

State of California  
California Environmental Protection Agency



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Department of Pesticide Regulation

James W. Wells, Director

# 1997 LEGISLATIVE SUMMARY



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# INDEX

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INTRODUCTION.....	1
ACRONYMS.....	3
SECTION I: BILL SUBJECT INDEX.....	4
SECTION II: 1997 LEGISLATION.....	16
Assembly Bills.....	17
Senate Bills.....	19
SECTION III: MAJOR BILLS Chaptered Text .....	26
DPR Sponsored Bills.....	27
Assembly Bills.....	42
Senate Bills.....	45
SECTION IV: 1997-98CONTINUINGLEGISLATION.....	60
Assembly Bills .....	61
Senate Bills.....	64

# INTRODUCTION

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The Department of Pesticide Regulation (DPR) is part of the California Environmental Protection Agency.

DPR's mission is to regulate all aspects of pesticide sales and use recognizing the need to control pests while protecting public health and the environment and fostering reduced-risk pest management strategies.

This summary contains brief descriptions of the legislation followed by DPR's Legislative Office during the first year of the 1997-98 Legislative Session. DPR monitored over 200 bills and actively tracked and analyzed 60 of those bills. DPR sponsored 3 bills: SB 1161 (Costa), SB 603 (Monteith), and SB 445 (Monteith) which were signed into law by Governor Wilson. SB 1161 (Costa) was DPR's primary legislative focus during this session as it authorized continued funding for DPR's pesticide regulatory programs.

Urgency bills signed by the Governor took effect immediately upon his signature. Other legislation signed by the Governor in 1997 will take effect on January 1, 1998.

For an electronic version of this summary, see DPR's Home Page at the following address: <http://www.cdpr.ca.gov/>.



# ACRONYMS

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AB	Assembly Bill
ACR	Assembly Concurrent Resolution
ALJ	Administrative Law Judge
APA	Administrative Procedures Act
ARB	Air Resources Board
CAC	County Agricultural Commissioner
Cal/EPA	California Environmental Protection Agency
CCC	California Coastal Commission
CCR	California Code of Regulations
CDFA	California Department of Food and Agriculture
CDHS	California Department of Health Services
CEQA	California Environmental Quality Act
CFR	Code of Federal Regulations
CIWMB	California Integrated Waste Management Board
DBW	Department of Boating and Waterways
DFG	Department of Fish and Game
DPR	Department of Pesticide Regulation
DTSC	Department of Toxic Substances Control
FAC	Food and Agricultural Code
FSA	Food Safety Account
HSC	Health and Safety Code
OAL	Office of Administrative Law
OEHHA	Office of Environmental Health Hazard Assessment
OES	Office of Emergency Services
RWQCB	Regional Water Quality Control Board
SB	Senate Bill
SPCB	Structural Pest Control Board
SWRCB	State Water Resources Control Board
TAC	Toxic Air Contaminant
U.S. EPA	United States Environmental Protection Agency
VOC	Volatile organic compound

## **SECTION I - Bill Subject Index**

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Section I -- The Bill Subject Index section identifies bills containing a similar subject area. This section lists all the bills that DPR tracked during 1997. For each bill, we have provided information on its status, author, and title. The status indicates whether the bill was chaptered, vetoed, or failed in committee. A bill that has not been chaptered, vetoed, or failed during the first year of the Legislative Session, and is currently under consideration by the Legislature for 1998, is noted as a "2-year bill." A "2-year-bill" also includes bills that failed in committee but were granted reconsideration, bills that were held under submission by a committee, and "spot" bills.

## BILL SUBJECT INDEX

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### Administration

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 19	2-year bill	McClintock	State Government
AB 278	2-year bill	Escutia	Environmental Protection
AB 1134	2-year bill	Machado	Structural Pest Control
AB 1235	2-year bill	Leach	Administrative Regulations
AB 1581	Chapter 779	Keeley	Coastal & Ocean Resources Management Program
SB 58	2-year bill	Ayala	State Agencies Legislative Analyses
SB 74	Veto	Kopp	Records
SB 95	Chapter 949	Ayala	Open Meetings
SB 178	2-year bill	Keeley	Administrative Adjudication
SB 261	2-year bill	Kopp	Judicial Review
SB 365	Chapter 530	Lewis	Pesticides
SB 442	2-year bill	Brulte	Toxic Chemicals
SB 827	Chapter 759	Greene	Professional Licensing
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1212	Veto	Vasconcellos	Administrative Procedure

### Air Emissions/Quality

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 1376	2-year bill	Baugh	Air Pollution
SB 74	Veto	Kopp	Records
SB 318	Chapter 745	Thompson	Air Pollution

### Analytical Methods

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 592	Chapter 814	Kuehl	Drinking Water

# BILL SUBJECT INDEX

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## Businesses/License

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1134	2-year bill	Machado	Structural Pest Control
SB 74	Veto	Kopp	Records
SB 95	Chapter 949	Ayala	Open Meetings
SB 209	2-year bill	Kopp	Judicial Review
SB 261	2-year bill	Kopp	Judicial Review
SB 827	Chapter 759	Greene	Professional Licensing
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products

## California State Mussel Program

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 62	Chapter 781	McPherson	California State Mussel Program

## Citizen Complaint

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 206	Chapter 416	Hertzberg	Citizen Complaint Act of 1997
SB 318	Chapter 745	Thompson	Air Pollution

## Civil Procedure

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1134	2-year bill	Machado	Structural Pest Control
SB 74	Veto	Kopp	Records

## BILL SUBJECT INDEX

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### Civil Procedure (Continued)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 178	2-year bill	Monteith	Administrative Adjudication
SB 209	2-year bill	Kopp	Judicial Review
SB 261	2-year bill	Kopp	Judicial Review
SB 423	Failed in Comte.	Hurt	Environmental Audit Reports

### Coastal Water

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 1000	2-year bill	Keeley, et al.	Clean Coastal Waters and Rivers
AB 1429	Chapter 899	Shelley	Water Quality
AB 1581	Chapter 779	Keeley	Coastal and Ocean Resources
SB 499	Veto	Alpert	Water Quality

### County Agricultural Commissioners

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 505	2-year bill	Ashburn	Pest Control Activities
AB 891	2-year bill	Keeley	Pesticide Mill Tax
AB 1134	2-year bill	Machado	Structural Pest Control
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

### Economic Poison

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 891	2-year bill	Keeley	Pesticide Mill Tax
AB 1134	2-year bill	Machado	Structural Pest Control

## BILL SUBJECT INDEX

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### Enforcement/Compliance

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1134	2-year bill	Machado	Structural Pest Control
SB 95	Chapter 949	Ayala	Open Meetings
SB 105	Chapter 783	Ayala	Water Quality
SB 492	Chapter 661	Rosenthal	State Agencies & Regulatory Boards
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

### Environmental Advertizing/Audits/Reports

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 529	Failed in Comte.	Kuehl	State Funds
AB 1393	2-year bill	Alquist	State and Local Government
SB 74	Veto	Kopp	Records
SB 423	Failed in Comte.	Hurt	Environmental Audit Reports

### Fees/Penalties

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 475	Chapter 719	Pringle	Office of Permit Assistance
AB 529	Failed in Comte.	Baldwin	State Funds
AB 1376	2-year bill	Baugh	VOC Content of Consumer Products
AB 1559	Chapter 727	Comte. on Agri.	Food Safety
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products

# BILL SUBJECT INDEX

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## Environmental Regulations

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
SB 649	Failed in Comte.	Mountjoy	Environmental Regulations
SB 715	2-year bill	Sher	Environmental Quality
SB 1047	2-year bill	Sher	Environmental Protection

## Food Safety Funds

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 529	Failed in Comte.	Baldwin	State Funds
AB 891	2-year bill	Keeley	Pesticide Mill Tax
AB 1134	2-year bill	Machado	Structural Pest Control
AB 1559	Chapter 727	Come. on Agri.	Food Safety
SB 318	Chapter 745	Thompson	Air Pollution
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products

## Health & Safety Issues

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
SB 442	2-year bill	Brulte	Toxic Chemical
SB 464	Chapter 428	Rainey	Pesticides
AB 206	Chapter 416	Hertzberg	Citizen Complaint Act of 1997
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1169	2-year bill	Shelley	Resources Agency
AB 1429	Chapter 899	Shelley	Water Quality
SB 492	Chapter 661	Rosenthal	State Agencies & Regulatory Boards
SB 715	2-year bill	Sher	Environmental Quality
SB 1189	Chapter 815	Hayden	Drinking Water

## BILL SUBJECT INDEX

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### Medical Records

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 74	Veto	Kopp	Records
SB 379	2-year bill	Rosenthal/Peace	Workers' Compensation
SB 1141	Chapter 674	Johnson	Workers' Compensation

### Mill Assessment

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	2-year bill	Keeley	Pesticide Mill Tax
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

### Methyl tertiary-butyl ether (MTBE)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 592	Chapter 814	Kuehl	Drinking Water
SB 1189	Chapter 815	Hayden	Drinking Water

### Open Meetings

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 74	Veto	Kopp	Records
SB 95	Chapter 949	Ayala	Open Meetings

## BILL SUBJECT INDEX

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### Permits

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 475	Chapter 719	Pringle	Office of Permit Assistance
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1134	2-year bill	Machado	Structural Pest Control
SB 95	Chapter 949	Ayala	Open Meetings
SB 318	Chapter 745	Thompson	Air Pollution
SB 492	Chapter 661	Rosenthal	State Agencies & Regulatory Boards
SB 649	2-year bill	Mountjoy	Environmental Regulations
SB 1189	Chapter 815	Hayden	Drinking Water
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products

### Pesticide Broker/Dealer

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	2-year bill	Keeley	Pesticide Mill Tax
SB 365	Chapter 530	Lewis	Pesticides
SB 445	Chapter 691	Monteith	Pesticides
SB 603	Chapter 483	Monteith	Pesticide
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

### Pesticide Contamination/Monitoring

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 1559	Chapter 727	Comte on Agri.	Food Safety
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1189	Chapter 815	Hayden	Drinking Water
SB 1312	Chapter 437	Leslie	Fisheries Management

# BILL SUBJECT INDEX

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## Pesticide Data

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 1134	2-year bill	Machado	Structural Pest Control
SB 365	Chapter 530	Lewis	Pesticides
SB 464	Chapter 428	Rainey	Pesticides
SB 603	Chapter 483	Monteith	Pesticides

## Pesticide Products

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 891	2-year bill	Keeley	Pesticide Mill Tax
AB 1134	2-year bill	Machado	Structural Pest Control
AB 1559	Chapter 727	Comte on Agri.	Food Safety
SB 445	Chapter 691	Monteith	Pesticides
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products
SB 1312	Chapter 437	Leslie	Fisheries Management

## Pesticide Registration

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 365	Chapter 530	Lewis	Pesticides
SB 445	Chapter 691	Rainey	Pesticides
SB 464	Chapter 428	Monteith	Pesticides
SB 603	Chapter 483	Monteith	Pesticides
SB 827	Chapter 759	Greene	Professional Licensing
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

# BILL SUBJECT INDEX

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## Public Information /Accessibility/ Guidelines

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 179	Veto	Bowen	Public Records
AB 1169	2-year bill	Shelley	Posting Information on the Internet
SB 74	Veto	Kopp	Records
SB 95	Chapter 949	Ayala	Open Records
SB 134	2-year bill	Ayala	Public Records
SB 261	2-year bill	Kopp	Judicial Review

## Regulations/Procedure

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 505	2-year bill	Ashburn	Pest Control Activities
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1134	2-year bill	Machado	Structural Pest Control
SB 209	2-year bill	Kopp	Judicial Review
SB 261	2-year bill	Kopp	Judicial Review
SB 423	Failed in Comte.	Hurt	Environmental Audit Reports
SB 464	Chapter 428	Rainey	Pesticides
SB 715	2-year bill	Sher	Environmental Quality
SB 827	Chapter 759	Greene	Professional Licensing
SB 1198	Chapter 696	Costa	Produce Dealers & Processors of Farm Products
SB 1320	Chapter 295	Sher	Environmental Protection

## Scientific Evidence (Standards)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 278	2-year bill	Escutia	Environmental Protection
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1134	2-year bill	Machado	Structural Pest Control

## BILL SUBJECT INDEX

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### Scientific Evidence/Standards (Continued)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
SB 178	2-year bill	Monteith	Administrative Adjudication
SB 1189	Chapter 815	Hayden	Drinking Water
SB 1320	Chapter 295	Sher	Environmental Protection

### State Funds

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 529	Failed in Comte.	Baldwin	State Funds
AB 891	2-year bill	Keeley	Pesticide Mill Tax
AB 1179	2-year bill	Woods	Watershed Rehabilitation and Restoration
AB 1559	Chapter 727	Comte. on Agri.	Food Safety
AB 1581	Chapter 779	Keeley	Coastal and Ocean Resources
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

### Structural Pest Control

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 505	2-year bill	Ashburn	Pest Control Activities
AB 1134	2-year bill	Machado	Structural Pest Control
SB 827	Chapter 759	Greene	Professional Licensing
SB 1161	Chapter 695	Costa	Pesticide Mill Assessment

## BILL SUBJECT INDEX

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### Water Quality (Continued)

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 592	Chapter 814	Kuehl	Drinking Water
AB 1429	Chapter 899	Shelley	Water Quality
SB 499	Veto	Alpert	Water Quality
SB 1189	Chapter 815	Hayden	Drinking Water

### Written Communication

<u>Bill No.</u>	<u>Status</u>	<u>Author</u>	<u>Subject</u>
AB 179	Veto	Bowen	Public Records
AB 278	2-year bill	Escutia	Environmental Protection
SB 74	Veto	Kopp	Records
SB 423	Failed in Comte.	Hurt	Environmental Audit Reports
SB 504	Chapter 192	Johnston	Administrative Law

## SECTION II - 1997 Legislation

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Section II -- The 1997 Legislation section of this Summary lists brief descriptions of Assembly and Senate bills that DPR's Legislative Office tracked and analyzed. The Code(s) and section(s) of the Code(s) that were added, amended, or repealed by the provisions of the bill are identified at the end of each summary. This section lists only those bills that were chaptered, vetoed, or failed in a committee hearing.

In the following descriptions, acronyms are frequently used. Listed below for quick reference are some of the frequently used acronyms:

ARB	Air Resources Board
Cal/EPA	California Environmental Protection Agency
CCC	California Coastal Commission
CDFA	California Department of Food and Agriculture
DCA	Department of Consumer Affairs
DFG	Department of Fish and Game
DHS	Department of Health Services
DIR	Department of Industrial Relations
DPR	Department of Pesticide Regulation
DTSC	Department of Toxic Substances Control
SPCB	Structural Pest Control Board
SWRCB	State Water Resources Control Board

Note:

Brief summaries of our three DPR sponsored bills (SB 1161, SB 603 and SB 445) are included in this section. For a complete text of the bill, please see the following:

SB 1161/Costa (Chapter 695-97)...See page 27  
SB 603/Monteith (Chapter 483-97)...See page 39  
SB 445/Monteith (Chapter 691-97)...See page 41

## 1997 LEGISLATION - Assembly Bills

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AB 179/Bowen      Public Records      (VETOED)

This bill sought to amend the Public Records Act by expressly providing that any "public record" which is subject to release under the Act, and is available in electronic format, be released in electronic format when so requested. (**Amend** Sections 6252 & 6258 of, **Amend & Renumber** Section 6253 of, **Add** the headings of Article 1 [commencing with Section 6250] to Chapter 3.5 of Division 7 of Title 1, **Add** Sections 6252.5 & 6253 to; & **Repeal** Sections 6253.1, 6256, 6256.1, 6256.2 & 6257 of the Govt. Code)

AB 206/Hertzberg      Citizen Complaints Act of 1997      (Chapter 416-97)

This bill requires State agencies to establish on their Internet site, a form for public comments and complaints. (**Add** Chapter 5.1 [commencing with Section 8330] to Division 1 of Title 2 of the Govt. Code)

AB 475/Pringle      Office of Permit Assistance: reports      (Chapter 719-97)

This bill requires, commencing with calendar year 1999, the Cal/EPA, the Resources Agency, and the State Board of Equalization to submit to the Trade and Commerce Agency an annual report of the total dollar amount of fees or charges collected or assessed by each of those agencies and subdivisions thereof. (**Add** Sections 15338.5 & 15338.6 to, **Repeal** Sections 15399.57 & 15399.58 of, the Govt. Code)

AB 529/Baldwin      State Funds      (Failed)

This bill would have required State agencies to deposit revenues derived from fines and penalties into the General Fund. The funds could not be expended unless the Legislature, through the Annual Budget Act or other Legislation, authorized that expenditure. (**Amend** Section 13332.18 of the Govt. Code)

AB 592/Kuehl      Drinking water: wells: oxygenates      (Chapter 814-97)

This bill requires the State Fire Marshall, a newly established committee, and the SWRCB to take specified actions on matters related to the protection of drinking water wells from motor vehicle fuel originating from pipelines or underground storage tanks. This bill authorizes SWRCB to pay for treatment of contaminated water or for alternative water supplies; requires DHS to adopt a primary and secondary drinking water standard for methyl tertiary butyl ether (MTBE); and requires the Scientific Advisory Panel to make a recommendation

## 1997 LEGISLATION - Assembly Bills

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### AB 592/Kuehl (continued)

as to whether MTBE is a carcinogen or a reproductive toxin. This bill also requires the Regional Water Quality Control Boards to notify public water system operators of any discharges, establishes responsibility for discharges, establishes responsibility for discharges, make related changes in law, and becomes operative only if SB 1189 (Hayden) is enacted. (**Amend** Section 51010.5 of, **Add** Sections 51017.1 & 51017.2 to, **Repeal & Add** Section 51017 of, the Govt. Code; **Amend** Sections 25298.5 & 116375 of, **Add** Section 100886 to, **Add** Article 12 [commencing with Section 25299.97] & Article 13 [commencing with Section 25299.99] to Chapter 6.75 of Division 20 of, **Add** Article 7.5 [commencing with Section 116610] to Chapter 4 of Part 12 of Division 104 of, the Health & Safety Code; & **Add** Sections 13272.1 & 13274 to the Water Code)

### AB 1429/Shelley      Water Quality      (Chapter 899-97)

This bill requires the SWRCB to conduct an inventory of existing water quality monitoring activities undertaken within State coastal watersheds, streams, bays, estuaries, and coastal waters and prepare and submit to the Legislature a report on a proposed comprehensive program to monitor the quality of such water bodies. (**Add** Section 13181 to the Water Code)

### AB 1559/Committee on Agriculture      Food Safety Account      (Chapter 727-97)

This bill redirects a license surcharge collected by the Department of Health Services (DHS) for DPR's Food Safety Account (FSA). The bill ensures that the FSA will be supported by funds transferred from the DPR Fund. The license surcharge funds collected by DHS will be retained by that agency for education and training in the prevention of microbial contamination. (**Amend** Section 17065 of, & **Add** Section 12846.5 to the FAC; **Amend** Section 110050, **Amend & Repeal** Section 110485 of the Health & Safety Code)

### AB 1581/Keeley      Coastal and ocean resources      (Chapter 779-97)

This bill appropriates general funds for the California Coastal Commission, local coastal jurisdictions, the SWRCB, and the Resources Agency to address coastal issues. (**Act** relating to coastal & ocean resources)

## 1997 LEGISLATION - Senate Bills

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SB 62/McPherson      California State Mussel Watch Program      (Chapter 781-97)

This bill requires the SWRCB, in conjunction with the Department of Fish and Game, to continue to implement the long-term coastal monitoring program known as the California State Mussel Watch Program. (**Add** Section 13177 to the Water Code)

SB 74/Kopp      Records      (VETOED)

The bill would have modified and change provisions of the Public Records Act. It would have added new language to the Act regarding requests for electronic records. (**Amend** Sections 6252 & 6258, **Amend & Renumber** Section 6253, **Add** Sections 6252.5 & 6253 to, **Add** a heading as Article 1 [commencing with Section 6250] to Chapter 3.5 of, **Add** Article 2 [commencing with Section 6275] to Chapter 3.5 of, Division 7 of Title of, & **Repeal** Sections 6253.1, 6256, 6256.1, 6256.2, & 6257 of the Govt. Code)

SB 95/Ayala      Open Meetings      (Chapter 949-97)

This bill would affect meetings of State bodies, including various committees of DPR. This bill would conform the open meetings laws governing State bodies to those laws currently governing local governmental entities. The amendments in this bill and the current language of the Brown Act are very similar, with only one major difference. The Brown Act, under Government Code (GC) section 54960.1, provides for actions by mandamus or injunction to obtain a judicial determination that an action taken by a legislative body of a local agency in violation of, in relevant part, GC sections 54953, 54954.2, 54954.5, or 54956, is null and void. These sections require that meetings of local agencies be open and public, require that agendas be posted, set forth the proper descriptions of agenda items for closed sessions, and govern the requirements for notice of special meetings. (**Amend** Sections 11124.1, 11125, 11125.1, 11125.5, 11125.7, 11126, 11126.3, 11129, 11130, 11130.7, & 11131 of, **Add** Sections 11121.95, 11125.4, 11125.8, 11128.5, & 11131.5 to the Govt. Code)

SB 318/Thompson      Air pollution: rice straw burning      (Chapter 745-97)

This bill creates the Rice Straw Demonstration Project Fund to be used by the ARB to provide cost-sharing grants for development of demonstration projects for new rice straw technologies that meet certain criteria. The bill would make significant changes to California's rice straw burning program. (**Amend** Sections 41865, 44535, & 44537.5 of, & **Add** Chapter 4.5 [commencing with Section 39750] to Part 2 of Division 26 of, the Health & Safety Code)

## 1997 LEGISLATION - Senate Bills

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SB 365/Lewis      Pesticides      (Chapter 530-97)

The bill authorizes the Director of DPR to exempt from all or part of California's pesticide regulatory requirements any liquid chemical sterilant product intended for use on critical or semicritical medical devices. In order to be considered for exemption by DPR, the products must be exempt from regulation by the U.S. EPA and have received premarket clearance from the federal Food and Drug Administration. (**Add** Section 12804 to the FAC)

SB 445/Monteith      Pesticides      (Chapter 691-97)

This bill allows DPR to exempt from registration pesticide products which have been determined by U.S. EPA to be exempt from all or part of the federal pesticide regulatory process. (**Add** Section 12803 to the FAC) \*\* See page 41 for complete text of bill\*\*

SB 464/Rainey      Pesticides      (Chapter 428-97)

This bill requires the DPR to implement an expedited registration program for any pesticide classified as a "Public Health pesticide" or "antimicrobial pesticide" by January 1, 1999. The bill allows DPR to waive the submission of review of efficacy data for antimicrobial pesticides, if certain criteria are met. (**Add** Sections 12836 & 12837 to the FAC)

SB 492/Rosenthal & Kopp      State agencies and regulatory boards      (Chapter 661-97)

This bill requires placement of licensing information from specified entities within DCA and the DRE on the Internet by January 1, 1999, and provides that personal information about the licensees shall not be included in the information that is made available on the Internet. (**Add** Section 27 to the Business & Professions Code; **Add** Sections 11018.5 to Govt. Code)

SB 499/Alpert      Water Quality      (VETOED)

This bill would have required the SWRCB and CCC to establish a coastal nonpoint source pollution control program, submit a biennial report to the Legislature, and require the program to develop and implement management measures for nonpoint source pollution of coastal waters. The bill would have required the CCC and the SWRCB to coordinate and promote educational and outreach efforts, and would have required the CCC to make a model urban runoff program available to local governments. (**Add** Chapter 10 [commencing with Section 66406] to Division 1 of Title 7 of the Govt. Code; **Add** Sections 21083.10, 30012.5, & 30412.1 to the Public Resources Code; **Add** Section 13167.1 to, & **Add** Chapter 5.4 [commencing with Section 13367] to Division 7 of, the Water Code)

## 1997 LEGISLATION - Senate Bills

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SB 504/Johnston      Administrative Law      (Chapter 192-97)

This bill requires any person submitting a written communication to a State agency to indicate the person who directly paid to produce the communication, if it was someone other than the person submitting the document. The bill authorizes a State agency to refuse or ignore a written communication submitted by an attorney or authorized representative on behalf of a client in a quasi-judicial proceeding, unless the written communication clearly indicates the client on whose behalf the communication is submitted.

(**Add** Section 11440.60 to the Govt. Code)

SB 603/Monteith      Pesticides: reevaluation      (Chapter 483-97)

This bill allows the Director of DPR to suspend or cancel a pesticide registration if the registrant did not supply the information required for a reevaluation. The bill states that a thorough evaluation to initially register a pesticide should be timely as well.

(**Amend** Sections 12824 & 12825 of the FAC) *\*\*See page 39 for complete text of bill\*\**

SB 827/Greene      Professional Licensing      (Chapter 759-97)

This bill addresses program sunset review and other provisions relating to several boards under the authority of the DCA. This bill extends the sunset on the SPCB, requires DPR and the SPCB to review and revise the terms of their interagency agreement. (**Amend** Sections 101, 128.5, 130, 200.1, 205, 675, 800, 1242.6, 1680, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 4800, 4804.5, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 8520, & 8528 of, **Amend & Repeal** Sections 5566, 5566.1, & 5566.2 of, **Add** Sections 473.15, 473.16, 473.6, & 4832 to; **Amend, Repeal, & Add** Sections 4833, 4834, 4835, & 4842.2 of, the Business & Professions Code)

SB 1141/Johnson      Individually Identifiable Information      (Chapter 674-97)

SB 1141 prohibits any person or any public or private entity not a party to a Workers' Compensation claim from obtaining "individually identifying information" maintained as part of the workers' compensation information system within the Division of Workers' Compensation in DIR. This bill limits use of individually identifiable information to three divisions within DIR and requires the Director of DIR to adopt regulations allowing "reasonable access" to individually identifiable information by other persons or public or private entities "for the purpose of bona fide statistical research." (**Add** Section 138.7 to the Labor Code)

## 1997 LEGISLATION - Senate Bills

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SB 1161/Costa      Pesticide Mill Assessment      (Chapter 695-97)

SB 1161 consolidates and restructures the mill assessment provisions in the Food and Agricultural Code (FAC). SB 1161 does the following:

- (1) Codifies all provisions from the Governor's Reorganization Plan of 1991 referencing the DPR fund.
- (2) Consolidates all mill assessment provisions into one area of Division 7 of the FAC. Restructures the Pest Control Dealer Licensing provisions in Division 6 of the FAC and the Pesticide Broker Licensing provisions in Division 7 of the FAC. The bill cleans up references to dealers as Pest Control Dealers, not Pesticide Dealers, to reflect a legislative change enacted a few years ago. In addition, the revised Pesticide Broker Licensing provisions are moved from Division 7 to Division 6 where the other licensing provisions are located.
- (3) Clarifies the Director's responsibilities regarding pesticide product quality sampling.
- (4) Amends existing mill assessment language in Sections 12841 and 12841.1 to accomplish the following:
  - (a) Focus on "the first person to sell a pesticide into or within California, " rather than specifically naming registrants, brokers, and dealers.
  - (b) Establish a mill assessment rate per dollar of sales for all sales of pesticides for use in California. The bill establishes the mill assessment rate from January 1, 1998, to March 31, 1999, at 15.15 mills per dollar of sales. The bill establishes the mill assessment rate from April 1, 1999, to January 1, 2003, at 17.5 mills per dollar of sales. Effective January 1, 2003, the mill assessment rate would return to 9 mills per dollar of sales.

The bill authorizes the Director, by emergency regulation, to establish a lower mill assessment rate in order to avoid the accumulation of unneeded revenue, provided certain specified criteria are met. In order to lower the statutorily established mill assessment rate, the Director must determine: (1) that DPR's program needs are adequately met; and (2) that the revenues collected would result in a prudent reserve. The bill defines a "prudent reserve" as an approximate balance in the DPR Fund of \$2.5 million by the end of fiscal year 2001-02. The bill prohibits DPR from lowering the mill assessment rate such that the revenues generated become less than the

## 1997 LEGISLATION - Senate Bills

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amount generated if each mill was valued at one million four hundred eighty-two thousand dollars.

The bill establishes that emergency regulations adopted by DPR to lower the statutory mill assessment rate shall be determined by the Office of Administrative Law (OAL) to be "necessary for the immediate preservation of the public peace, health, safety, and general welfare." Once the regulation is adopted as an emergency, DPR must still comply, within 120 days, with the remaining requirements of the Administrative Procedures Act. These requirements include noticing the proposed regulation change, providing for a 45-day public comment period, and holding a public hearing on the issue, if requested. The bill prohibits DPR from maintaining such a regulation in effect for more than four consecutive quarters. Prior to lowering the mill assessment rate by emergency regulation, the bill requires DPR to make all information justifying the lower mill assessment rate available to the public for at least 60 days.

- (c) The bill establishes that from January 1, 1998, to March 31, 1998, CACs will receive five-eighths of the mill assessment monies collected by DPR. Beginning April 1, 1998, the date that revenue from the 15.15 mill assessment rate is first collected, the bill requires the Director to distribute to the CACs an amount equal to the revenue derived from six mills.
- (d) Between January 1, 1998, and January 1, 2003, the bill authorizes DPR to collect an additional assessment to fund CDFR's OPCA consultation activities. For this purpose, DPR may collect an additional assessment of no more than three-fourths of a mill on dual use and agricultural products. The bill requires that the Secretary of CDFR determine the necessity for the additional assessment, in consultation with DPR, on an annual basis after consideration of all other revenue sources. CDFR's request for the additional assessment must be in writing and include the basis for the request.

**(Amend** Sections 12021, 12103, 12104, 12112, 12201, 12252, 12784, 12843, 12845, 12846, 12931, 12991, 12999.4, & 14152, & the heading of Chapter 7 [commencing with Section 12101] of Division 6 of, **Amend & Renumber** Sections 12115.3, 12115.5, & 12115.6 of, **Add** Chapter 10 [commencing with Section 12400] to Division 6 of, **Repeal** Sections 12115, 12115.1, 12115.2, 12115.4, 12932, & 12971.5 of, the heading of Article 1.5 [commencing with Section 12115] of Chapter 7 of Division 6 of, & Article 4.6 [commencing with Section 12848] of Chapter 2 of Division 7 of, **Repeal & Add** Sections 12841, 12842, 12844, & 12847 of, **Repeal, Add, & Repeal** Section 12841.1 of, the FAC)

*\*\*See page 27 for complete text of bill\*\**

## 1997 LEGISLATION - Senate Bills

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SB 1189/Hayden      Drinking Water      (Chapter 815-97)

This bill requires the SWRCB to take specified actions to address leaks and releases of motor vehicle fuel from pipelines or underground storage tanks; requires DHS to adopt a primary drinking water standard for methyl tertiary-butyl ether (MTBE); requires the Scientific Advisory Panel to determine whether MTBE should be listed as a carcinogen or reproductive toxin; and also requires each regional water quality control board to quarterly distribute to all public water system operators a list of discharges of MTBE during the quarter and a list of locations of those discharges.

(**Add** Article 12 [commencing with Section 25299.97] & Article 13 [commencing with Section 25299.99] to Chapter 6.75 of Division 20 of, **Add** Article 7.5 [commencing with Section 116610] to Chapter 4 of Part 12 of Division 104 of, the Health & Safety Code; & **Add** Section 13272.1 to the Water Code)

SB 1198/Costa      Produce Dealers and Processors of Farm Products      (Chapter 696-97)

This bill makes changes to CDFA's Market Enforcement Program and adds a sunset clause to those sections that provide for a 50 percent surcharge to the license fees required for processors of farm products or produce dealers. The surcharge to those fees is deposited in DPR's Food Safety Account.

(**Amend** Sections 226, 55403, 55435.5, 55483, 55485, 55523, 55525, 55721, 55722, 55741, 55742, 55743, 55744, 55861, 56109, 56133.5, 56161, 56186, 56273.1, 56381, 56382, & 56571 of; **Amend & Renumber** Sections 55751, 56252, & 56451 of; **Amend & Repeal** Sections 55861.7 & 56571.7 of, **Add** Sections 55462, 55484.5, 55484.75, 55485.5, 55485.75, 55524.5, 55524.75, 55525.75, 55722.5, 56134.5, 56134.75, 56183.5, 56185.5, 56185.75, 56186.5, 56186.75, 56382.5, 56701.5, & 56717 to, **Repeal** Sections 55486, 55487, 55489, 55490, 55526, 55527, 55528.5, 55529, 55529.5, 55745, 55745.5, 55746, 55747, 55748, 55749, 55750, 56187, 56188, 56191, 56191.5, 56192, 56192.5, 56446, 56448, 56449, 56450, & 56452 of, **Repeal** Article 13 [commencing with Section 55781] & Article 15 [commencing with Section 55841] of Chapter 6 of, & Article 14 [commencing with Section 56471] & Article 16 [commencing with Section 56531] of Chapter 7 of, & Chapter 7.5 [commencing with Section 56701] of, Division 20 of, & **Repeal & Add** Sections 55484, 55488, 55524, 55528, 56185, 56190, 56443, 56444, 56445, & 56447 of, the FAC)

## 1997 LEGISLATION - Senate Bills

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SB 1212/Vasconcellos      Administrative Procedure      (Chapter 815-97)

This bill limits the provision to the Administrative Procedure Act, which would require an agency to adopt a proposed decision of an administrative law judge (ALJ) in licensing cases where the ALJ finds that none of the agency's charges of "unprofessional or unlawful conduct" is supported by clear & convincing evidence, to specified healing arts licensing entities only. (**Add** Section 11517.5 to the Govt. Code)

SB 1312/Leslie      Fisheries management      (Chapter 437-97)

This bill provides that the DFG may not introduce a poison to a drinking water supply for purposes of fisheries management unless DHS determines that the activity will not have a permanent adverse impact on the drinking water supplies or wells connected to the drinking water supply. (**Add** Section 116751 to the Health & Safety Code)

SB 1320/Sher      Environmental Protection      (Chapter 295-97)

This bill requires Cal/EPA and entities within Cal/EPA to enter into an agreement with an external scientific peer review entity for any regulation proposed and requires DTSC to determine the economic impacts of a substitute drinking water source for Richwood residents. (**Repeal & Add** Section 57004 of the Health & Safety Code; **Amend** Section 4 of Chapter 1428 of the Statutes of 1985)

## **SECTION III - Major Bills**

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Section III -- The 1997 Major Bills section of this Summary provides chaptered versions of DPR sponsored bills and other bills of interest that have a direct impact on DPR as well as on California's pesticide regulatory program. In some cases, due to the high volume of bill content, we have provided limited text of only those sections pertaining to DPR in this summary.

# 1997 MAJOR BILLS - DPR Sponsored Bills

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*\*\*See page 22 for a brief summary of the bill...*

SB 1161 Pesticide mill assessment.

CHAPTER 695

FILED WITH SECRETARY OF STATE OCTOBER 6, 1997  
APPROVED BY GOVERNOR OCTOBER 4, 1997  
INTRODUCED BY Senator Costa FEBRUARY 28, 1997

An act to amend Sections 12021, 12103, 12104, 12112, 12201, 12252, 12784, 12843, 12845, 12846, 12931, 12991, 12999.4, and 14152, and the heading of Chapter 7 (commencing with Section 12101) of Division 6 of, to amend and renumber Sections 12115.3, 12115.5, and 12115.6 of, to add Chapter 10 (commencing with Section 12400) to Division 6 of, to repeal Sections 12115, 12115.1, 12115.2, 12115.4, 12932, and 12971.5 of, the heading of Article 1.5 (commencing with Section 12115) of Chapter 7 of Division 6 of, and Article 4.6 (commencing with Section 12848) of Chapter 2 of Division 7 of, to repeal and add Sections 12841, 12842, 12844, and 12847 of, and to repeal, add, and repeal Section 12841.1 of, the Food and Agricultural Code, relating to pesticides.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1161, Costa. Pesticide mill assessment.

(1) Until June 30, 1997, existing law requires every registrant of a pesticide product to pay to the Director of Pesticide Regulation an assessment of 22 mills per dollar of sales for all sales by that person of registered pesticides for use in this state. Under existing law, that assessment consists of 9 mills per dollar of sales that is in effect indefinitely, and an additional 13 mills per dollar of sales that is in effect until June 30, 1997. After July 1, 1997, the assessment will be lowered to 9 mills per dollar of sales.

This bill would set the mill assessment at 15.15 mills from January 1, 1998, to March 31, 1999, inclusive, and at 17.5 mills from April 1, 1999, to December 31, 2002, inclusive, per dollar of sales for all sales of pesticides for use in this state, and during that same period of time, permit the collection of up to an additional 3/4 mill if necessary to fund certain duties of the Department of Food and Agriculture. Commencing January 1, 2003, the mill assessment rate would be reduced to 9 mills per dollar of sales for all sales of pesticides for use in this state. The bill would require the distribution of specified amounts from those funds to the counties as reimbursement for their costs in carrying out and enforcing certain duties relating to the use of pesticides. The bill would also require the director and the county agricultural commissioners to jointly develop regulations specifying the criteria to be used in allocating pesticide mill assessment funds to the counties based upon each county's pest control activities, costs, workload, and performance, thereby imposing a state-mandated local program.

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 2)*

(2) Existing law provides for the licensing of pesticide brokers.

This bill would revise and recast those provisions.

(3) Existing law requires the director to take samples of pesticides, make analyses or examinations of them, and make such investigations as are necessary for the full enforcement of the laws relating to pesticides.

This bill would permit, rather than require, the director to do so.

(4) Existing law requires the director, at least annually, to print and distribute the results of examinations or chemical analyses of official samples of pesticides that are taken by the director. This bill would repeal that provision.

(5) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000. 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.

SECTION 1. Section 12021 of the Food and Agricultural Code is amended to read:

12021. An application for an agricultural pest control adviser license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of fifty dollars (\$50) to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued. Licenses may be renewed annually by the date of expiration through application in the form prescribed by the director and upon payment of a fee of forty dollars (\$40). A penalty of ten dollars (\$10) shall be assessed against any applicant who applies for a renewal of the license after the expiration date.

SEC. 2. The heading of Chapter 7 (commencing with Section 12101) of Division 6 of the Food and Agricultural Code is amended to read:

### CHAPTER 7. PEST CONTROL DEALER

SEC. 3. Section 12103 of the Food and Agricultural Code is amended to read:

12103. An application for a license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 3)*

one hundred dollars (\$100) to be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. All licenses issued under this article shall expire on December 31 of the year for which they are issued.

To the amount of the license fee shall be added, as an additional license fee, fifty dollars (\$50) for each branch salesyard, store, or sales location that is owned and operated by the applicant in the state or in other states when doing business from that location within the state.

SEC. 4. Section 12104 of the Food and Agricultural Code is amended to read:

12104. The license for a pest control dealer may be renewed annually upon application in the form prescribed by the director, accompanied by a fee of one hundred dollars (\$100), for each license and fifty dollars (\$50) for each branch salesyard, store, or sales location by the date of expiration. These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 5. Section 12112 of the Food and Agricultural Code is amended to read:

12112. Notwithstanding Section 11513, 50 percent of the moneys derived under this chapter shall be available to the director to cover the costs of establishing and administering the pest control dealer's licensing program pursuant to this chapter. The director shall pay 50 percent of the moneys collected to the counties that employ commissioners and the moneys shall be used by the counties for the enforcement and administration of this chapter. The department shall determine and pay to each county one-half of the deposited application fees and renewal fees that are received from applicants whose principal address at the time of payment, as determined by the director, was located in the county, and the amount of the payments to counties is hereby appropriated from the Department of Pesticide Regulation Fund.

SEC. 6. The heading of Article 1.5 (commencing with Section 12115) of Chapter 7 of Division 6 of the Food and Agricultural Code is repealed.

SEC. 7. Section 12115 of the Food and Agricultural Code is repealed.

SEC. 8. Section 12115.1 of the Food and Agricultural Code is repealed.

SEC. 9. Section 12115.2 of the Food and Agricultural Code is repealed.

SEC. 10. Section 12115.3 of the Food and Agricultural Code is amended and renumbered to read:

12114. (a) Each licensed pest control dealer, and each person who is required to be licensed as a pest control dealer pursuant to Section 12101, shall maintain at his or her principal place of business the records of its purchases, sales, and distributions of pesticides into or within this state, including those of its branch locations, for four years. Each dealer shall also maintain the pesticide broker license number of any pesticide broker from whom the dealer purchased pesticides registered by the director and labeled for agricultural use. The records shall be available for audit by the director.

## 1997 MAJOR BILLS - DPR Sponsored Bills

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SB 1161 (page 4)

(b) Each licensed pest control dealer, and each person who is required to be licensed as a pest control dealer pursuant to Section 12101, shall report quarterly to the director the total dollars of sales and total pounds or gallons sold into or within this state of each pesticide labeled for agricultural use, for all sales subject to Sections 12841 and 12841.1. The quarterly report shall be in the form prescribed by the director and shall include information from the dealer's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12841 and 12841.1.

SEC. 11. Section 12115.4 of the Food and Agricultural Code is repealed.

SEC. 12. Section 12115.5 of the Food and Agricultural Code is amended and renumbered to read:

12115. Any licensed pest control dealer, or any person who is required to be licensed as a pest control dealer pursuant to Section 12101, who purchases pesticide products that are registered by the director pursuant to Chapter 2 (commencing with Section 12751) of Division 7 and labeled for agricultural use from a person other than a registrant or a licensed pest control dealer, shall report in writing the name, address, telephone number, and pesticide broker license number issued by the director, if any, of those persons to the director annually, by December 1 each year.

SEC. 13. Section 12115.6 of the Food and Agricultural Code is amended and renumbered to read:

12116. It is unlawful for a licensed pest control dealer to purchase for sale in this state a pesticide that is labeled for agricultural use except from a registrant, a pest control dealer licensed pursuant to Section 12107, or a pesticide broker licensed pursuant to Section 12402.

SEC. 14. Section 12201 of the Food and Agricultural Code is amended to read:

12201. An application for a qualified applicator license shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of forty dollars (\$40). These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 15. Section 12252 of the Food and Agricultural Code is amended to read:

12252. (a) An application for a pest control dealer designated agent license shall be in the form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of fifteen dollars (\$15). These fees shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund.

(b) All licenses issued pursuant to this article shall expire on December 31 of the year for which they are issued.

(c) Licenses may be renewed annually upon application in the form prescribed by the director

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 5)*

and upon payment of a fee of fifteen dollars (\$15). A penalty of ten dollars (\$10) shall be added to any license renewal fee that is not paid by the date of expiration of the previously issued license.

SEC. 16. Chapter 10 (commencing with Section 12400) is added to Division 6 of the Food and Agricultural Code, to read:

### CHAPTER 10. PESTICIDE BROKERS

12400. It is unlawful for any person, other than the registrant or pest control dealer licensed pursuant to Section 12107, to sell or distribute into or within this state any pesticide products that have been registered by the director and that are labeled for agricultural use, unless the person is licensed by the director as a pesticide broker. This chapter does not apply to persons who operate as sellers or distributors of pesticides that are labeled only for nonagricultural uses.

12401. (a) An application for a pesticide broker license, or renewal of a license, shall be in the form prescribed by the director. Each application for a license, or license renewal, shall state the name and address of the applicant, and any other information specified on the application or required by the director, and be accompanied by a fee of one hundred dollars (\$100).

(b) An additional license fee, or license renewal fee, of fifty dollars (\$50) shall be paid for each branch location of the applicant that sells or distributes into or within the state any pesticide products that are labeled for agricultural use.

12402. The director shall issue to each applicant that satisfies the requirements of this chapter a pesticide broker license that shall be valid for one year from the date of issuance, unless the license is revoked or suspended in the interim.

12403. All licenses issued pursuant to this chapter may be renewed annually upon application to the director.

12404. A penalty of twenty-five dollars (\$25) shall be added to any license renewal fee that is not paid by the date of expiration of a previously issued license or license renewal.

12405. Each licensed pesticide broker that changes the address of its place of business, or that of a branch location, shall immediately provide the director written notification of the change.

12406. (a) Each licensed pesticide broker, or person who is required to be licensed as a pesticide broker pursuant to Section 12400, shall maintain at its principal place of business the records of its purchases and sales and distributions of pesticides into or within this state, including those of its branch locations, for four years. These records shall include copies of invoices showing payment of the mill assessment. The records shall be available for audit by the director or county agricultural commissioner.

(b) Each licensed pesticide broker, or person who is required to be licensed as a pesticide broker pursuant to Section 12400, shall report quarterly to the director the total dollars of sales

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 6)*

and total pounds or gallons sold into or within this state of each pesticide labeled for agricultural use, for all sales subject to Sections 12841 and 12841.1. The quarterly report shall be in the form prescribed by the director and shall include information from the broker's licensed branch locations, if any, and any other information specified on the form or required by the director. The report shall include a certification, under penalty of perjury, that the information contained in the report is true and correct. The report shall accompany payment of assessments required by Sections 12841 and 12841.1.

12407. It is unlawful for any person required to be licensed as a pesticide broker pursuant to this chapter to make any false or fraudulent statements or misrepresent or fail to disclose any material fact in making application for a license or renewal of a license or in any reports submitted to the director, or to make any false or misleading statements concerning any products specified in Section 12847 that the person sells or distributes.

12408. The director, after a hearing, may refuse, revoke, or suspend a pesticide broker license for any violation of this division or Division 7 (commencing with Section 12500) or any regulations adopted pursuant to this division.

SEC. 17. Section 12784 of the Food and Agricultural Code is amended to read:

12784. Any money that is received by the director pursuant to this chapter shall be paid into the State Treasury to the credit of the Department of Pesticide Regulation Fund. Registration fees and assessments received pursuant to this chapter shall be expended only for the administration and enforcement of Chapter 2 (commencing with Section 12751), Chapter 3 (commencing with Section 14001), and Chapter 3.5 (commencing with Section 14101) of Division 7.

SEC. 18. Section 12841 of the Food and Agricultural Code is repealed.

SEC. 19. Section 12841 is added to the Food and Agricultural Code, to read:

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

(b) Except as provided in subdivision (d), every person who sells for use in this state a pesticide product that has been registered by the director shall pay to the director the applicable assessment. There is a rebuttable presumption that pesticide products that are sold or distributed into or within this state by any person are sold or distributed for use in this state.

(c) (1) Upon application of any registrant, the director shall determine whether a fertilizer or paper product is used as a carrier for a pesticide, and is sold in combination, and whether the mill assessment under this article shall be on the pesticide value only, when the product is designed, developed, and manufactured, and sold primarily for other than a pesticide use. If the director finds that the combination product has such a major component and is designed, developed, manufactured, and sold primarily for other than a pesticide use, the assessment provided by this article shall be paid on the equivalent percentage of the sales price of the active ingredients of the

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 7)*

pesticide product. The director shall establish this percentage of the sales price. The percentage shall be the ratio of that portion of the sales price attributable to the pesticide portion to the total sales price of the combination product.

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

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

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

(2) No person is required to pay an assessment on registered products that are labeled only for use in further manufacturing or formulating of pesticides.

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

(f) (1) Except as provided in paragraph (2), the mill assessment shall be paid at the following rates per dollar of sales for all sales of pesticides for use in this state:

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

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

(C) Effective January 1, 2003, and thereafter, the rate shall be nine mills (\$0.009).

(2) In order to avoid the accumulation of unneeded revenues, the director shall, by the adoption of an emergency regulation pursuant to subdivision (h), set the mill assessment rate lower than the rate established in subparagraphs (A) and (B) of paragraph (1) if the director determines that program needs are adequately met and that revenues collected would result in a prudent reserve in the Department of Pesticide Regulation Fund by the end of the 2001-02 fiscal year greater than two million five hundred thousand dollars (\$2,500,000). In no case shall the lower mill rate result in revenues that are less than the revenues that the rate established in subparagraphs (A) and (B) of paragraph (1) would generate if each mill was valued at one million four hundred eighty-two thousand dollars (\$1,482,000).

(g) The revenue collected from the mill assessment shall be deposited in the Department of Pesticide Regulation Fund, except as specified in Section 12841.1, and distributed as follows:

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 8)*

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

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

(B) Beginning April 1, 1998, and thereafter, an amount equal to the revenue derived from 6 mills (\$0.006) 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.

(h) Any change to the mill assessment rate established pursuant to subparagraphs (A) and (B) of paragraph (1) of subdivision (f) shall be made by the adoption of an emergency regulation and shall be determined by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health, safety, and general welfare. Thereafter, the regulations shall be adopted pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code and shall remain in effect for no more than four consecutive quarters. The director shall make available to the public, at least 60 days prior to the adoption of an emergency regulation establishing a new rate, the information upon which the director has calculated the new rate.

SEC. 20. Section 12841.1 of the Food and Agricultural Code is repealed.

SEC. 21. Section 12841.1 is added to the Food and Agricultural Code, to read:

12841.1. (a) Between January 1, 1998 and January 1, 2003, the director may collect an assessment, in addition to the mill assessment collected pursuant to Section 12841, for all pesticide sales for use in this state except for sales for use in this state of those nonagricultural pesticides labeled only for home, industrial, or institutional use. The director may only collect up to an additional three-fourths mill (\$0.00075) per dollar of sales, as part of the rate established pursuant to Section 12841, if necessary to fund, or augment the funding for, an appropriation to the Department of Food and Agriculture to provide pesticide consultation to the department pursuant to Section 11454.2. The necessity of this additional assessment shall be determined by the Secretary of Food and Agriculture, in consultation with the director, on an annual basis after consideration of all other revenue sources, including any reserves, which may be appropriated for this purpose. The secretary's written determination, including a request for a specified additional assessment and the basis for that request, shall be provided to the department in a time and manner prescribed by the director to fulfill the requirements of Section 12841, and shall be made available to the public pursuant to the requirements of subparagraph (B) of paragraph (1) of

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 9)*

subdivision (f) of Section 12841.

(b) The revenue collected pursuant to this section shall be deposited monthly in a separate account in the Department of Food and Agriculture Fund. These revenues shall be expended only by the Department of Food and Agriculture, upon appropriation, to provide consultation to the department pursuant to Section 11454.2. No funds may be expended prior to the execution of a memorandum of understanding pursuant to subdivision (b) of Section 11454.2. The consultation activities to be undertaken by the Department of Food and Agriculture are limited solely to those specifically authorized in the memorandum of understanding executed pursuant to Section 11454.2. These funds may not be expended for scientific risk assessment activities. The department shall be reimbursed from the Department of Food and Agriculture Fund for revenue collection activities.

(c) This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 22. Section 12842 of the Food and Agricultural Code is repealed.

SEC. 23. Section 12842 is added to the Food and Agricultural Code, to read:

12842. Every person who sells for use in this state any pesticide products that have been registered by the director shall maintain in this state, or with the director's permission at another location, an accurate record of all transactions subject to assessment for four years. The records are subject to audit by the director and shall clearly demonstrate proof of payment of all applicable assessments for each registered pesticide product sold for use in this state.

SEC. 24. Section 12843 of the Food and Agricultural Code is amended to read:

12843. The payments required by this article, together with a return in a form prescribed by the director, shall be made quarterly one calendar month after March 31, June 30, September 30, and December 31 of each year. For any delinquency in making a return, or any deficiency in payment, the director shall add to the delinquent payment a penalty of 10 percent of the amount that is due.

SEC. 25. Section 12844 of the Food and Agricultural Code is repealed.

SEC. 26. Section 12844 is added to the Food and Agricultural Code, to read:

12844. The director and the county agricultural commissioners shall jointly develop regulations specifying the criteria to be used in allocating pesticide mill assessment funds to the counties based upon each county's pest control activities, costs, workload, and performance. After providing public notice, the director shall adopt those regulations. The criteria to be used in allocating the funds to counties shall include, but not be limited to, all of the following:

(a) The effectiveness of the pesticide use enforcement program in each county.

(b) The number, comprehensiveness, and effectiveness of pest control inspections performed in each county.

(c) The number of licensed pest control dealers located in each county. The number of licensed

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 10)*

agricultural pest control advisers, pest control businesses, and pest control aircraft pilots registered in each county. The number of structural pest control operators providing notice of work to each county.

(d) The work hours expended in each county by county personnel who are licensed, or working under the supervision of county personnel licensed, in pesticide regulation or environmental monitoring and investigation.

(e) The total amount of dollars expended by each county relating to pesticide regulatory activities.

(f) The total number of private applicator certificate holders in each county.

(g) The total pounds of pesticides reported used in each county.

SEC. 27. Section 12845 of the Food and Agricultural Code is amended to read:

12845. (a) The director may adopt regulations that require persons subject to this article to provide information determined by the director to be necessary to enable the director to perform the audit authorized pursuant to Section 12842 and to carry out other powers or duties under this division.

(b) The regulations adopted pursuant to this section may include, but are not limited to, a requirement that a person subject to this article provide the director with information on the quarterly dollar sales of each registered pesticide sold for use in this state and the quarterly volume of each registered pesticide sold for use in this state.

SEC. 28. Section 12846 of the Food and Agricultural Code is amended to read:

12846. The Food Safety Account is hereby created in the Department of Pesticide Regulation Fund. The funds in the account shall be used, upon appropriation, for the purposes of Sections 12535, 12797, 12798, 12979, 13134 and 13135 of this code and Section 110495 of the Health and Safety Code.

SEC. 29. Section 12847 of the Food and Agricultural Code is repealed.

SEC. 30. Section 12847 is added to the Food and Agricultural Code, to read:

12847. Sales invoices for pesticides first sold into or within this state by a registrant, pesticide broker, pest control dealer, or other person subject to this article shall show that the assessment specified in Sections 12841 and 12841.1 will be paid by the registrant, broker, dealer, or person, respectively. All other sales invoices for pesticides sold into or within this state, except retail sales of those nonagricultural pesticides labeled only for home, industrial, or institutional use shall show as a comment on the invoice that the assessment will be paid, and may show an amount or rate that represents the assessment. However, only the person who actually will pay the assessment may show the amount or rate of the assessment as a line item on the sales invoice. SEC. 31. Article 4.6 (commencing with Section 12848) of Chapter 2 of Division 7 of the Food and Agricultural Code is repealed.

SEC. 32. Section 12931 of the Food and Agricultural Code is amended to read:

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## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 11)*

12931. The director may take samples of pesticides, make analyses or examinations of them, and make such investigations as are necessary for the full enforcement of this chapter.

SEC. 33. Section 12932 of the Food and Agricultural Code is repealed.

SEC. 34. Section 12971.5 of the Food and Agricultural Code is repealed.

SEC. 35. Section 12991 of the Food and Agricultural Code is amended to read:

12991. It is unlawful for any person, individually or through another, in connection with any substance or mixture of substances included within the scope of this chapter, to do any of the following:

- (a) Make any material or substantial misrepresentation.
- (b) Make any false promises of a character likely to influence, induce, or deceive.
- (c) Engage in illegitimate business or dishonest dealing.
- (d) Cause to be published or distributed any false or misleading literature, or cause to be displayed any false or misleading advertisement.
- (e) Use, store, transport, handle, or dispose of any pesticide, or of any container that holds or has held a pesticide, except in compliance with regulations of the director.
- (f) Purchase for use in this state a pesticide that is labeled for agricultural use except from a person licensed as a pest control dealer pursuant to Section 12107. Persons using those products shall retain receipts of the purchase of the products for four years and make the receipts available for inspection upon request of the director or the commissioner.

SEC. 36. Section 12999.4 of the Food and Agricultural Code is amended to read:

12999.4. (a) In lieu of civil prosecution by the director, the director may levy a civil penalty against a person violating Sections 12115, 12116, 12671, 12992, 12993, Chapter 10 (commencing with Section 12400) of Division 6, or Article 4.5 (commencing with Section 12841) of not more than five thousand dollars (\$5,000) for each violation.

(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard, including the right to review the director's evidence and a right to present evidence on his or her own behalf.

(c) Review of the decision of the director may be sought by the person against whom the penalty was levied within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.

(d) After the exhaustion of the review procedure provided in this section, the director, or his or her representative, may file a certified copy of a final decision of the director that directs the payment of a civil penalty and, if applicable, any order that denies a petition for a writ of administrative mandamus, with the clerk of the superior court of any county. Judgment shall be entered immediately by the clerk in conformity with the decision or order. No fees shall be charged by the clerk of the superior court for the performance of any official service required in connection with the entry of judgment pursuant to this section.

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 1161 (page 12)*

(e) Any money recovered under this section shall be paid into the Department of Pesticide Regulation Fund for use by the department, upon appropriation, in administering this division and Division 6 (commencing with Section 11401).

SEC. 37. Section 14152 of the Food and Agricultural Code is amended to read:

14152. An application for a qualified applicator certificate shall be in a form prescribed by the director. Each application shall state the name and address of the applicant specified on the application and any other information required by the director. The application shall be accompanied by a fee of twenty-five dollars (\$25). All certificates issued under this chapter shall expire on December 31 of the year for which they are issued. Certificates may be renewed annually by the date of expiration by application in the form prescribed by the director and upon payment of fifteen dollars (\$15). A penalty of ten dollars (\$10) shall be assessed against any applicant who applies for renewal after the expiration date. These funds shall be deposited in the State Treasury to the credit of the Department of Pesticide Regulation Fund.

SEC. 38. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

# 1997 MAJOR BILLS - DPR Sponsored Bills

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*\*\*See page 21 for a brief summary of bill...*

SB 603 Pesticides: evaluation.

CHAPTER 483

FILED WITH SECRETARY OF STATE SEPTEMBER 25, 1997  
APPROVED BY GOVERNOR SEPTEMBER 24, 1997  
INTRODUCED BY Senator Monteith FEBRUARY 24, 1997

An act to amend Sections 12824 and 12825 of the Food and Agricultural Code, relating to pesticides.

## LEGISLATIVE COUNSEL'S DIGEST

SB 603, Monteith. Pesticides: evaluation.

Existing law requires every manufacturer of, importer of, or dealer in any pesticide to obtain a certificate of registration from the Department of Pesticide Regulation before the pesticide is offered for sale in this state. Existing law requires a thorough evaluation before a substance is registered as a pesticide for the first time, and also requires pesticides for which a renewal of registration is sought to be evaluated in a like manner.

This bill would require the initial evaluation of a pesticide to be timely.

SECTION 1. Section 12824 of the Food and Agricultural Code is amended to read:

12824. The director shall endeavor to eliminate from use in the state any pesticide that endangers the agricultural or nonagricultural environment, is not beneficial for the purposes for which it is sold, or is misrepresented. In carrying out this responsibility, the director shall develop an orderly program for the continuous evaluation of all pesticides actually registered.

Before a substance is registered as a pesticide for the first time, there shall be a thorough and timely evaluation in accordance with this section. Appropriate restrictions may be placed upon its use including, but not limited to, limitations on quantity, area, and manner of application. All pesticides for which renewal of registration is sought also shall be evaluated in accordance with this section.

The director may establish specific criteria to evaluate a pesticide with regard to the factors listed in Section 12825. The department may establish performance standards and tests that are to be conducted or financed, or both conducted and financed, by the registrants, applicants for registration, or parties interested in the registration of those pesticides.

SEC. 2. Section 12825 of the Food and Agricultural Code is amended to read:

12825. Pursuant to Section 12824, the director, after hearing, may cancel the registration of, or refuse to register, any pesticide:

(a) That has demonstrated serious uncontrollable adverse effects either within or outside the

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*SB 603 (page 2)*

agricultural environment.

(b) The use of which is of less public value or greater detriment to the environment than the benefit received by its use.

(c) For which there is a reasonable, effective, and practicable alternate material or procedure that is demonstrably less destructive to the environment.

(d) That, when properly used, is detrimental to vegetation, except weeds, to domestic animals, or to the public health and safety.

(e) That is of little or no value for the purpose for which it is intended.

(f) Concerning which any false or misleading statement is made or implied by the registrant or his or her agent, either verbally or in writing, or in the form of any advertising literature.

(g) For which the director determines the registrant has failed to report an adverse effect or risk as required by Section 12825.5.

(h) If the director determines that the registrant has failed to comply with the requirements of a reevaluation or to submit the data required as part of the reevaluation of the registrant's product.

(i) That is required to be registered pursuant to the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.) and that is not so registered.

In making a determination pursuant to this section, the director may require those practical demonstrations that are necessary to determine the facts.

## 1997 MAJOR BILLS - DPR Sponsored Bills

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*\*\*See page 20 for a brief summary of bill...*

SB 445 Pesticides.

CHAPTER 691

FILED WITH SECRETARY OF STATE OCTOBER 6, 1997  
APPROVED BY GOVERNOR OCTOBER 4, 1997  
INTRODUCED BY Senator Monteith FEBRUARY 19, 1997

An act to add Section 12803 to the Food and Agricultural Code, relating to agriculture.

### LEGISLATIVE COUNSEL'S DIGEST

SB 445, Monteith. Pesticides.

Existing law requires every manufacturer of, importer of, or dealer in any pesticide, except as specified, to obtain a certificate of registration from the Department of Pesticide Regulation before the pesticide is offered for sale in this state.

This bill would permit the Director of Pesticide Regulation to exempt from the provisions governing the registration of pesticides certain products that are exempt under the federal Insecticide, Fungicide, and Rodenticide Act, and that are determined to be of a character unnecessary to be subject to that act.

SECTION 1. Section 12803 is added to the Food and Agricultural Code, to read:

12803. The director, by regulation, may exempt from all or part of the requirements of this division a pesticide exempted pursuant to 25(b) of the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136w (b)) as a pesticide that is determined to be of a character unnecessary to be subject to that act, if both of the following apply:

(a) The director individually evaluates each listed substance exempted pursuant to the federal authority and concurs in the decision by the United States Environmental Protection Agency Administrator to exempt that substance.

(b) The director excludes from the exempting regulation those specific requirements of this division that may otherwise be applicable that are necessary to protect the public health or the environment. Notwithstanding any other provision of law, the director shall retain authority to regulate any substance exempted pursuant to this section whether registered or not.

# 1997 MAJOR BILLS of Interest - Assembly Bills

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AB 1559 Food and agriculture.

CHAPTER 727

FILED WITH SECRETARY OF STATE OCTOBER 7, 1997  
APPROVED BY GOVERNOR OCTOBER 6, 1997  
INTRODUCED BY Assembly Members Cardoza, House, Machado, and Thomson  
(Coauthors: Senators Costa, McPherson, and Monteith) MARCH 10, 1997

An act to amend Section 17065 of, and to add Section 12846.5 to, the Food and Agricultural Code, and to amend Section 110050 of, and to amend and repeal Section 110485 of, the Health and Safety Code, relating to food and agriculture.

## LEGISLATIVE COUNSEL'S DIGEST

AB 1559, Cardoza. Food and agriculture.

(1) Existing law provides for the seizure and disposition of estrayed stock and domestic animals. Existing law requires the Secretary of Food and Agriculture to cause a notice of the taking up of the animal to remain posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification. This bill would additionally permit the secretary to distribute the notice to the county department of agriculture and all sales yards in the state.

(2) Existing law requires every person to register with the State Department of Health Services upon first engaging in the manufacture, packing, or holding of processed food in this state. Existing law also requires each of these registrants to pay a surcharge of \$100 to the Department of Pesticide Regulation, which funds are deposited in the Food Safety Account in the Department of Pesticide Regulation Fund. This bill would rename that surcharge the "food safety fee" and would require that fee to be paid to the State Department of Health Services. The bill would require the deposit of those funds in the Food Safety Fund in the State Treasury. The bill would specify that the funds shall be used by the state department, upon appropriation, to assist in developing and implementing education and training programs related to food safety. These provisions governing the food safety fee would be repealed on January 1, 2001.

(3) Existing law creates the Department of Pesticide Regulation Fund. This bill would require the Director of Pesticide Regulation to transfer a portion of that fund into the Food Safety Account, to be used for the pesticide residue monitoring program and for testing produce for pesticide residues.

SECTION 1. Section 12846.5 is added to the Food and Agricultural Code, to read:

12846.5. Sufficient moneys from the Department of Pesticide Regulation Fund, as determined by the Director of Pesticide Regulation, shall be transferred to the Food Safety Account for the purposes of Section 12846, except that no fees or assessments deposited into the fund shall be transferred to the account and used for nonregulatory purposes.

## 1997 MAJOR BILLS of Interest - Assembly Bills

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*AB 1559 (page 2)*

SEC. 1.5. Section 17065 of the Food and Agricultural Code is amended to read:

17065. (a) If the owner is not found, and the estimated value of the animal exceeds two hundred twenty-five dollars (\$225), the secretary shall cause a notice of the taking up of, and intent to sell the animal to be prepared. The notice may be distributed to the county department of agriculture and to all sales yards in the state. The secretary may limit distribution of the notice, however, to those sales yards that deal in the same type of animal as the animal that is taken up.

(b) The notice shall be posted for a period of 14 days on a bulletin board in each office of the Bureau of Livestock Identification.

(c) In addition to posting and distributing the notice, the secretary shall periodically publish a list of the animals for which notice was given pursuant to this section, including the brands and descriptions of the branded animals and descriptions of the unbranded animals in the classified section of a livestock industry publication that is in general circulation throughout the State of California.

SEC. 2. Section 110050 of the Health and Safety Code is amended to read:

110050. The Food Safety Fund is hereby created as a special fund in the State Treasury. All moneys collected by the department under Sections 110470 and 110485 and under Article 7 (commencing with Section 110810) of Chapter 5 shall be deposited in the fund, for use by the department, upon appropriation by the Legislature, for the purposes of providing funds necessary to carry out and implement the inspection provisions of this part relating to food, the provisions relating to education and training in the prevention of microbial contamination pursuant to Section 110485, and the registration provisions of Article 7 (commencing with Section 110810) of Chapter 5.

SEC. 3. Section 110485 of the Health and Safety Code is amended to read:

110485. (a) Every person who is engaged in the manufacture, packing, or holding of processed food in this state shall pay a food safety fee of one hundred dollars (\$100) to the department in addition to any fees paid pursuant to Section 110470.

(b) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050. A penalty of 10 percent per month shall be added to any food safety fee not paid when due.

(c) Upon appropriation, the food safety fees deposited in the Food Safety Fund shall be used by the department to assist in developing and implementing education and training programs related to food safety. These programs shall be developed in consultation with representatives of the food processing industry. Implementation shall include education and training in the prevention of microbial contamination.

(d) This section does not apply to companies exclusively involved in flour milling, dried bean processing, or in the drying or milling of rice, or to those individual registrants the director

## 1997 MAJOR BILLS of Interest - Assembly Bills

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*AB 1559 (page 3)*

determines should not be assessed because substantial economic hardship would result to those registrants. For the purposes of this subdivision, the substantial hardship exemption shall be extended only to registrants whose wholesale gross annual income from the registered business is twenty thousand dollars (\$20,000) or less.

(e) This section shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 4. The Legislature finds and declares that it is in the public interest for the state government to take an active and cooperative role in maintaining the safety and wholesomeness of processed agricultural products grown within the state. It is the intent of the Legislature to direct the State Department of Health Services to expand development of microbial-based education and training programs related to food safety and to assist processors and other food handlers establish effective food safety practices. In this effort, the State Department of Health Services shall work in cooperation with the Department of Food and Agriculture to share information relating to food safety. All segments of agriculture will benefit from a greater awareness and understanding of the importance of food safety practices that prevent microbial contamination. In addition, the microbial-based education and training programs will benefit California consumers by educating and assisting the food industry in using the best available food safety technologies.

# 1997 MAJOR BILLS of Interest - Senate Bills

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SB 365 Pesticides.

CHAPTER 530

FILED WITH SECRETARY OF STATE SEPTEMBER 29, 1997  
APPROVED BY GOVERNOR SEPTEMBER 28, 1997  
INTRODUCED BY Senator Lewis FEBRUARY 13, 1997

An act to add Section 12804 to the Food and Agricultural Code, relating to pesticides.

## LEGISLATIVE COUNSEL'S DIGEST

SB 365, Lewis. Pesticides.

Existing law requires every manufacturer or importer of, or dealer in any pesticide, with prescribed exceptions, to obtain a certificate of registration from the Department of Pesticide Regulation before the pesticide is offered for sale in this state.

This bill would permit the Director of Pesticide Regulation to exempt from those provisions a liquid chemical sterilant product for use on a critical or semi-critical medical device that is exempt from the federal Insecticide, Fungicide, and Rodenticide Act pursuant to a particular provision of that act.

SECTION 1. Section 12804 is added to the Food and Agricultural Code, to read:

12804. (a) The director, by regulation, may exempt from all or part of the requirements of this division a liquid chemical sterilant product for use on a critical or semi-critical medical device that is exempt from the federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.) pursuant to subdivision (u) of Section 2 of that act (7 U.S.C. Sec. 136 (u)), and that has obtained clearance from the federal Food and Drug Administration under subdivision (k) of Section 510 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 306 (k)) if both of the following apply:

(1) The product does not include ethylene oxide as an active ingredient.

(2) The director excludes from the exempting regulation requirements to report pesticide-related illnesses, to collect information and data concerning pesticide-related illnesses, and to transmit that information and data to the appropriate agency or entity for inspection or followup, and other specific requirements of this division that may otherwise be applicable and that are necessary to protect the public health or the environment. Notwithstanding any other provision of law, the director shall retain the authority to regulate any substance exempted pursuant to this section whether registered or not.

(b) On or before July 1, 1998, the director may adopt the regulations authorized under subdivision (a) as emergency regulations. In adopting those regulations as emergency regulations, the director is not required to make the finding required by subdivision (b) of Section 11346.1 of the Government Code.

# 1997 MAJOR BILLS of Interest - Senate Bills

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SB 464 Pesticides

CHAPTER 428

FILED WITH SECRETARY OF STATE SEPTEMBER 22, 1997  
APPROVED BY GOVERNOR SEPTEMBER 21, 1997  
INTRODUCED BY Senator Rainey FEBRUARY 19, 1997

An act to add Sections 12836 and 12837 to the Food and Agricultural Code, relating to pesticides.

## LEGISLATIVE COUNSEL'S DIGEST

SB 464, Rainey. Pesticides.

Existing law requires a thorough evaluation by the Department of Pesticide Regulation before a substance is registered as a pesticide for the first time in this state.

This bill would require the Director of Pesticide Regulation, by January 1, 1999, to implement a program for the expedited registration or the expedited amendment of the registration of any pesticide classified by the United States Environmental Protection Agency as a "public health pesticide" or "antimicrobial pesticide" and that is determined by the director to have human health protection benefits that warrant eligibility for expedited processing. The bill also would authorize the director to provide expedited registration for any other pesticide product.

The bill would permit the director to waive the submission or review, or both, of efficacy data developed by a registrant as a prerequisite for registration of any antimicrobial pesticide product if specified conditions are met.

SECTION 1. Section 12836 is added to the Food and Agricultural Code, to read:

12836. (a) The director, by January 1, 1999, shall implement a program for the expedited registration of or for the expedited amendment of the registration of any pesticide classified by the United States Environmental Protection Agency as a "public health pesticide" or "antimicrobial pesticide" and that is determined by the director to have human health protection benefits that warrant eligibility for expedited processing. Nothing in this section limits the director's authority to provide expedited registration for any other pesticide product.

(b) For the purposes of this section, "expedited registration" and "expedited amendment of the registration" mean that the director shall review an application for registration or for amendment of a registration concurrently in time with the review conducted by the United States Environmental Protection Agency. This section shall not be construed to require or authorize modification of any guidelines, protocols, or standards applicable to the review of an application for registration.

SEC. 2. Section 12837 is added to the Food and Agricultural Code, to read:

12837. (a) The director may waive the submission or review, or both, of efficacy data developed by a registrant as a prerequisite for registration for any antimicrobial pesticide product

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 464 (page 2)*

if all of the following conditions have been met with respect to each antimicrobial pesticide product:

(1) The director finds that the United States Environmental Protection Agency's guidelines, protocols, and standards of review in existence at the time the product was reviewed by the United States Environmental Protection Agency are consistent with, and no less stringent than, California guidelines, protocols, and standards and generally accepted scientific practices.

(2) The director finds that, with respect to the particular antimicrobial pesticide product reviewed under this section, the United States Environmental Protection Agency actually implemented the guidelines, protocols, and standards of review for which the director made the required finding pursuant to paragraph (1). In making this finding, the director may request any relevant studies or documentation from the registrant.

(b) Nothing in this section shall be construed as a limitation on the director to request or to review any efficacy data or studies or to subject any product to testing, at any time.

# 1997 MAJOR BILLS of Interest - Senate Bills

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SB 1141 Workers' compensation: individually identifiable information

CHAPTER 674

FILED WITH SECRETARY OF STATE OCTOBER 6, 1997

APPROVED BY GOVERNOR OCTOBER 3, 1997

INTRODUCED BY Senator Johnson FEBRUARY 28, 1997

An act to add Section 138.7 to the Labor Code, relating to workers' compensation.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1141, Johnson. Workers' compensation: individually identifiable information.

Existing law requires the Administrative Director of the Division of Workers' Compensation, in consultation with the Insurance Commissioner, to develop a workers' compensation information system to perform certain specified functions.

This bill would prohibit any person or public or private entity not a party to a workers' compensation claim to obtain individually identifiable information, as defined, obtained or maintained by the Division of Workers' Compensation, except as expressly permitted under specified provisions. The bill would also require the administrative director to adopt regulations governing access to this information by certain divisions of the Department of Industrial Relations, and by other persons or public or private entities for the purpose of bona fide statistical research, and would provide that these provisions shall not operate to exempt from disclosure any information that is considered to be a public record contained in an individual's file once an application for adjudication has been filed. The bill would also provide that these provisions shall not operate to restrict access to information by any law enforcement agency or district attorney's office or to limit admissibility in any criminal proceeding.

This bill, in addition, would declare that it is unlawful for any person who has received individually identifiable information pursuant to these provisions to provide that information to any person who is not entitled to it.

SECTION 1. Section 138.7 is added to the Labor Code, to read:

138.7. (a) Except as expressly permitted in subdivision (b), a person or public or private entity not a party to a claim for workers' compensation benefits may not obtain individually identifiable information obtained or maintained by the division on that claim. For purposes of this section, "individually identifiable information" means any data concerning an injury or claim that is linked to a uniquely identifiable employee, employer, claims administrator, or any other person or entity.

(b) (1) The administrative director, or a statistical agent designated by the administrative director, may use individually identifiable information for purposes of creating and maintaining

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1141 (page 2)*

the workers' compensation information system as specified in Section 138.6.

(2) The State Department of Health Services may use individually identifiable information for purposes of establishing and maintaining a program on occupational health and occupational disease prevention as specified in Section 105175 of the Health and Safety Code.

(3) Individually identifiable information may be used by the Division of Workers' Compensation, the Division of Occupational Safety and Health, and the Division of Labor Statistics and Research as necessary to carry out their duties. The administrative director shall adopt regulations governing the access to the information described in this subdivision by these divisions. Any regulations adopted pursuant to this subdivision shall set forth the specific uses for which this information may be obtained.

(4) The administrative director shall adopt regulations allowing reasonable access to individually identifiable information by other persons or public or private entities for the purpose of bona fide statistical research. This research shall not divulge individually identifiable information concerning a particular employee, employer, claims administrator, or any other person or entity. The regulations adopted pursuant to this paragraph shall include provisions guaranteeing the confidentiality of individually identifiable information.

(5) This section shall not operate to exempt from disclosure any information that is considered to be a public record pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) contained in an individual's file once an application for adjudication has been filed pursuant to Section 5501.5 of the Labor Code.

(c) Except as provided in subdivision (b), individually identifiable information obtained by the division is privileged and is not subject to subpoena in a civil proceeding unless, after reasonable notice to the division and a hearing, a court determines that the public interest and the intent of this section will not be jeopardized by disclosure of the information. This section shall not operate to restrict access to information by any law enforcement agency or district attorney's office or to limit admissibility of that information in a criminal proceeding.

(d) It shall be unlawful for any person who has received individually identifiable information from the division pursuant to this section to provide that information to any person who is not entitled to it under this section.

## 1997 MAJOR BILLS of Interest - Senate Bills

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**This is not the full text of Chapter 696-97.  
Only those sections pertaining to DPR are provided.**

SB 1198 Produce dealers and processors of farm products.

CHAPTER 696

FILED WITH SECRETARY OF STATE OCTOBER 6, 1997

APPROVED BY GOVERNOR OCTOBER 4, 1997

INTRODUCED BY Senator Costa

(Coauthors: Assembly Members Cardoza and Machado) FEBRUARY 28, 1997

An act to amend Sections 226, 55403, 55435.5, 55483, 55485, 55523, 55525, 55721, 55722, 55741, 55742, 55743, 55744, 55861, 56109, 56133.5, 56161, 56186, 56273.1, 56381, 56382, and 56571 of, to amend and renumber Sections 55751, 56252, and 56451 of, to amend and repeal Sections 55861.7 and 56571.7 of, to add Sections 55462, 55484.5, 55484.75, 55485.5, 55485.75, 55524.5, 55524.75, 55525.75, 55722.5, 56134.5, 56134.75, 56183.5, 56185.5, 56185.75, 56186.5, 56186.75, 56382.5, 56701.5, and 56717 to, to repeal Sections 55486, 55487, 55489, 55490, 55526, 55527, 55528.5, 55529, 55529.5, 55745, 55745.5, 55746, 55747, 55748, 55749, 55750, 56187, 56188, 56191, 56191.5, 56192, 56192.5, 56446, 56448, 56449, 56450, and 56452 of, to repeal Article 13 (commencing with Section 55781) and Article 15 (commencing with Section 55841) of Chapter 6 of, and Article 14 (commencing with Section 56471) and Article 16 (commencing with Section 56531) of Chapter 7 of, and Chapter 7.5 (commencing with Section 56701) of, Division 20 of, and to repeal and add Sections 55484, 55488, 55524, 55528, 56185, 56190, 56443, 56444, 56445, and 56447 of, the Food and Agricultural Code, relating to agriculture, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

SB 1198, Costa. Produce dealers and processors of farm products.

... (5) Existing law requires each applicant for a license as a processor of farm products or produce dealer to pay a 50% surcharge to the Director of Pesticide Regulation. These funds are deposited in the Food Safety Account in the Department of Pesticide Regulation Fund. This bill would repeal the collection of the surcharge as of January 1, 1999.

...SEC. 87. Section 56571.7 of the Food and Agricultural Code is amended to read:  
56571.7. (a) Notwithstanding Section 56571.5, in addition to the fee paid pursuant to

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1198 (page 2)*

Section 56571, each applicant for a license shall pay a 50-percent surcharge to the Director of Pesticide Regulation, in a form and manner prescribed by the secretary.

(b) Subdivision (a) does not apply to those applicants for licenses the Department of Pesticide Regulation determines should not be assessed due to a determination of limited applicability pursuant to Sections 12535, 12536, 12797, 12798, 12979, 13134, and 13135 of this code or Section 110455 or 110485 of the Health and Safety Code to those licenses, or because substantial economic hardship would result to individual applicants.

(c) Revenue received pursuant to this section shall be deposited in the Food Safety Account in the Department of Pesticide Regulation Fund. A penalty of 10 percent per month shall be added to any surcharge not paid when due.

(d) If the applicant is not issued a license, the department shall return the surcharge to the applicant, and for that purpose, notwithstanding Section 13340 of the Government Code, the amount of funds necessary to refund the surcharge is continuously appropriated, without regard to fiscal year, to the department.

(e) This section shall remain in effect only until January 1, 1999, and of that date is repealed, unless a later enacted statute, that is enacted before January 1, 1999, deletes or extends that date.

# 1997 MAJOR BILLS of Interest - Senate Bills

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SB 1312 Fisheries management: drinking water.

CHAPTER 437

FILED WITH SECRETARY OF STATE SEPTEMBER 22, 1997

APPROVED BY GOVERNOR SEPTEMBER 21, 1997

INTRODUCED BY Senator Leslie FEBRUARY 28, 1997

An act to add Section 116751 to the Health and Safety Code, relating to water, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1312, Leslie. Fisheries management: drinking water.

Existing law provides for the California Safe Drinking Water Act and directs the State Department of Health Services to adopt and enforce primary drinking water standards.

This bill would provide that the Department of Fish and Game may not introduce a poison to a drinking water supply for purposes of fisheries management unless the State Department of Health Services determines that the activity will not have a permanent adverse impact on the quality of the drinking water supply or wells connected to the drinking water supply. The bill would set forth requirements for making that determination.

This bill would declare that it is to take effect immediately as an urgency statute.

SECTION 1. Section 116751 is added to the Health and Safety Code, to read:

116751. The Department of Fish and Game may not introduce a poison to a drinking water supply for purposes of fisheries management unless the State Department of Health Services determines that the activity will not have a permanent adverse impact on the quality of the drinking water supply or wells connected to the drinking water supply. In making this determination, the State Department of Health Services shall evaluate the short- and long-term health effects of the poison in drinking water, ensure that an alternative supply of drinking water is provided to the users of the drinking water supply while the activity takes place, and, in cooperation with the Department of Fish and Game, develop and implement a monitoring program to ensure that no detectable residuals of the poison, breakdown products, and other components of the poison formulation remain in the drinking water supply or adjoining wells after the activity is completed.

SEC. 2. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

The Department of Fish and Game has decided to introduce a poison into Lake Davis, using the pesticide Nusyn-Noxfish, and has already begun to lower the water level in the lake. This bill

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1312 (page 2)*

would prohibit the Department of Fish and Game from continuing in its efforts to introduce a poison into the lake until and unless the State Department of Health Services determines that the activity will not have a permanent adverse impact on the quality of the drinking water supply or wells connected to the drinking water supply.

# 1997 MAJOR BILLS of Interest - Senate Bills

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SB 1320 Environmental protection.

CHAPTER 295

FILED WITH SECRETARY OF STATE AUGUST 18, 1997  
APPROVED BY GOVERNOR AUGUST 18, 1997  
INTRODUCED BY Senator Sher (Coauthors: Assembly Members Cunneen and Escutia)  
FEBRUARY 28, 1997

An act to repeal and add Section 57004 of the Health and Safety Code, and to amend Section 4 of Chapter 1428 of the Statutes of 1985, relating to environmental protection.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1320, Sher. Environmental protection.

(1) Existing law required the Director of Environmental Health Hazard Assessment, on or before June 30, 1994, to convene an advisory committee, as prescribed, to conduct a comprehensive review of the policies, methods, and guidelines followed by the boards, departments, and offices within the California Environmental Protection Agency for the identification and assessment of chemical toxicity, as specified.

This bill would delete those provisions and, instead, require the California Environmental Protection Agency, or a board, department, or office within the agency, to enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar institution of higher learning, or any combination of those entities, or with a scientist or group of scientists of comparable stature and qualifications that is recommended by the President of the University of California, to conduct an external scientific peer review of the scientific basis for any rule proposed by any board, department, or office within the agency, and would prescribe procedures for conducting that scientific peer review, as specified.

(2) Existing law requires the Department of Toxic Substances Control to establish specified funding for site operations and maintenance for remedial measures affecting a specified San Gabriel Valley Superfund site, and to deposit sufficient funds to cover the costs of operation and maintenance of carbon absorption treatment systems at the Richwood, Hemlock, and Rurban Homes Mutual Water Companies for 20 years.

This bill would require the department to determine whether it is more economical to provide Richwood residents with a substitute source of water supply than to maintain, operate, or repair a treatment system. If the department determines that a substitute source of water supply is more economical, the bill would allow the expenditure of specified funds to provide Richwood residents with a substitute source of water supply, subject to approval as prescribed.

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1320 (page 2)*

SECTION 1. Section 57004 of the Health and Safety Code is repealed.

SEC. 2. Section 57004 is added to the Health and Safety Code, to read:

57004. (a) For purposes of this section, the following terms have the following meaning:

(1) "Rule" means either of the following:

(A) A regulation, as defined in subdivision (g) of Section 11342 of the Government Code.

(B) A policy adopted by the State Water Resources Control Board pursuant to the Porter-Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code) that has the effect of a regulation and that is adopted in order to implement or make effective a statute.

(2) "Scientific basis" and "scientific portions" means those foundations of a rule that are premised upon, or derived from, empirical data or other scientific findings, conclusions, or assumptions establishing a regulatory level, standard, or other requirement for the protection of public health or the environment.

(b) The agency, or a board, department, or office within the agency, shall enter into an agreement with the National Academy of Sciences, the University of California, the California State University, or any similar scientific institution of higher learning, any combination of those entities, or with a scientist or group of scientists of comparable stature and qualifications that is recommended by the President of the University of California, to conduct an external scientific peer review of the scientific basis for any rule proposed for adoption by any board, department, or office within the agency. The scientific basis or scientific portion of a rule adopted pursuant to Chapter 6.6 (commencing with Section 25249.5) of Division 20 or Chapter 3.5 (commencing with Section 39650) of Division 26 shall be deemed to have complied with this section if it complies with the peer review processes established pursuant to these statutes.

(c) No person may serve as an external scientific peer reviewer for the scientific portion of a rule if that person participated in the development of the scientific basis or scientific portion of the rule.

(d) No board, department, or office within the agency shall take any action to adopt the final version of a rule unless all of the following conditions are met:

(1) The board, department, or office submits the scientific portions of the proposed rule, along with a statement of the scientific findings, conclusions, and assumptions on which the scientific portions of the proposed rule are based and the supporting scientific data, studies, and other appropriate materials, to the external scientific peer review entity for its evaluation.

(2) The external scientific peer review entity, within the timeframe agreed upon by the board, department, or office and the external scientific peer review entity, prepares a written report that contains an evaluation of the scientific basis of the proposed rule. If the external scientific peer review entity finds that the board, department, or office has failed to demonstrate that the scientific portion of the proposed rule is based upon sound scientific knowledge, methods, and

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1320 (page 3)*

practices, the report shall state that finding, and the reasons explaining the finding, within the agreed-upon timeframe. The board, department, or office may accept the finding of the external scientific peer review entity, in whole, or in part, and may revise the scientific portions of the proposed rule accordingly. If the board, department, or office disagrees with any aspect of the finding of the external scientific peer review entity, it shall explain, and include as part of the rulemaking record, its basis for arriving at such a determination in the adoption of the final rule, including the reasons why it has determined that the scientific portions of the proposed rule are based on sound scientific knowledge, methods, and practices.

(e) The requirements of this section do not apply to any emergency regulation adopted pursuant to subdivision (b) of Section 11346.1 of the Government Code.

(f) Nothing in this section shall be interpreted to, in any way, limit the authority of a board, department, or office within the agency to adopt a rule pursuant to the requirements of the statute that authorizes or requires the adoption of the rule.

SEC. 3. Section 4 of Chapter 1428 of the Statutes of 1985 is amended to read:

Sec. 4. (a) Upon installation of the carbon absorption water treatment systems funded in subdivision (b) of Section 3 of this act, the Department of Toxic Substances Control shall establish, pursuant to Section 25330.5 of the Health and Safety Code, a subaccount for site operation and maintenance for remedial measures affecting the San Gabriel Valley Superfund site, and shall deposit in the subaccount sufficient funds to cover the costs of operation and maintenance of the carbon absorption water treatment systems at the Richwood, Hemlock, and Rurban Homes Mutual Water Companies for 20 years. The funds shall be allocated from the Hazardous Substance Account or the Hazardous Substance Cleanup Fund.

(b) The Department of Toxic Substances Control shall determine whether it is more economical to provide Richwood residents with a substitute source of water supply than to maintain, operate, or repair a treatment system. Notwithstanding any other provision of this act, if the department determines that a substitute source of water supply is more economical, funds appropriated pursuant to subdivision (b) of Section 3 of this act, less the amount, if any, that the department determines it is required to reimburse the Environmental Protection Agency for the cost of the installation of the water treatment system, may be expended to provide Richwood residents with a substitute source of water supply. The substitute source of water supply shall only be provided by a public water system whose service to the customers of the Richwood Mutual Water Company has been expressly approved by the district engineer of the State Department of Health Services, Drinking Water Field Operations Branch, for the district in which the Richwood Mutual Water Company and the prospective supplier are located. If the Department of Toxic Substances Control expends funds on a substitute source of water supply, no additional funds for the operation and maintenance of the water treatment system at the Richwood Mutual Water Company shall be deposited into the subaccount pursuant to

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 1320 (page 4)*

subdivision (a). This subdivision shall not be construed to require the Department of Toxic Substances Control to actually reimburse the Environmental Protection Agency for its share of the cost of the design, purchase, and installation of the water treatment system prior to expending funds to provide Richwood residents with a substitute source of water supply.

## 1997 MAJOR BILLS of Interest - Senate Bills

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**This is not the full text of Chapter 759-97.  
Only those sections pertaining to DPR are provided.**

SB 827 Professional licensing: boards.

CHAPTER 759

FILED WITH SECRETARY OF STATE OCTOBER 7, 1997

APPROVED BY GOVERNOR OCTOBER 7, 1997

INTRODUCED BY Senator Greene FEBRUARY 26, 1997

An act to amend Sections 101, 128.5, 130, 200.1, 205, 675, 800, 1242.6, 1680, 2071, 2221.1, 2660, 2701, 2708, 2761, 2841, 2842, 2847, 2873.6, 2873.7, 2881, 2890, 2893, 2894, 3527, 3750, 4001, 4003, 4008, 4501, 4503, 4546, 4547, 4800, 4804.5, 4848, 4905, 4955, 5510, 5517, 5526, 5536.27, 8520, and 8528 of, to amend and repeal Sections 5566, 5566.1, and 5566.2 of, to add Sections 473.15, 473.16, 473.6, and 4832 to, to amend, repeal, and add Sections 4833, 4834, 4835, and 4842.2 of, the Business and Professions Code, relating to licensed professionals, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

SB 827, Greene. Professional licensing: boards.

...(12) Existing law establishes the Structural Pest Control Board to administer licensing and regulation provisions related to the practice of pest control and its various branches. The provisions establishing the board become inoperative on July 1, 1998, and are repealed on January 1, 1999.

This bill would extend the inoperative and repeal dates of the provisions establishing the Structural Pest Control Board to July 1, 2001, and January 1, 2002, respectively. The bill would declare the intent of the Legislature that the primary mission of the board is consumer protection.

(13) Under existing law, the Director of Pesticide Regulation and the Structural Pest Control Board are required to enter into a contract regarding structural pest control operators.

This bill would require the Director of Pesticide Regulation and the Structural Pest Control Board to submit a report to the Legislature no later than February 1, 1998, concerning the terms of their interagency agreement.

(14) Existing law creates the Joint Legislative Sunset Review Committee, which is required to determine whether certain boards or regulatory programs have demonstrated a public need and to make recommendations.

This bill would require the Joint Legislative Sunset Review Committee to review the referral of cases to the Licensing and Health Quality Enforcement Sections of the Attorney General's office,

## 1997 MAJOR BILLS of Interest - Senate Bills

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*SB 827 (page 2)*

the performance of those sections, and the reimbursement of the Attorney General's office for legal services, and to report its findings to the Legislature by March 1, 1998.

The bill would also authorize the chairpersons of the appropriate policy committees of the Legislature to refer to the Joint Legislative Sunset Review Committee any legislative issues or proposals to create new licensure categories or create a new licensing board if the issues or proposals are related to the review of a particular board under these provisions.

Appropriation: yes.

...SEC. 48. Section 8520 of the Business and Professions Code is amended to read:

8520. (a) There is in the Department of Consumer Affairs a Structural Pest Control Board, which consists of seven members.

(b) Subject to the jurisdiction conferred upon the director by Division 1 (commencing with Section 100) of this code, the board is vested with the power to and shall administer the provisions of this chapter.

(c) It is the intent of the Legislature that consumer protection is the primary mission of the board.

(d) This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed. The repeal of this section renders the board subject to the review required by Division 1.2 (commencing with Section 473).

SEC. 49. Section 8528 of the Business and Professions Code is amended to read:

8528. With the approval of the director, the board shall appoint a registrar, fix his or her compensation and prescribe his or her duties.

The registrar is the executive officer and secretary of the board.

This section shall become inoperative on July 1, 2001, and, as of January 1, 2002, is repealed, unless a later enacted statute, which becomes effective on or before January 1, 2002, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 51. The Director of Pesticide Regulation and the Structural Pest Control Board shall review and revise, if necessary, the terms of the interagency agreement developed pursuant to Section 8616 of the Business and Professions Code and shall report to the Legislature on the terms of that agreement no later than February 1, 1998.

SEC. 52. The Department of Consumer Affairs shall submit to the Legislature, on or before October 1, 1998, a report that identifies which board licensing examinations have been validated and which ones have had performed on them an occupational analysis and, after conducting a survey of all boards, specifies the extent to which the boards are using cost recovery and cite and fine programs.

## **SECTION IV - 1997/98 Continuing Legislation**

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Section IV -- Continuing Legislation section of the Summary lists the bills that DPR's Legislative Office tracked and analyzed during the first year of the Session, but did not pass both Houses. Some bills passed their house of origin, some are held up in committee, and some are pending concurrence with amendments. Also included in this list are "spot bills" and bills that failed in committee but were granted reconsideration. We will continue to track these bills during the second year of the Legislative Session.

## 1997-98 CONTINUING LEGISLATION - Assembly Bills

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AB 19/McClintock      State Government: Realignment or Closure

This bill would enact the Bureaucracy Realignment and Closure Act of 1997, creating the Bureaucracy Realignment and Closure Commission. Commission members would be appointed by the Governor. The Commission would make recommendations for realigning or closing outdated, or ineffective and inefficient governmental bureaucracies. Based upon the recommendations of the Commission, the Governor would submit a reorganization plan to the Legislature for consideration.

AB 278/Escutia      Environmental Protection: health effects

This bill would amend the Health and Safety Code to require that the health of the public, including infants and children, be protected when adopting, setting, or evaluating certain ambient air quality standards, levels of and thresholds for non-pesticidal chemicals emitted into the ambient air, and primary drinking water standards and public health goals for contaminants in drinking water. These actions are to be based upon risk assessments conducted by OEHHA with the full participation of the Department of Health Services, and the assessments are to include specific scientific considerations. Source reduction plans are required for specified emitters of air contaminants.

AB 505/Ashburn      Pest Control Activities

This bill would emphasize pilot and worker safety and extend from 20 to 25 days the time an affected party can respond and request a hearing before the commissioner regarding a proposed action.

AB 891/Keeley      Pesticide Mill Tax

This bill would reauthorize the mill assessment on the sales of pesticides in California, the major funding source of the DPR, at its existing level and would remove the existing sunset clause on mill assessment funding. Additionally, this bill would rename the mill assessment the "poisoning prevention tax", and the DPR Fund the "Poisoning Prevention Fund".

AB 921/Wayne      Hazardous Waste Strike Force

Existing provisions of the Health and Safety Code require the Department of Toxic Substances Control to establish a statewide Hazardous Waste Strike Force, consisting of representatives from specified State agencies. This bill adds the Office of Environmental Health Hazard Assessment to the list of State Agencies represented on the Task Force.

## **1997-98 CONTINUING LEGISLATION - Assembly Bills**

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AB 1000/Keeley, et al.     *Clean coastal waters and rivers: bond act*

This bill would potentially raise bond monies that could be used by DPR to implement additional pollution prevention programs in coastal areas.

AB 1081/House     *Property taxation: valuation: irrigated agricultural land*

This bill would prohibit the county assessor, under specified conditions, from determining a higher value of improvements on land if those improvements consist of drip or sprinkler irrigation systems, tailwater return systems, or soil moisture measuring devices, which are installed for the purpose of water conservation.

AB 1134/Machado     *Structural Pest Control*

This bill would require registration of all structural pest control devices with the Structural Pest Control Board (SPCB) before such devices could be used or offered for sale in California. The bill authorizes SPCB to charge an annual registration fee for each device. The Department of Pesticide Regulation would be responsible for the establishment of evaluation criteria, the establishment of performance standards and tests, and for the initial evaluation of each structural pest control device.

AB 1169/Shelley     *Posting Information on Internet*

This bill would require the Resources Agency to make certain information available to the public by posting the information on the Internet.

AB 1179/Woods     *Watershed rehabilitation and restoration: statewide plan*

This bill would require the Department of Forestry and Fire Protection (CDF) to develop a strategic statewide plan, as specified, to promote the rehabilitation and restoration of significant State watersheds. The bill would require CDF, with the concurrence of the State Water Resources Control Board and the Department of Fish and Game, to submit a report regarding the plan to the Legislature on or before January 1, 1999. The bill would also authorize CDF to grant up to \$10,000 to a county that is developing a watershed program or restoration project, as specified.

## 1997-98 CONTINUING LEGISLATION - Assembly Bills

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AB 1235/Leach      *Review of Administrative Regulations*

This bill requires the State and Consumer Services Agency (SCSA) to review its regulations for duplication and consistency with other State and federal regulations by January 1, 2003, and every four years thereafter. If regulations are found to be duplicative or to overlap without providing an added benefit, SCSA is to repeal the regulations by January 1, 2203.

AB 1376/Baugh      *Volatile Organic Compound Content of Consumer Products*

Existing law authorizes the State Air Resources Board (ARB) to restrict the emissions by consumer products of volatile organic compounds (VOCs). This bill eliminates the 3-year limitation on sales of consumer products manufactured prior to the enactment of ARB's regulations. In addition, the bill establishes criminal and civil penalties on persons who sell consumer products that are not in compliance with the statute of regulations adopted by ARB.

AB 1393/Alquist & Leonard      *State and local government*

This bill mandates each State agency to conduct a performance audit of their activities and operations to identify waste, inefficiencies, and redundancies. In addition, this bill would: (1) extend the mandatory completion deadline for performance audits, from two to four years from the effective date of the bill and adds a priority system for choosing agencies and departments for audit; (2) provide for an exemption for those agencies and departments which have had a qualifying or equivalent performance audit within five years; (3) expand the proposed Joint Performance Audit Task Force to include the Chairperson of the Joint Legislative Audit Committee; and (4) revise the role of the State Auditor to include participation in the publishing of an annual report on the status, implementation, recommendations, and relative savings resulting from performance audits and include also the development of audit parameters, guidelines, objectives, and other essential characteristics of performance audits.

## 1997-98 CONTINUING LEGISLATION - Senate Bills

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SB 38/Johannessen      Taxation

This bill would exempt from sales and use taxes gross receipts from the sale, storage, use, or other consumption in California of implements of husbandry that are purchased for use by a qualified person, as defined, in the conduct of agricultural operations. This bill would also, until January 1, 2005, establish a credit against taxes paid pursuant to the Personal Income Tax Law and the Bank and Corporation Tax Law during the taxable or income year for qualified property that is defined to include tangible personal property for use by a qualified taxpayer primarily for the conduct of agricultural operations. This bill would also prohibit the sales and use tax exemption established by this bill to be incorporated into local taxes.

SB 58/Ayala      State Agency Legislative Analysis

This bill would require State agencies to prepare and forward analyses of legislation that would significantly impact the agency to the bill's author and policy committee in each house, at least seven calendar days prior to the first committee hearing.

SB 134/Ayala      Public Records

This bill would make it a misdemeanor for a public officer to willfully provide a copy of a public record to another person if the officer knew the record was protected from disclosure under the California Public Records Act and that disclosure would cause invasion of privacy.

SB 178/Monteith      Scientific evidence in administrative hearings

This bill would amend the Administrative Procedure Act (APA) to restrict the admissibility of scientific evidence in State agency administrative hearings. The amendment imposes more onerous preconditions to the admissibility of such evidence in administrative proceedings than are required under current case law.

SB 209/Kopp      Judicial Review

This bill repeals existing procedures for judicial review of State and local agency actions. The bill adds provisions for judicial review of nongovernmental agency decisions, which meet certain conditions, and for judicial review of decisions and actions of state and local agencies and public corporations, with specified exceptions.

## 1997-98 CONTINUING LEGISLATION - Senate Bills

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SB 261/Kopp      Judicial Review: Government Agency Actions

This bill would change various laws to conform to SB 209 (Kopp), which repeals current procedures for judicial review of State and local agency decisions and adds new judicial review procedures. SB 261 would become operative only if SB 209 becomes operative on January 1, 1998.

SB 379/Rosenthal & Peace      Private Information: medical records

This bill would increase legal protection for confidentiality of medical records by adding: (1) a statement that the information will be used only for stated purposes; (2) a statement that unauthorized disclosure is prohibited and any improper release will be reported to the person who signed the authorization; (3) a date after which the authorization is no longer valid; and (4) a statement that the person signing the authorization has a right to a copy of the authorization.

SB 423/Hurt      Environmental Audit Reports

This bill would establish the Environmental Audit Privilege and Voluntary Noncompliance Disclosure Act of 1997. It would make an environmental audit privileged, and it would also make disclosure of information about violation of an environmental law to an environmental agency voluntary, resulting in limited immunity from civil and criminal penalties.

SB 442/Brulte      Toxic Chemicals: sensitive subpopulations

This bill would require OEHHA to develop guidelines for the evaluation of the effects of toxic chemicals upon sensitive subgroups of the general population. A group of distinguished nongovernmental scientists, as specified, would conduct a scientific peer review of the guidelines and make recommendations for changes to OEHHA, as appropriate.

SB 649/Mountjoy      Environmental regulations

This bill would prohibit any local or State agency that revises the definition of best available control technology (BACT) or best available retrofit control technology (BARCT) from requiring a business that has been issued a permit for the installation of BACT or BARCT equipment to retrofit its equipment to the revised standard for five years from the effective date of the permit. This bill would also authorize a 10 percent credit against personal income and bank and corporation taxes for specified environmental quality expenses for each tax year beginning on or after January 1, 1998, and before January 1, 2003.

## 1997-98 CONTINUING LEGISLATION - Senate Bills

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SB 715/Sher                    Environmental Quality

This bill would place additional requirements on the Office of Planning and Research (OPR), the Resources Agency (Agency), and State agencies that have regulatory programs certified by the Secretary of the Agency under the California Environmental Quality Act. It would also require OPR to include specified activities in its public assistance and information program and make environmental documents available on the Internet; requires the Agency to make annual assessments and reports regarding State and local agency adopted mitigation measures; and requires State agencies to submit any proposed change in a certified regulatory program to the Agency Secretary for review.

SB 1047/Sher                    Environmental Protection: regulatory implementation

This is a spot bill that creates the California Environmental Protection Agency Regulatory Implementation Act of 1997.