined, for purposes of permitting and enforcement, within the definition of “food facility.” The bill would require farm stands to meet specified requirements. By creating new crimes, this bill would impose a state-mandated local program.

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 no reimbursement is required by this act for a specified reason.

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. Section 47000 of the Food and Agricultural Code
- 2 is amended to read:

1 47000. The Legislature finds and declares all of the following
2 with regard to the direct marketing of agricultural products:

3 (a) Direct marketing of agricultural products benefits the
4 agricultural community and the consumer by, among other things,
5 providing an alternative method for growers to sell their products
6 while benefiting the consumer by supplying quality produce at
7 reasonable prices.

8 (b) Direct marketing is a good public relations tool for the
9 agricultural industry that brings the farmer face-to-face with
10 consumers.

11 (c) The marketing potential of a wide variety of
12 California-produced agricultural products should be maximized.

13 (d) The department should maintain a direct marketing program
14 and the industry should continue to encourage the sale of
15 California-grown fresh produce.

16 (e) It is the intent of the state to promote the consumption of
17 California-grown produce and to promote access to
18 California-produced agricultural products. Restaurants and
19 nonprofit organizations can provide assistance in bringing
20 California-grown products to all Californians.

21 (f) A regulatory scheme should be developed that provides the
22 flexibility that will make direct marketing a viable marketing
23 system.

24 (g) The department should assist producers in organizing
25 certified farmers' markets and other forms of direct marketing by
26 providing technical advice on marketing methods and in complying
27 with the regulations that affect direct marketing programs.

28 (h) The department is encouraged to establish an ad hoc advisory
29 committee to assist the department in establishing regulations
30 affecting direct marketing of products and to advise the secretary
31 in all matters pertaining to direct marketing.

32 SEC. 2. Section 47001 of the Food and Agricultural Code is
33 amended to read:

34 47001. (a) The secretary may adopt regulations to encourage
35 the direct sale by farmers to the public of all types of California
36 agricultural products.

37 (b) These regulations may include provisions to ensure and
38 maintain quality and wholesomeness of the products, and to ensure
39 that the selling activities are conducted without fraud, deception,
40 or misrepresentation.

1 SEC. 3. Section 47002 of the Food and Agricultural Code is
2 amended to read:

3 47002. California farmers may transport for sale and sell
4 California-grown fresh fruits, nuts, and vegetables that they
5 produce, directly to the public, which produce shall be exempt
6 from size, standard pack, container, and labeling requirements, at
7 a certified farmers’ market subject to the following conditions:

8 (a) All fresh fruits, nuts, and vegetables sold shall comply with
9 the California Code of Regulations governing maturity and quality.

10 (b) No exemption granted by this section supersedes the
11 provisions of federal marketing orders, state marketing orders, or
12 any health and safety laws, regulations, or ordinances.

13 (c) All fresh fruits, nuts, and vegetables sold in closed consumer
14 containers shall be labeled with the name, address, and ZIP Code
15 of the producer, and a declaration of identity and net quantity of
16 the commodity in the package.

17 SEC. 4. Section 47003 of the Food and Agricultural Code is
18 amended to read:

19 47003. The secretary may establish qualifications for persons
20 selling products directly to the public whenever the sales involve
21 the use of any exemption granted by this chapter. Certified farmers’
22 markets and other direct marketing outlets and distributors may
23 likewise be subject to qualifications.

24 SEC. 5. Article 5 (commencing with Section 47030) is added
25 to Chapter 10.5 of Division 17 of the Food and Agricultural Code,
26 to read:

27
28 Article 5. Other Direct Marketing Outlets and Distributions

29
30 47030. Retail stands are producer owned and operated premises
31 located at or near the point of production where the producer may
32 transport for sale and sell California-grown fresh fruits, nuts, and
33 vegetables that he or she produces, directly to the public, which
34 produce shall be exempt from size, standard pack, container, and
35 labeling requirements, subject to the following conditions:

36 (a) All fresh fruits, nuts, and vegetables sold shall comply with
37 the provisions of the California Code of Regulations governing
38 maturity and quality.

1 (b) No exemption granted by this section supersedes the
2 provisions of federal marketing orders, state marketing orders, or
3 any health and safety laws, regulations, or ordinances.

4 47050. Farm stands are retail stands that are producer owned
5 and operated on premises located at or near the point of production,
6 established in accordance with local ordinances and land use codes,
7 operated by a California producer, selling or offering for sale only
8 California produce grown by the producer, or shell eggs, or both,
9 those sales being conducted on premises controlled by the producer,
10 that also engage in sales of bottled water, containers of soft drinks,
11 or prepackaged processed agricultural products. These producers
12 may transport for sale and sell at a farm stand, California-grown
13 fresh fruits, nuts, and vegetables that they produce, directly to the
14 public, which produce shall be exempt from size, standard pack,
15 container, and labeling requirements, subject to the following
16 conditions:

17 (a) All fresh fruits, nuts, and vegetables sold shall comply with
18 the provisions of the California Code of Regulations governing
19 maturity and quality.

20 (b) No exemption granted by this section supersedes the
21 provisions of federal marketing orders, state marketing orders, or
22 any health and safety laws, regulations, or ordinances.

23 SEC. 6. Section 113778.2 is added to the Health and Safety
24 Code, to read:

25 113778.2. “Farm stands” are premises, established in
26 accordance with local ordinances and land use codes, defined under
27 and operated pursuant to Chapter 10.5 (commencing with Section
28 47000) of Division 17 of the Food and Agricultural Code and
29 regulations adopted and enforced pursuant to that chapter, operating
30 within the requirements set forth in paragraph (6) of subdivision
31 (c) of Section 113789, that also engage in sales of bottled water,
32 containers of soft drinks, or prepackaged processed agricultural
33 products that are not classified as potentially hazardous foods and
34 that have been prepared and packaged in an approved source
35 facility.

36 SEC. 7. Section 113789 of the Health and Safety Code is
37 amended to read:

38 113789. (a) “Food facility” means an operation that stores,
39 prepares, packages, serves, vends, or otherwise provides food for

- 1 human consumption at the retail level, including, but not limited
2 to, the following:
- 3 (1) An operation where food is consumed on or off the premises,
4 regardless of whether there is a charge for the food.
 - 5 (2) Any place used in conjunction with the operations described
6 in this subdivision, including, but not limited to, storage facilities
7 for food-related utensils, equipment, and materials.
- 8 (b) “Food facility” includes permanent and nonpermanent food
9 facilities, including, but not limited to, the following:
- 10 (1) Public and private school cafeterias.
 - 11 (2) Restricted food service facilities.
 - 12 (3) Licensed health care facilities.
 - 13 (4) Commissaries.
 - 14 (5) Mobile food facilities.
 - 15 (6) Mobile support units.
 - 16 (7) Temporary food facilities.
 - 17 (8) Vending machines.
 - 18 (9) Certified farmers’ markets, for purposes of permitting and
19 enforcement.
 - 20 (10) Farm stands, for purposes of permitting and enforcement.
- 21 (c) “Food facility” does not include any of the following:
- 22 (1) A cooperative arrangement wherein no permanent facilities
23 are used for storing or handling food.
 - 24 (2) A private home.
 - 25 (3) A church, private club, or other nonprofit association that
26 gives or sells food to its members and guests, and not to the general
27 public, at an event that occurs not more than three days in any
28 90-day period.
 - 29 (4) A for-profit entity that gives or sells food at an event that
30 occurs not more than three days in a 90-day period for the benefit
31 of a nonprofit association, if the for-profit entity receives no
32 monetary benefit, other than that resulting from recognition from
33 participating in an event.
 - 34 (5) Premises set aside for wine tasting, as that term is used in
35 Section 23356.1 of the Business and Professions Code and in the
36 regulations adopted pursuant to that section, if no food or beverage
37 is offered for sale for onsite consumption.
 - 38 (6) Premises operated by a producer, selling or offering for sale
39 only whole produce grown by the producer, or shell eggs, or both,

1 provided the sales are conducted on premises controlled by the
2 producer.

3 (7) A commercial food processing plant as defined in Section
4 111955.

5 SEC. 8. Chapter 12.5 (commencing with Section 114375) is
6 added to Part 7 of Division 104 of the Health and Safety Code, to
7 read:

8

9

CHAPTER 12.5. FARM STANDS

10

11 114375. Farm stands shall be in conformity with the definition
12 and provisions of Section 113778.2 and meet all of the following
13 requirements:

14 (a) No food preparation or sampling of products shall occur,
15 except under conditions and in a manner approved by the local
16 law enforcement agency having jurisdiction.

17 (b) All prepackaged processed food products shall meet the
18 applicable requirements provided in Section 113980 and be stored
19 in an approved vector proof area or container when the farm stand
20 facility is closed.

21 SEC. 9. No reimbursement is required by this act pursuant to
22 Section 6 of Article XIII B of the California Constitution because
23 the only costs that may be incurred by a local agency or school
24 district will be incurred because this act creates a new crime or
25 infraction, eliminates a crime or infraction, or changes the penalty
26 for a crime or infraction, within the meaning of Section 17556 of
27 the Government Code, or changes the definition of a crime within
28 the meaning of Section 6 of Article XIII B of the California
29 Constitution.

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