

ASSEMBLY BILL

No. 1322

Introduced by Committee on Agriculture (Assembly Members Soria (Chair), Alanis (Vice Chair), Aguiar-Curry, Connolly, Jeff Gonzalez, Hadwick, Irwin, and Ransom)

February 21, 2025

An act to amend Sections 6761, 67052, 67052.5, 67054, 67057, 67059.5, 67062, 67082, 67091, 67101, 67133, 75601, 79818, and 79821 of, and to add Sections 67026 and 79824 to, the Food and Agricultural Code, relating to agriculture.

LEGISLATIVE COUNSEL'S DIGEST

AB 1322, as introduced, Committee on Agriculture. Agricultural commissions.

(1) Existing law specifies the duties of the Secretary of Food and Agriculture and county agricultural commissioners with respect to the sale and control of nursery stock, as defined. Existing law requires a person to hold a valid license in order to sell nursery stock.

Existing law establishes the California Grape Rootstock Improvement Commission to maintain and regulate grape rootstock in the state.

This bill would authorize the secretary, after investigation and hearing, to refuse to issue or renew a license, or to suspend or revoke a license, if the secretary determines that the licensee or the applicant has violated specified provisions relating to the California Grape Rootstock Improvement Commission.

(2) Existing law establishes the California Avocado Commission to efficiently develop and manage the marketing of avocados and provides requirements for membership to the commission, including for alternate members, as specified.

The bill would, among other things, expand specified provisions regarding membership to the commission to alternate members, require the assessment established by the commission to be as a fixed rate or percentage of value rather than as solely a fixed rate, and require any remaining assessment funds to be distributed for the benefit of the avocado industry into any state or federal programs in the event of termination or suspension of the commission.

(3) Existing law establishes the California Apple Commission to efficiently develop and manage the marketing of apples, as specified. Existing law authorizes the commission to recommend to the secretary the adoption of maturity standards authorized pursuant to the California Marketing Act of 1937, as specified.

This bill would authorize the California Apple Commission to recommend to the secretary quality standards and product labeling standards, and to engage in any other activity, authorized by California Marketing Act of 1937.

(4) Existing law establishes the Olive Oil Commission of California to efficiently develop and manage the marketing of olive oil, as specified. Existing law defines the terms “handler” and “producer” for purposes of these provisions.

This bill would specify that “handler” and “producer” include persons that toll process olives for olive oil. The bill would define “toll processor” for purposes of these provisions, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

- 1 SECTION 1. Section 6761 of the Food and Agricultural Code
- 2 is amended to read:
- 3 6761. The ~~director~~, *secretary*, after investigation and hearing,
- 4 may refuse to issue or renew a license, or may suspend or revoke
- 5 a license, if ~~he~~ *the secretary* determines that the licensee or the
- 6 applicant has done any of the following:
- 7 (a) Has willfully refused to comply with the laws and regulations
- 8 relative to nursery stock, or to any pest ~~which~~ *that* might be carried
- 9 by nursery stock.
- 10 (b) Was intentionally guilty of fraud or deception in the
- 11 procurement of the license.

1 (c) Has been guilty of fraud or misrepresentation in the handling
2 or sale of nursery stock.

3 (d) Has failed to maintain nursery stock produced or sold by
4 ~~him~~ *the secretary* in accordance with the standards of cleanliness
5 ~~which~~ *that* are prescribed by the ~~director~~ *secretary*.

6 (e) Has failed to comply with any lawful order which is issued
7 by the ~~director~~ *secretary* or commissioner.

8 (f) *Has failed to comply with Chapter 12.6 (commencing with*
9 *Section 74701) of Part 2 of Division 22.*

10 SEC. 2. Section 67026 is added to the Food and Agricultural
11 Code, to read:

12 67026. “Ex officio members” means nonvoting members of
13 the commission.

14 SEC. 3. Section 67052 of the Food and Agricultural Code is
15 amended to read:

16 67052. (a) Each district shall have one alternate producer
17 member, to be elected in the same manner as producer members.

18 (b) The alternate producer member shall, in the absence of a
19 producer member from the same district, ~~sit~~ *serve* in place of the
20 absent producer member on the commission and shall have, and
21 be able to exercise, all the rights, privileges, and powers of the
22 producer member when ~~sitting~~ *serv*ing on the commission.

23 SEC. 4. Section 67052.5 of the Food and Agricultural Code is
24 amended to read:

25 67052.5. (a) There shall be one alternate public member who
26 shall be appointed by the secretary from nominees recommended
27 by the commission.

28 (b) The alternate public member shall, in the absence of the
29 public member, ~~sit~~ *serve* in place of the absent public member on
30 the commission and shall have, and be able to exercise, all the
31 rights, privileges, and powers of the public member when ~~sitting~~
32 *serv*ing on the commission.

33 SEC. 5. Section 67054 of the Food and Agricultural Code is
34 amended to read:

35 67054. (a) Producer members and alternate producer members
36 on the commission shall have a financial interest in producing, or
37 causing to be produced, avocados for market. In order to be elected
38 a member or alternate member, a producer shall, at the time of the
39 election, have a financial interest in the production of avocados
40 within the district in which the producer stands for election.

1 (b) A producer may stand for election in any district in which
 2 the producer has a financial interest in the production of avocados.

3 (c) Handler members and the alternate handler members shall
 4 have a financial interest in handling avocados for markets. To be
 5 nominated and elected, a handler or alternate handler shall handle
 6 no less than 1 percent of the total industry volume of avocados in
 7 the preceding marketing year. ~~Any~~ A handler elected to the
 8 commission pursuant to this section shall be required to maintain
 9 ~~his or her~~ *their* eligibility under this section during ~~his or her~~ *their*
 10 entire term of office.

11 (d) The public member *and alternate member* shall not have
 12 any financial interest in the avocado industry. Except for the
 13 nomination of another public member, the public member and ~~his~~
 14 ~~or her~~ *their* alternate member on the commission shall have all the
 15 powers, rights, and privileges of any other member on the
 16 commission.

17 SEC. 6. Section 67057 of the Food and Agricultural Code is
 18 amended to read:

19 67057. The commission may appoint its own officers, including
 20 a ~~chairman~~, *chair*; one or more vice ~~chairmen~~, *chair*; and ~~such~~
 21 other officers as it deems necessary. The officers shall have the
 22 powers and duties as may be delegated to them by the commission.

23 SEC. 7. Section 67059.5 of the Food and Agricultural Code is
 24 amended to read:

25 67059.5. The secretary or ~~his or her~~ *the secretary's*
 26 representatives shall be notified and may attend each meeting of
 27 the commission.

28 SEC. 8. Section 67062 of the Food and Agricultural Code is
 29 amended to read:

30 67062. The state is not liable for the acts of the commission
 31 or its contracts, except for state-directed supervision of the avocado
 32 inspection program, as specified in Chapter 9 (commencing with
 33 Section 44971) of Division 17, which is performed under an
 34 agreement that specifies that each of the parties shall be responsible
 35 and liable for that party's decisions made pursuant to the
 36 agreement, and that each of the parties shall not be held liable by
 37 the other party for the decisions made pursuant to the agreement.
 38 Payment of all claims arising by reason of the administration of
 39 this chapter or acts of the commission shall be limited to the funds
 40 collected by the commission. ~~No~~ A member of the commission or

1 alternate member, or any employee or agent thereof, shall *not* be
2 personally liable on the contracts of the commission nor shall a
3 member, alternate member, or employee of the commission be
4 responsible individually in any way to ~~any~~ a producer or handler
5 or any other person for error in judgment, mistakes, or other acts,
6 either of commission or omission, as principal, agent, or employee,
7 except for ~~his or her~~ *their* own individual acts of dishonesty or
8 crime. ~~No~~ A member or alternate member shall *not* be held
9 responsible individually for any act or omission of any member
10 of the commission. The liability of the members *and alternate*
11 *members* shall be several and not joint, and ~~no~~ a member *or*
12 *alternate member* shall *not* be liable for the default of any other
13 ~~members~~ *members or alternate members*.

14 SEC. 9. Section 67082 of the Food and Agricultural Code is
15 amended to read:

16 67082. ~~Subsequent to the first election of members under this~~
17 ~~chapter, persons~~ *Persons* to be elected to the commission shall be
18 selected pursuant to nomination and election procedures adopted
19 by the commission and concurred in by the secretary.

20 SEC. 10. Section 67091 of the Food and Agricultural Code is
21 amended to read:

22 67091. The powers and duties of the commission include, but
23 are not limited to, all of the following:

24 (a) Adopt and, from time to time, alter, rescind, modify, and
25 amend all proper and necessary ~~rules, procedures, and orders~~
26 *procedures* to carry out this chapter and in the exercise of its
27 powers and the performance of its duties, including the adoption
28 of ~~rules~~ *procedures* to regulate appeals from any ~~rule, procedure,~~
29 ~~or order~~ *action* of the commission.

30 (b) Administer and enforce this chapter, and to do and perform
31 all acts and exercise all powers incidental to or in connection with
32 or deemed reasonably necessary, proper, or advisable to effectuate
33 the purposes of this chapter.

34 (c) Employ a person, to serve, at the pleasure of the commission,
35 as president and chief executive officer of the commission and
36 other personnel, including legal counsel.

37 (d) Establish offices, incur expenses, enter into any and all
38 contracts and agreements, and create liabilities and borrow funds
39 in advance of receipt of assessments that may be necessary, at the

1 discretion of the commission, for the proper administration and
2 enforcement of this chapter and the performance of its duties.

3 (e) Keep accurate books, records, and accounts of all of its
4 dealings, which books, records, and accounts are subject to an
5 annual independent audit by an auditing firm approved by the
6 secretary. The independent audit shall be made a part of an annual
7 report to all producers and handlers of avocados, copies of which
8 shall also be submitted to the Legislature. In addition, the secretary
9 may, ~~as he or she~~ *the secretary* determines necessary, conduct, or
10 cause to be conducted, a fiscal and compliance audit of the
11 commission.

12 (f) Promote the sale of avocados by advertising and other
13 promotional means for the purpose of maintaining and expanding
14 present markets and creating new and larger intrastate, interstate,
15 and foreign markets for avocados and to educate and instruct the
16 public with respect to avocados and the uses of the several varieties
17 and the healthful properties and nutritional value of avocados.

18 (g) Enter into cost-sharing advertising with other products
19 considered, by the commission, to be fair and equitable to both
20 parties.

21 (h) Educate and instruct the wholesale and retail trade with
22 respect to proper methods of handling and selling avocados;
23 arrange for the performance of dealer service work providing
24 display and other promotional materials; make market and
25 inventory surveys and analyses; present facts to and negotiate with
26 state, federal, and foreign agencies on matters which affect the
27 avocado industry; and undertake any other activities ~~which~~ *that*
28 the commission may determine appropriate for the maintenance
29 and expansion of present markets and the creation of new markets
30 for avocados.

31 (i) Make, in the name of the commission, contracts to render
32 service in formulating and conducting plans and programs, and
33 any other contracts or agreements that the commission may deem
34 necessary for the promotion of the sale of avocados.

35 (j) Conduct and contract with others to conduct scientific
36 research, including the study, analysis, dissemination, and
37 accumulation of information obtained from the research or
38 elsewhere respecting the inventory, marketing, and distribution of
39 avocados. The results of any research conducted by or on behalf
40 of the commission may be used by the commission in any way it

1 deems appropriate, and notwithstanding any other ~~provision of~~
2 law, may be maintained in confidence by the commission and not
3 disseminated to any person not subject to this chapter.

4 (k) Accept and match contributions of private, local, state, or
5 federal funds and make contributions of commission funds to other
6 persons or to local, state, or federal agencies for purposes of
7 promoting, enhancing, and maintaining the California avocado
8 industry.

9 (l) Publish and distribute without charge, a bulletin or other
10 communication for dissemination of information relating to
11 inventory, marketing, and other information of value to the
12 commission and the avocado industry to producers, handlers, and
13 the public.

14 (m) Establish an assessment rate to defray operating costs of
15 the commission.

16 (n) Establish an annual budget.

17 (o) Investigate and prosecute civil violations of this chapter and
18 file complaints with appropriate law enforcement agencies or
19 officers for suspected criminal violations of this chapter.

20 (p) Carry out the requirements prescribed in Chapter 9
21 (commencing with Section 44971) of Division 17.

22 (q) To provide to the secretary, on a quarterly basis, a summary
23 of the programs, activities, and costs under review for the next
24 marketing season.

25 (r) Require producers to provide information as determined by
26 the commission pertaining to the locations at which avocados are
27 produced and the annual volume of avocados produced at each
28 location. The information shall be provided in a time and manner
29 prescribed by the commission and shall be subject to the
30 confidentiality provisions of Section 67104.

31 (s) ~~Utilize~~ Use information provided to the commission for the
32 purposes of food safety, communications, reapportionment of
33 districts, ~~and the conduct of elections and referenda.~~ *referenda,*
34 *and any other matters related to the activities of the commission.*

35 SEC. 11. Section 67101 of the Food and Agricultural Code is
36 amended to read:

37 67101. (a) The commission shall, not later than November 1
38 of each year, establish the assessment *as a fixed rate or percentage*
39 *of value* for the following marketing season beginning November
40 ~~1st 1, and ending October 31st. In no event shall the 31. The~~

1 assessment *shall not* exceed 6½ percent of the gross dollar value
2 of the year's sales of avocados by all producers to handlers, or
3 which are sold by handlers on behalf of producers. Expenditures
4 for administrative purposes within the maximum assessment shall
5 not exceed 2½ percent of the gross dollar value of sales of
6 avocados by all producers to handlers, or which are sold by
7 handlers on behalf of producers. Assessments provided for in this
8 section shall be upon the producer. The handler shall deduct that
9 assessment from either amounts paid by him or her to the producer
10 or amounts retained by him or her *the handler* if the handler is also
11 the producer, and the handler shall be a trustee of those funds until
12 they are paid to the commission at the time and in the manner
13 prescribed by the commission.

14 ~~In no event shall the~~

15 (b) *The* combined assessment of the commission and any state
16 marketing order *shall not* exceed 6½ percent of the gross value
17 of the year's sales of avocados by all producers to handlers, or
18 which are sold by handlers on behalf of producers.

19 SEC. 12. Section 67133 of the Food and Agricultural Code is
20 amended to read:

21 67133. After the effective date of suspension of this chapter
22 and of the commission, the operations of the commission shall be
23 wound up, and any asset of the commission shall be liquidated and
24 the proceeds, along with any and all moneys remaining held by
25 the commission, collected by assessment and not required to defray
26 the expenses of winding up and terminating operations of the
27 commission, shall be returned upon a pro rata basis to all persons
28 from whom assessments were collected in the immediately
29 preceding ~~current~~ marketing season. However, if the commission
30 finds that the amounts so returnable are so small as to make
31 impractical the computation and remitting of a pro rata refund to
32 those persons, any moneys remaining after payment of all expenses
33 of winding up and terminating operations shall be withdrawn from
34 the approved depository and paid to any existing state or federally
35 authorized avocado program. ~~If no program exists, the moneys~~
36 ~~shall be paid into the State Treasury as unclaimed trust moneys.~~
37 *into an appropriate state or federal program or used to fund*
38 *activities related to the subject matter of this chapter.*

39 SEC. 13. Section 75601 of the Food and Agricultural Code is
40 amended to read:

1 75601. (a) The commission may recommend to the secretary
2 the adoption of maturity ~~standards~~ *and quality standards or product*
3 *labeling standards, or engage in any other activity* authorized
4 pursuant to the California Marketing Act of 1937 (Chapter 1
5 (commencing with Section 58601) of Part 2 of Division 21) that
6 are in accordance with the procedures specified in that act, unless
7 otherwise specified in this article.

8 (b) Any standards that are adopted shall be implemented by the
9 secretary at the beginning of the marketing year next succeeding
10 the date ~~in~~ *on* which they were approved by the secretary.

11 (c) Any standards recommended by the commission and
12 approved by the secretary shall not be operative until approved by
13 the vote specified in Section 75612.

14 (d) The commission shall serve as the advisory body to the
15 secretary on all matters pertaining to this section.

16 SEC. 14. Section 79818 of the Food and Agricultural Code is
17 amended to read:

18 79818. (a) “Handler” means a person who engages, in this
19 state, in the ~~operation of marketing olive oil~~ *processing or milling*
20 *of olives into olive oil that he or she the handler has produced, or*
21 *purchased or acquired from an olive producer, or that he or she is*
22 ~~marketing toll processes or mills olives~~ on behalf of an olive
23 producer, whether as owner, agent, employee, broker, or otherwise.

24 (b) When the handler is a corporation or a limited liability
25 company, all of the directors, officers, managers, and members of
26 the corporation or limited liability company in their capacity as
27 individuals shall be included, and any liability for failure to collect
28 or make payment of assessments to which a corporate handler or
29 a handler that is a limited liability company may be subject
30 pursuant to this chapter shall include identical liability upon each
31 individual director, officer, manager, or member of the corporation
32 or limited liability company.

33 ~~(c) “Handler” does not include a retailer.~~

34 SEC. 15. Section 79821 of the Food and Agricultural Code is
35 amended to read:

36 79821. “Producer” means ~~any~~ *a* person that produces or causes
37 to be produced olives that are processed *or toll processed* into
38 olive oil in the amount of 5,000 gallons or more during the
39 marketing season and that shall, upon request of the commission,
40 provide proof of commodity sale.

- 1 SEC. 16. Section 79824 is added to the Food and Agricultural
- 2 Code, to read:
- 3 79824. "Toll processor" means to process or mill olives into
- 4 olive oil on behalf of a producer.

O