

Introduced by Senator JacksonFebruary 21, 2014

An act to amend Sections 11503.5 and 12981 of, and to add Section 12978.5 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

SB 1411, as introduced, Jackson. Pesticides: application safety.

(1) Existing law regulates pest control operations, and requires the Director of Pesticide Regulation and county agricultural commissioners to enforce those provisions. Existing law authorizes a county agricultural commissioner to adopt regulations applicable in his or her county that are supplemental to those of the director that govern the conduct of pest control operations, as specified, and specifically authorizes a county agricultural commissioner to adopt regulations to regulate the timing, notification, and method of application for the agricultural use of any pesticide for agricultural production within $\frac{1}{4}$ mile of a school. Existing law specifies that the regulations become operative unless disapproved by the director. A violation of the provisions, or regulations adopted pursuant to those provisions, relating to pest control operations and pesticides is generally a misdemeanor.

This bill would also authorize a county agricultural commissioner to adopt regulations to prohibit the agricultural use of any pesticide within $\frac{1}{4}$ mile of a school, subject to disapproval by the director.

(2) Existing law requires a person who operates a pest control business to be licensed by the director and registered by the county agricultural commissioner. Existing law requires public property, where public exposure is foreseeable, to be posted with warning signs prior to pesticide applications, as specified.

This bill would require an operator applying pesticide to a property by certain methods, including aerial applications or airblast applications of certain categories of pesticides, to ensure that the occupants of properties, including schools and residences, that are within 1,200 feet of the perimeter of the application or any required buffer zone receive notice of the planned pesticide application, as specified.

(3) Existing law requires the director, with participation by the Office of Environmental Health Hazard Assessment, to adopt regulations relating to pesticides and worker safety on specified subjects, including, among others, restricting worker reentry into areas treated with pesticides, and posting signs, in English and Spanish, in fields, areas, adjacent areas or fields, or storage areas.

This bill would require posting signs used to warn that a restricted entry interval is in effect to include specified information, including, but not limited to, the name of the pesticide product to be applied, and the telephone numbers of the county agricultural commissioner's office and the pesticide applicator. The bill would require the pesticide applicator's telephone number to be answered 24 hours per day, 7 days per week, to answer calls from agricultural workers regarding the pesticide application.

(4) This bill would state legislative findings and declarations relating to the bill's provisions. The bill would also make nonsubstantive changes, including incorporating changes to those provisions enacted by the Governor's Reorganization Plan of 1991.

(5) To the extent this bill would impose additional duties on county agricultural commissioners, and because the bill would create new crimes, the 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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. The Legislature finds and declares all of the
2 following:

3 (a) In 2005, researchers from the Centers for Disease Control
4 and Prevention surveyed reports of pesticide-related illness at
5 schools, and concluded that pesticide drift from adjacent farmland
6 was a significant source of pesticide-related illness.

7 (b) The researchers recommended that states establish and
8 enforce nonspray buffer zones around schools.

9 (c) The laws authorizing nonspray buffer zones around schools
10 in California have been difficult to implement, and are in need of
11 clarification to ensure that county agricultural commissioners have
12 clear authority to protect the health of school children from
13 pesticide-related illness.

14 (d) Drift of soil fumigants and high or moderate toxicity
15 pesticides applied by aircraft or with air-blast sprayers have caused
16 a significant number of pesticide illness episodes in California in
17 recent years.

18 (e) Notice to occupants of schools, residences, and other
19 sensitive sites in the vicinity prior to application of these pesticides
20 can prevent pesticide illness by providing opportunity to take
21 precautions to reduce exposure.

22 (f) Notice will increase awareness of the source of symptoms
23 if the pesticide is not adequately contained and drift occurs so that
24 appropriate medical treatment can be promptly provided.

25 (g) California law specifies that pesticides must be applied
26 according to label directions, and label directions specify that
27 agricultural workers must be warned when a field has been recently
28 treated with pesticides and a restricted entry interval is in effect.

29 (h) For many pesticide products, a generic warning sign that
30 contains the words, “Danger/Poison/Do Not Enter,”
31 “Peligro/Veneno/No Entrar” is all that is required. Without more
32 detailed requirements, this can make it difficult for agricultural
33 work crews to adequately protect their health.

34 (i) Requirements that list the date and time the restricted entry
35 interval expires on all field posting signs, along with the names of
36 the pesticide products applied, the telephone number of the county
37 agricultural commissioner’s office, and a 24-hour telephone number
38 for the business that performs the pesticide application, will help

1 to ensure that agricultural workers have the information they need
2 to protect their health.

3 SEC. 2. Section 11503.5 of the Food and Agricultural Code is
4 amended to read:

5 11503.5. (a) The county agricultural commissioner may ~~apply~~
6 *adopt regulations pursuant to* Section 11503 to *regulate* the
7 agricultural use of any pesticide for agricultural production within
8 one-quarter mile of a school with respect to the timing, notification,
9 and method of application.

10 ~~Any~~

11 (b) *The county agricultural commissioner may adopt regulations*
12 *pursuant to Section 11503 to prohibit the agricultural use of any*
13 *pesticide, including, but not limited to, soil fumigants, neurotoxic*
14 *pesticides, and aerial or air blast applications of category I and*
15 *II pesticide products, within one-quarter mile of a school.*

16 (c) *Any* regulations adopted pursuant to this section shall become
17 operative unless specifically disapproved in writing by the director
18 within 30 calendar days of their submission by the *county*
19 *agricultural commissioner.*

20 SEC. 3. Section 12978.5 is added to the Food and Agricultural
21 Code, to read:

22 12978.5. (a) At least one week prior to soil fumigation, aerial
23 applications of category I and II pesticide products, or airblast
24 applications of category I and II pesticide products, the operator
25 applying pesticide to the property shall ensure that the occupants
26 of schools, residences, hospitals, onsite employee housing, or other
27 similar sites identified by the county agricultural commissioner,
28 that are within 1,200 feet of the perimeter of the application, or
29 any required buffer zone, receive notice of the planned pesticide
30 application.

31 (b) Notice shall be in writing, in both English and Spanish, or
32 by other means approved by the county agricultural commissioner,
33 and shall include the following information:

34 (1) The name of the pesticide products and other chemicals to
35 be applied.

36 (2) The name, business address, and business telephone number
37 of the operator applying pesticide to the property.

38 (3) The name, business address, and business telephone number
39 of the county agricultural commissioner.

40 (4) The date that the application will start.

1 (c) The operator applying pesticide to the property shall ensure
2 that the notice specifies the date on which the pesticide product
3 will be applied, and shall reissue the notice if the proposed
4 application date changes.

5 (d) If a reissued notice is necessary due to a date change, the
6 operator applying pesticide to the property shall provide notice as
7 soon as possible, and at least 24 hours in advance of the application.

8 (e) The requirements imposed under this section shall be in
9 addition to the requirements specified in Section 12978.

10 SEC. 4. Section 12981 of the Food and Agricultural Code is
11 amended to read:

12 12981. (a) The director shall adopt regulations to carry out
13 the provisions of this article. ~~Such~~ The regulations shall include,
14 but are not limited to, all of the following subjects:

15 ~~(a)~~

16 (1) (A) Restricting worker reentry into areas treated with
17 pesticides determined by the director to be hazardous to worker
18 safety by using either or both of the following:

19 ~~(1)~~

20 (i) Time limits.

21 ~~(2)~~

22 (ii) Pesticide residue levels on treated plant parts determined
23 by scientific analysis to not be a significant factor in cholinesterase
24 depression or other health effects.

25 ~~When~~

26 (B) ~~When~~ the director has adopted regulations pursuant to both
27 ~~paragraphs (1) and (2), clauses (i) and (ii) of subparagraph (A),~~
28 the person in control of the area treated with the pesticide shall
29 have the option of following regulations adopted pursuant to either
30 ~~paragraph (1) or (2), clause (i) or (ii) of subparagraph (A).~~ If the
31 person in control of the area treated with the pesticide chooses to
32 follow regulations adopted pursuant to ~~paragraph (2), clause (ii)~~
33 ~~of subparagraph (A),~~ the director may establish and charge the
34 person a fee necessary to cover any costs of analysis or costs
35 incurred by the director or commissioner in carrying out regulations
36 adopted pursuant to ~~paragraph (2), clause (ii) of subparagraph~~
37 (A). The regulations shall include a procedure for the collection
38 of the fee, and the fee shall not exceed actual cost.

39 ~~(b)~~

40 (2) Handling of pesticides.

- 1 ~~(e)~~
- 2 (3) Hand washing facilities.
- 3 ~~(d)~~
- 4 (4) Farm storage and commercial warehousing of pesticides.
- 5 ~~(e)~~
- 6 (5) Protective devices, including, but not limited to, respirators
- 7 and eyeglasses.
- 8 ~~(f)~~
- 9 (6) Posting *signs*, in English and Spanish, ~~of~~ in fields, areas,
- 10 adjacent areas or fields, or storage areas. *Posting signs used to*
- 11 *warn that a restricted entry interval is in effect shall include the*
- 12 *name of the pesticide product to be applied, the date and time that*
- 13 *the restricted entry interval for the application expires, the*
- 14 *telephone number of the commissioner, and the telephone number*
- 15 *of the pesticide applicator. The pesticide applicator’s telephone*
- 16 *number shall be answered 24 hours per day, seven days per week,*
- 17 *to answer calls from agricultural workers regarding the pesticide*
- 18 *product applied.*

19 ~~The State Department of Health Services~~

20 (b) *The Office of Environmental Health Hazard Assessment*

21 shall participate in the development of ~~any~~ regulations adopted

22 pursuant to this article. ~~Such regulations~~ *Regulations* that relate to

23 health effects shall be based upon the recommendations of the

24 ~~State Department of Health Services. Office of Environmental~~

25 ~~Health Hazard Assessment.~~ *The original written recommendations*

26 of the ~~State Department of Health Services, Office of~~

27 ~~Environmental Health Hazard Assessment,~~ any subsequent

28 revisions of those recommendations, and the supporting evidence

29 and data upon which the recommendations were based shall be

30 made available upon request to any person.

31 SEC. 5. No reimbursement is required by this act pursuant to

32 Section 6 of Article XIII B of the California Constitution for certain

33 costs that may be incurred by a local agency or school district

34 because, in that regard, this act creates a new crime or infraction,

35 eliminates a crime or infraction, or changes the penalty for a crime

36 or infraction, within the meaning of Section 17556 of the

37 Government Code, or changes the definition of a crime within the

38 meaning of Section 6 of Article XIII B of the California

39 Constitution.

1 However, if the Commission on State Mandates determines that
2 this act contains other costs mandated by the state, reimbursement
3 to local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

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