

Attachment "F"

AMENDED IN ASSEMBLY MARCH 19, 2019

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

ASSEMBLY BILL

No. 1788

Introduced by Assembly Member Bloom

February 22, 2019

An act to amend Section 12978.7 of, and to add Section 12978.8 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1788, as amended, Bloom. Pesticides: use of anticoagulants.

Existing law regulates the use of pesticides and authorizes the Director of Pesticide Regulation to adopt regulations to govern the possession, sale, or use of any pesticide, as prescribed. Existing law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas, as defined. Existing law exempts from this prohibition the use of these pesticides for agricultural activities, as defined. Existing law requires the director, and each county agricultural commissioner under the direction and supervision of the director, to enforce the provisions regulating the use of pesticides. A violation of these provisions is a misdemeanor.

This bill would *create the California Ecosystems Protection Act of 2019* and expand this prohibition to the entire state. The bill would also authorize the use of a pesticide containing a specified anticoagulant if ~~the State Department of Public Health determines that there is a public health emergency due to a pest infestation and the Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a pesticide containing an anticoagulant, or if the California Environmental Protection Agency determines that there is an environmental emergency due to a pest infestation and the~~

~~Department of Pesticide Regulation determines that controlling or eradicating the pest infestation requires the use of a pesticide that contains an anticoagulant. local health authority determines that an emergency pest infestation poses an immediate threat to public health. The bill would require the county agricultural commissioner to grant permission for licensed pest control operators, upon application, to use an anticoagulant for the limited time frame of the public health emergency. The bill would authorize the county agricultural commissioner to impose additional conditions for public health emergency applications of an anticoagulant. The bill would also prohibit the use of any pesticide that contains one or more specifically identified anticoagulants on state-owned property. The bill would provide that this provision does not apply to the use of pesticides expand the exemption for agricultural activities, as defined. activities to include activities conducted in certain locations and would also exempt from its provisions the use of pesticides by any governmental agency employee who uses pesticides for public health activities and a mosquito or vector control district that uses pesticides to protect the public health.~~

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

~~The bill would also prohibit the use of any pesticide that contains one or more specifically identified anticoagulants on state-owned property.~~

~~By imposing additional duties on county agricultural commissioners, and expanding the definition of a crime, 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 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. (a) The Legislature finds and declares all of the
2 following:

3 (1) Wildlife, including birds of prey, mountain lions, bobcats,
4 fishers, foxes, coyotes, and endangered species such as the northern
5 spotted owl, pacific fisher, and San Joaquin kit fox, are an
6 irreplaceable part of California's natural ecosystems. As predators
7 of small mammals, they play an important role in regulating and
8 controlling the population of rodents throughout the state to
9 improve public health and welfare.

10 (2) Millions of people annually visit California for the purposes
11 of viewing and photographing wildlife, and these visits contribute
12 millions of dollars to California's economy.

13 (3) Urban areas are increasingly being used by predatory
14 mammals and birds of prey and the public enjoys seeing them and
15 values these animals and the ecosystem services they provide.

16 (4) The ecosystem services provided by native wildlife predators
17 are a public trust, just like clean air and water. We, as California
18 residents, are obligated to conserve these wildlife populations for
19 future generations of Californians.

20 (5) Scientific research and state studies have found rodenticides
21 in over 75 percent of animals tested. These rodenticides lead to
22 direct mortality and chronic long-term health impacts for natural
23 predators, nontarget organisms, and endangered species and further
24 steps are needed to reduce rodenticide exposure in nontarget
25 animals.

26 (6) While all anticoagulant rodenticides have a harmful impact
27 on nontarget animals, second generation anticoagulant rodenticides
28 (SGARs) are particularly dangerous to nontarget wildlife as SGARs
29 are higher potency than prior generations and a single dose has a
30 half-life of more than 100 days in a rodent's liver. Due to high
31 toxicity and concern for impact on nontarget wildlife, Department
32 of Pesticide Regulation banned consumer sales and use of SGARs

1 in 2014, restricting their purchase and use to certified pesticide
2 applicators.

3 (7) Despite the 2014 regulations issued by the Department of
4 Pesticide Regulation, scientific research and state studies have
5 found no significant reduction in the number of nontarget wildlife
6 with detectable levels of SGARs in their system. From 2014
7 through 2018, the Department of Fish and Wildlife found SGARs
8 in more than 90 percent of tested mountain lions, 88 percent of
9 tested bobcats, 85 percent of protected Pacific fishers tested, and
10 70 of northern spotted owls tested. Such data indicates that a
11 consumer sales and use ban of SGARs has been insufficient to
12 reduce rodenticide exposure in nontarget animals and further steps
13 must be taken.

14 (8) Rodenticides can be counterproductive to rodent control by
15 poisoning, harming, and killing natural predators that help regulate
16 rodent populations throughout California.

17 (b) It is the intent of the Legislature in enacting this act to ensure
18 that aquatic, terrestrial, and avian wildlife species remain a fully
19 functional component of the ecosystems they inhabit and move
20 through in California.

21 (c) This act shall be known, and may be cited, as the California
22 ~~Natural Predator~~ *Ecosystems* Protection Act of 2019.

23 SEC. 2. Section 12978.7 of the Food and Agricultural Code is
24 amended to read:

25 12978.7. (a) Except as provided in subdivision (c), (d), ~~or (e)~~
26 ~~(e), or (f)~~, the use of any pesticide that contains one or more of the
27 following anticoagulants is prohibited in this state:

- 28 (1) Brodifacoum.
- 29 (2) Bromadiolone.
- 30 (3) Difenacoum.
- 31 (4) Difethialone.

32 (b) State agencies are directed to encourage federal agencies to
33 comply with subdivision (a).

34 (c) (1) *This section does not apply to the use of a pesticide that*
35 *contains an anticoagulant described in paragraphs (1) to (4),*
36 *inclusive, of subdivision (a) if the local health authority determines*
37 *that an emergency pest infestation poses an immediate threat to*
38 *public health.*

39 (2) *In the event that the local health authority determines that*
40 *there is a public health emergency, the county agricultural*

1 commissioner shall grant permission for licensed pest control
2 operators, upon application, to use an anticoagulant described in
3 paragraphs (1) to (4), inclusive, of subdivision (a). That permission
4 shall be granted for the limited time frame of the public health
5 emergency.

6 (3) The county agricultural commissioner may impose additional
7 conditions for public health emergency applications of an
8 anticoagulant described in paragraphs (1) to (4), inclusive, of
9 subdivision (a).

10 (d) This section does not apply to either of the following:

11 (1) The use of pesticides used by any governmental agency
12 employee who complies with Section 106925 of the Health and
13 Safety Code, who uses pesticides for public health activities.

14 (2) A mosquito or vector control district formed under Chapter
15 1 (commencing with Section 2000) of Division 3 or Chapter 8
16 (commencing with Section 2800) of Division 3 of the Health and
17 Safety Code, that uses pesticides to protect the public health.

18 (e)

19 (e) (1) This section does not apply to the use of pesticides for
20 agricultural activities, as defined in Section 564.

21 (2) For purposes of paragraph (1), "agricultural activities"
22 include activities conducted in any of the following locations:

23 (A) A warehouse used to store foods for human or animal
24 consumption.

25 (B) An agricultural food production site, including, but not
26 limited to, a slaughterhouse and cannery.

27 (C) A factory, brewery, or winery.

28 (d)

29 (f) This section does not preempt or supersede any federal statute
30 or the authority of any federal agency.

31 ~~(e) This section does not apply to the use of a pesticide that~~
32 ~~contains an anticoagulant described in paragraphs (1) to (4),~~
33 ~~inclusive, of subdivision (a) if either of the following emergency~~
34 ~~conditions exists:~~

35 ~~(1) The State Department of Public Health determines that there~~
36 ~~is a public health emergency due to a pest infestation and the~~
37 ~~Department of Pesticide Regulation determines that controlling or~~
38 ~~eradicating the pest infestation requires the use of a pesticide that~~
39 ~~contains an anticoagulant described in paragraphs (1) to (4),~~
40 ~~inclusive, of subdivision (a).~~

1 ~~(2) The California Environmental Protection Agency determines~~
 2 ~~that there is an environmental emergency due to a pest infestation~~
 3 ~~and the Department of Pesticide Regulation determines that~~
 4 ~~controlling or eradicating the pest infestation requires the use of~~
 5 ~~a pesticide that contains an anticoagulant described in paragraphs~~
 6 ~~(1) to (4), inclusive, of subdivision (a).~~

7 SEC. 3. Section 12978.8 is added to the Food and Agricultural
 8 Code, to read:

9 12978.8. (a) Except as provided in subdivision (d), the use of
 10 any pesticide that contains one or more of the following
 11 anticoagulants is prohibited on any state-owned property in
 12 California:

- 13 (1) Chlorophacinone.
- 14 (2) Diphacinone.
- 15 (3) Warfarin.

16 (b) State agencies are directed to encourage federal agencies to
 17 comply with subdivision (a).

18 (c) This section does not apply to the use of pesticides for
 19 agricultural activities, as defined in Section 564.

20 (d) This section does not preempt or supersede any federal
 21 statute or the authority of any federal agency.

22 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
 23 ~~Section 6 of Article XIII B of the California Constitution because~~
 24 ~~the only costs that may be incurred by a local agency or school~~
 25 ~~district will be incurred because this act creates a new crime or~~
 26 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
 27 ~~for a crime or infraction, within the meaning of Section 17556 of~~
 28 ~~the Government Code, or changes the definition of a crime within~~
 29 ~~the meaning of Section 6 of Article XIII B of the California~~
 30 ~~Constitution.~~

31 *SEC. 4. 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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