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AB-1039 Fertilizing materials: violations: administrative penalty: filing of final judgment. (2015-2016)

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Assembly Bill No. 1039

CHAPTER 227

An act to amend Section 14651.5 of the Food and Agricultural Code, relating to fertilizing materials.

[Approved by Governor September 01, 2015. Filed with Secretary of State September 01, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1039, Committee on Agriculture. Fertilizing materials: violations: administrative penalty: filing of final judgment.

Under existing law, it is unlawful for a person to manufacture or distribute in the state a fertilizing material without complying with specific laws. Existing law requires the Department of Food and Agriculture to levy a civil penalty against a person who violates these laws in an amount of not more than \$5,000 for each violation. Existing law requires a person, against whom a civil penalty is levied, to be afforded an opportunity for a hearing, as provided. Existing law authorizes these penalties to be recovered in a civil action brought in the name of the state.

This bill would change the reference "civil penalty" to "administrative penalty" and would instead authorize the Secretary of Food and Agriculture to file a certified copy of the department's final decision that directs payment of an administrative penalty with the clerk of the superior court of any county that has jurisdiction over the matter. The bill would require the court to enter judgment immediately upon that filing, and at no cost.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14651.5 of the Food and Agricultural Code is amended to read:

14651.5. (a) The department shall levy an administrative penalty against a person who violates this chapter in an amount of not more than five thousand dollars (\$5,000) for each violation. The amount of the penalty assessed for each violation shall be based upon the nature of the violation, the seriousness of the effect of the violation upon the effectuation of the purposes and provisions of this chapter, and the impact of the penalty on the violator, including the deterrent effect on future violations.

(b) Upon a finding that the violation is minor or unintentional, in lieu of an administrative penalty, the secretary may issue a notice of warning.

(c) A person against whom an administrative penalty is levied shall be afforded an opportunity for a hearing before the secretary, upon a request made within 30 days after the date of issuance of the notice of penalty. At the hearing, the person shall be given the right to present evidence on his or her own behalf. If a hearing is not requested, the administrative penalty shall constitute a final and nonreviewable order.

(d) If a hearing is held, review of the decision of the secretary may be sought by the person against whom the administrative penalty is levied within 30 days of the date of the final order of the secretary pursuant to Section 1094.5 of the Code of Civil Procedure.

(e) After completion of the hearing procedure pursuant to subdivision (c), the secretary may file a certified copy of the department's final decision that directs payment of an administrative penalty, and if applicable, any order denying a petition for a writ of administrative mandamus, with the clerk of the superior court of any county that has jurisdiction over the matter. Judgment shall be entered immediately by the clerk in conformity with the decision or order. Fees shall not be charged by the clerk of the superior court for performance of any official services required in connection with the entry of judgment and the satisfaction of the judgment pursuant to this section.