

AMENDED IN SENATE JULY 2, 2001

AMENDED IN ASSEMBLY APRIL 23, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1552**

**Introduced by Committee on Agriculture (Matthews (Chair),  
Canciamilla, Cardoza, Florez, Reyes, Salinas, Thomson, and  
Wiggins)**

February 23, 2001

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An act to amend Sections 78636 and 78674 of, *to add Sections 1109, 47005, 47005.1, 47005.2, 47005.3, 47006, 47022, 47022.1, 47022.2, 47022.3, 47022.4, 47022.5, 47022.6, 47022.7, and 47025 to, and to repeal Section 103.5 of, the Food and Agricultural Code, relating to the ~~California Tomato Commission~~ marketing agricultural products.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as amended, Committee on Agriculture. ~~California Tomato Commission~~ *Agricultural products.*

*Existing law establishes the biomass-to-energy incentive grant program administered by the Department of Food and Agriculture.*

*This bill would provide that procedures, forms, and guidelines implementing environmental and energy grant programs of the department are exempt from submission to the Office of Administrative Law.*

*Existing law generally regulates direct marketing of agricultural products including marketing in farmers' markets.*

*This bill would, in addition, impose additional requirements relating to sales, transport, packaging and labeling of products sold at farmers'*

*markets and permitting various inspections by enforcing officers. Violation of these provisions would be a misdemeanor, pursuant to existing law.*

Existing law creates the California Tomato Commission in state government, and prescribes the membership, functions, and duties of the commission.

For the purpose of those provisions, existing law defines “tomatoes” to mean all tomatoes that are produced for commercial purposes and are handled within the state in fresh form, except cherry tomatoes, tomatoes grown in a greenhouse either under glass or plastic, and hydroponically grown tomatoes, as defined.

This bill would recast those provisions to define “tomatoes” to mean all tomatoes that are produced for commercial purposes and are handled within the state in fresh form, except cherry tomatoes, and tomatoes grown in a greenhouse, as specified.

Existing law specifies the powers and duties of the California Tomato Commission, including, among other things, the authority to accept contributions of funds for purposes of promoting and maintaining the tomato industry.

This bill would, in addition, authorize the commission to solicit contributions for these purposes.

*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: ~~no~~ yes.

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

- 1 SECTION 1. *Section 103.5 of the Food and Agricultural*
- 2 *Code is repealed.*
- 3 ~~103.5. The director may appoint a deputy who shall be exempt~~
- 4 ~~from civil service and who shall serve until December 31, 1983,~~
- 5 ~~at which time the position shall terminate.~~
- 6 SEC. 2. *Section 1109 is added to the Food and Agricultural*
- 7 *Code, to read:*



1 1109. Procedures, forms, and guidelines implementing  
2 environmental and energy grant programs of the department are  
3 exempt from Chapter 3.5 (commencing with Section 11340) of Part  
4 1 of Division 3 of Title 2 of the Government Code.

5 SEC. 3. Section 47005 is added to the Food and Agricultural  
6 Code, to read:

7 47005. An enforcing officer may enter and inspect any place  
8 or conveyance where products are produced, stored, packed,  
9 delivered for shipment, loaded, shipped, transported, or sold  
10 pertaining to a certified producer's certificate over which they  
11 have jurisdiction.

12 SEC. 4. Section 47005.1 is added to the Food and  
13 Agricultural Code, to read:

14 47005.1. An enforcing officer may inspect all products,  
15 containers, and equipment found in any place or conveyance to  
16 determine compliance with this chapter or the regulations adopted  
17 thereunder. The enforcing officer may also take representatives  
18 samples of products and containers, which may be subject to any  
19 method of inspection or testing as deemed necessary.

20 SEC. 5. Section 47005.2 is added to the Food and  
21 Agricultural Code, to read:

22 47005.2. An enforcing officer may seize and hold as evidence  
23 all or any part of any container, pack, load, bulk lot, consignment  
24 or shipment of products which is packed, delivered for shipment,  
25 loaded, shipped, transported, or sold to secure the conviction of  
26 the party the enforcing officer knows or believes has violated or is  
27 violating any provision of this chapter or the regulations adopted  
28 thereunder.

29 SEC. 6. Section 47005.3 is added to the Food and  
30 Agricultural Code, to read:

31 47005.3. Any evidence that is seized under the authority of  
32 this chapter or the regulations adopted thereunder by an enforcing  
33 officer in any county may be admitted into evidence in any action  
34 taken by any other county.

35 SEC. 7. Section 47006 is added to the Food and Agricultural  
36 Code, to read:

37 47006. Each person participating in the sale of agricultural  
38 products in the area designated as a certified farmers' market shall  
39 provide to the operator of a certified farmers' market an accurate  
40 and complete itemized list of all products sold at the certified



1 *farmers' market each market day. The product list shall state the*  
2 *name of the certified producer, the identity of each product sold as*  
3 *it appears on the certified producer's certificate, and the quantity*  
4 *of each product sold at the market.*

5 *SEC. 8. Section 47022 is added to the Food and Agricultural*  
6 *Code, to read:*

7 *47022. It is unlawful for any person when operating under the*  
8 *provisions of this chapter or the regulations adopted thereunder to*  
9 *prepare, pack, place, deliver for shipment, deliver for sale, load,*  
10 *ship, transport, cause to be transported, or sell any products in*  
11 *bulk, or in any container or subcontainer, unless such products*  
12 *conform to the provisions of this chapter or the regulations*  
13 *adopted thereunder.*

14 *SEC. 9. Section 47022.1 is added to the Food and*  
15 *Agricultural Code, to read:*

16 *47022.1. It is unlawful for any person when operating under*  
17 *the provisions of this chapter or the regulations adopted*  
18 *thereunder to deceptively prepare, pack, place, deliver for*  
19 *shipment, load, ship, transport, or sell any products.*

20 *SEC. 10. Section 47022.2 is added to the Food and*  
21 *Agricultural Code, to read:*

22 *47022.2. It is unlawful for any person when operating under*  
23 *the provisions of this chapter or the regulations adopted*  
24 *thereunder to mislabel any products, or place or have any false or*  
25 *misleading statement or designation of quality, grade, trademark,*  
26 *or trade name, on any wrapper or container; or on the label or*  
27 *lining of any container of any product, or on any placard that is*  
28 *used in connection with, or which has reference to, any products,*  
29 *bulk lot, bulk load, load, arrangement, or display of products.*

30 *SEC. 11. Section 47022.3 is added to the Food and*  
31 *Agricultural Code, to read:*

32 *47022.3. It is unlawful for any person when operating under*  
33 *the provisions of this chapter or the regulations adopted*  
34 *thereunder to falsify any documents or to make any statement,*  
35 *representation, or assertion orally, by public outcry, proclamation,*  
36 *or in writing, or by any other manner or means whatever, that*  
37 *concerns the quality, size, maturity, condition, or any other matter*  
38 *that relates to products which is false, deceptive, or misleading in*  
39 *any particular.*



1 SEC. 12. Section 47022.4 is added to the Food and  
2 Agricultural Code, to read:

3 47022.4. It is unlawful for any person when operating under  
4 the provisions of this chapter or the regulations adopted  
5 thereunder to remove or dispose any products, or their containers  
6 to which any warning tag or notice has been affixed by an  
7 enforcing officer, or to remove the warning tag or notice from the  
8 place where it is affixed, except under a written permit to do so  
9 from an enforcing officer or under his or her specific direction.

10 SEC. 13. Section 47022.5 is added to the Food and  
11 Agricultural Code, to read:

12 47022.5. It is unlawful for any person when operating under  
13 the provisions of this chapter or the regulations adopted  
14 thereunder to refuse to submit any container, subcontainer, load,  
15 or display of products to the inspection of an enforcing officer, or  
16 to refuse to stop any vehicle which contains products for the  
17 purpose of inspection by an enforcing officer.

18 SEC. 14. Section 47022.6 is added to the Food and  
19 Agricultural Code, to read:

20 47022.6. It is unlawful for any person when operating under  
21 the provisions of this chapter or the regulations adopted  
22 thereunder to refuse to submit to inspection by an enforcing officer  
23 of any property used in the sales, storage, or production of  
24 agricultural products.

25 SEC. 15. Section 47022.7 is added to the Food and  
26 Agricultural Code, to read:

27 47022.7. It is unlawful for any person when operating under  
28 the provisions of this chapter or the regulations adopted  
29 thereunder to alter in any respect any certified producer's  
30 certificate, any certified farmers' market certificate, any notice of  
31 violation, report, statement, or other document that is referred to  
32 in this chapter, which is issued by an enforcing officer.

33 SEC. 16. Section 47025 is added to the Food and Agricultural  
34 Code, to read:

35 47025. (a) Actions to administer administrative civil  
36 penalties, suspensions, or both, against a certified producer may  
37 be made by the county agricultural commissioner who either  
38 issued the certified producer's certificate or issued the violation,  
39 regardless of the county or counties where the violation occurred,  
40 or where the certified producer's certificate originated.



1 (b) *The secretary may take action to administer administrative*  
2 *civil penalties, suspensions, or both, against a certified producer,*  
3 *regardless of the county or counties where the violation occurred,*  
4 *or where the certified producer’s certificate originated.*

5 SEC. 17. *No reimbursement is required by this act pursuant*  
6 *to Section 6 of Article XIII B of the California Constitution*  
7 *because the only costs that may be incurred by a local agency or*  
8 *school district will be incurred because this act creates a new crime*  
9 *or infraction, eliminates a crime or infraction, or changes the*  
10 *penalty for a crime or infraction, within the meaning of Section*  
11 *17556 of the Government Code, or changes the definition of a*  
12 *crime within the meaning of Section 6 of Article XIII B of the*  
13 *California Constitution.*

14 Section 78636 of the Food and Agricultural Code is amended  
15 to read:

16 78636. (a) “Tomatoes” means all tomatoes that are produced  
17 for commercial purposes and are handled within the state in fresh  
18 form, except cherry tomatoes, and tomatoes grown in a  
19 greenhouse.

20 (b) For purposes of this section, “tomatoes grown in a  
21 greenhouse” means tomatoes grown in a fixed steel structure  
22 using irrigation and climate control, in an artificial medium that  
23 substitutes for soil.

24 SEC. 2. Section 78674 of the Food and Agricultural Code is  
25 amended to read:

26 78674. The commission may solicit and accept contributions  
27 of, or match private, state, or federal funds, and employ or make  
28 contributions of funds to other persons or state or federal agencies  
29 for purposes of promoting and maintaining the tomato industry.

