

**ASSEMBLY BILL**

**No. 405**

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**Introduced by Assembly Member Connolly**

February 2, 2023

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An act to amend Section 110875 of the Health and Safety Code, relating to organic products.

LEGISLATIVE COUNSEL'S DIGEST

AB 405, as introduced, Connolly. Organic products.

Existing law, the California Organic Food and Farming Act, requires the Secretary of Food and Agriculture, county agricultural commissioners, and the Director of Public Health to enforce state and federal laws governing the production, labeling, and marketing of organic products, as specified. Existing law requires every person engaged in the state in the processing or handling of specified products for human consumption that are sold as organic to register with the director, as specified. Existing law requires the director to provide a registration form for those purposes and requires specified information on the registration form.

The bill would require the director to create an online registration and payment option on or before January 1, 2025.

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 110875 of the Health and Safety Code  
2     is amended to read:

1 110875. (a) Every person engaged in this state in the  
2 processing or handling of processed products for human  
3 consumption, including dietary supplements, alcoholic beverages,  
4 and fish or seafood sold as organic (except for processors and  
5 handlers of processed meat, fowl, or dairy products and retailers  
6 that are engaged in the processing or handling of products sold as  
7 organic), and every person engaged in the processing or handling  
8 of animal food and cosmetics sold as organic, shall register with  
9 the director, and shall thereafter annually renew the registration  
10 unless no longer so engaged. Handlers of processed food products  
11 that are registered with the department pursuant to Article 2  
12 (commencing with Section 110460) shall register under this section  
13 in conjunction with the annual renewal of their registration pursuant  
14 to that article. Handlers of organic products that are required to be  
15 registered to manufacture, pack, or hold processed food pursuant  
16 to Article 2 (commencing with Section 110460) of Chapter 5 of  
17 Part 5 of Division 104, licensed to bottle, vend, haul, or process  
18 water pursuant to Article 12 (commencing with Section 11070) of  
19 Chapter 5 of Part 5 of Division 104, certified to process or handle  
20 fresh or frozen seafood or fresh or frozen raw shellfish pursuant  
21 to Chapter 5 (commencing with Section 112150) of Part 6 of  
22 Division 104, licensed to operate a cold storage facility pursuant  
23 to Chapter 6 (commencing with Section 112350) of Part 6 of  
24 Division 104, licensed to process low acid canned foods pursuant  
25 to Chapter 8 (commencing with Section 112650) of Part 6 of  
26 Division 104, licensed to manufacture olive oil pursuant to Chapter  
27 9 (commencing with Section 112875) of Part 6 of Division 104,  
28 and licensed or registered to process or hold pet food in California  
29 pursuant to Chapter 10 (commencing with Section 113025) of Part  
30 6 of Division 104, shall possess a valid registration or license in  
31 order to obtain a valid organic registration for the same facility  
32 under this section. All others required to register under this  
33 subdivision shall register within 30 days of forms being made  
34 available for this purpose. Any processor or handler of processed  
35 products required to register under this subdivision that does not  
36 pay the registration fee required by subdivision (c) within 30 days  
37 of the date on which the fee is due and payable shall pay a penalty  
38 of 1 ½ percent per month on the unpaid balance.

39 (b) Registration shall be on a form provided by the director and  
40 shall be valid for a period of one calendar year from the date of

1 validation of the completed registration form. The director shall  
2 make registration forms available for this purpose. The information  
3 provided on the registration form shall include all of the following:

4 (1) The nature of the registrant's business, including the specific  
5 commodities and quantities of each commodity that is handled  
6 and sold as organic.

7 (2) The total current annual organic gross sales, or if not selling  
8 the product, the total current gross annual revenue received from  
9 processing, packaging, repackaging, labeling, or otherwise handling  
10 organic products for others, in dollars.

11 (3) The names of all certification organizations and  
12 governmental entities, if any, providing certification to the  
13 registrant pursuant to this article and the regulations adopted by  
14 the NOP.

15 (4) Sufficient information, under penalty of perjury, to enable  
16 the director to verify the amount of the registration fee to be paid  
17 in accordance with subdivision (c).

18 (c) To the extent feasible, the director shall coordinate the  
19 registration and fee collection procedures of this section with  
20 similar licensing or registration procedures applicable to registrants.  
21 When coordinating the organic registration with other required  
22 registrations or licenses identified in subdivision (a), the expiration  
23 date shall be the same expiration date as the valid license or  
24 registration. For persons that hold two-year licenses or registrations  
25 pursuant to subdivision (a), the organic registration shall be  
26 renewed annually using the same expiration month and day as the  
27 two-year license or registration.

28 (d) A registration form shall be accompanied by payment of a  
29 nonrefundable registration fee payable to the department by  
30 handlers which shall be based on annual gross sales of organic  
31 product or annual revenue received from processing, packaging,  
32 repackaging, labeling, or otherwise handling organic product for  
33 others, by the registrant in the calendar year that precedes the date  
34 of registration. If no sales or revenue were made in the preceding  
35 year, then based on the expected sales or revenue during the 12  
36 calendar months following the date of registration. Unless specified  
37 elsewhere, the fee is based according to the following schedule:

Gross Annual Sales or	Annual Registration
Revenue	Fee
\$0–\$5,000	\$ 50
\$5,001–\$50,000	\$100
\$50,001–\$125,000	\$200
\$125,001–\$250,000	\$300
\$250,001–\$500,000	\$400
\$500,001–\$1,500,000	\$500
\$1,500,001–\$2,500,000	\$600
\$2,500,001–and above	\$700

(1) Any handler that does not take possession or title of the product but arranges for the sale of the product shall register and pay one hundred dollars (\$100) per year.

(2) Any person that only provides temporary storage for seven days or less, or only provides transportation for organic product and does not handle the processed packaged product, does not have to register.

(3) Any person that hires any other person to custom pack, repack, or label organic products shall register and pay a fee based on the total annual sales of products custom packed, repacked, or labeled for them as outlined in the chart above.

(e) Revenue received pursuant to this section shall be deposited in the Food Safety Fund created pursuant to Section 110050.

(f) The director shall reject a registration submission that is incomplete or not in compliance with this article and regulations promulgated by the NOP.

(g) The director shall provide a validated certificate to the registrant.

(h) Registration forms shall be made available to the public for inspection and copying at the main office of the department. Copies of registration forms shall also be made available by mail, upon written request and payment of a reasonable fee, as determined by the director. Registration information regarding quantity of products sold and gross sales volume in dollars shall be deleted prior to public inspection and copying and shall not be released to any person except other employees of the department, the Department of Food and Agriculture, a county agricultural commissioner, the Attorney General, any prosecuting attorney, or

1 any government agency responsible for enforcing laws related to  
2 the activities of the person subject to this part.

3 (i) A registrant shall immediately notify the director of any  
4 change in the information reported on the registration form and  
5 shall pay any additional fee owed if that change results in a higher  
6 fee owed than previously paid.

7 (j) The director in consultation with the California Organic  
8 Products Advisory Committee, may suspend the registration  
9 program set forth in this section if the director determines that  
10 income derived from registration fees is insufficient to support a  
11 registration enforcement program.

12 (k) A registration is considered legal and valid until revoked,  
13 suspended, or until the expiration of the registration.

14 (l) The registration revocation process must be in conjunction  
15 with other provisions of this article. The director can initiate the  
16 revocation process for failure to comply with this article or any  
17 part of the regulations adopted pursuant to the NOP. Any person  
18 against whom the action is being taken shall have the opportunity  
19 to appeal the action and be afforded the opportunity to be heard  
20 in an administrative appeal. This appeal can be administered by  
21 either the state or county agricultural commissioner's office.

22 (m) When the registration fee is not paid within 60 days from  
23 the expiration date the account may be considered closed and the  
24 registration voided. A notification will be sent to the registrant and  
25 the certifier will notify them that they are no longer able to market  
26 products as organic until the account is paid in full.

27 (n) Any registration that is more than 60 days late will be  
28 considered invalid and it is a violation if product is sold as organic.

29 (o) *The director shall create an online registration and payment*  
30 *option on or before January 1, 2025.*