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AB-1103 Agricultural lands: livestock producers: managerial employees: livestock pass program: disaster access to ranch lands. (2021-2022)

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Date Published: 10/08/2021 02:00 PM

Assembly Bill No. 1103

CHAPTER 609

An act to add Chapter 4 (commencing with Section 2350) to Division 2 of the Food and Agricultural Code, to add Section 13105.6 to the Health and Safety Code, and to amend Section 409.5 of the Penal Code, relating to agricultural lands.

[Approved by Governor October 07, 2021. Filed with Secretary of State October 07, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1103, Megan Dahle. Agricultural lands: livestock producers: managerial employees: livestock pass program: disaster access to ranch lands.

Existing law requires the Secretary of Food and Agriculture to examine persons who desire to become county agricultural commissioners or deputy county agricultural commissioners. Existing law requires the county agricultural commissioner to be responsible for local administration of enforcement and requires the secretary to be responsible for overall statewide enforcement, as provided. Existing law requires the secretary to furnish assistance in planning and otherwise developing an adequate county enforcement program, including uniformity, coordination, training, special services, special equipment, and forms, statewide publicity, statewide planning, and emergency assistance.

This bill would authorize, upon the approval of a county board of supervisors, a county agricultural commissioner, or other designated agency, to establish within the county a livestock pass program for the purpose of issuing identification documents granting any qualifying livestock producer, as defined, or a managerial employee, as defined, of the qualifying livestock producer, access to the qualifying livestock producer's ranch property, or to the ranch property owned by another holder of a livestock pass with permission, during or following a flood, storm, fire, earthquake, or other disaster, as provided. To the extent this bill would impose a new duty on a county board of supervisors in approving the livestock pass program, the bill would impose a state-mandated local program. The bill would provide that access to specified areas may only be granted by the incident commander, a law enforcement official having jurisdiction, or their designee and that when access is granted by emergency response personnel other than the incident commander, the emergency response personnel shall notify incident command when they grant the livestock passholder access to the ranch property during a disaster. To the extent this bill would impose new notification duties on local officials, the bill would impose a state-mandated local program. The bill would require, on or before January 1, 2023, the State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, to develop a curriculum for livestock producers eligible for this livestock pass program.

Existing law authorizes specified law enforcement and public safety officers and professionals to close an area where a menace to the public health or safety is created by a calamity, including flood, storm, fire, earthquake, explosion, accident, or other disaster, as provided.

This bill would provide that the above provision does not apply to an individual who holds a valid livestock pass identification document, except as provided.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, 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 the statutory provisions noted above.

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

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

SECTION 1. Chapter 4 (commencing with Section 2350) is added to Division 2 of the Food and Agricultural Code, to read:

CHAPTER 4. Livestock Pass Program

2350. (a) For purposes of this chapter, the following definitions apply:

(1) "Managerial employee" means a person who meets all of the following criteria:

(A) Has management authority with responsibility to oversee the care and well-being of the qualifying livestock producer's livestock.

(B) Primarily engages in managerial job duties and customarily and regularly exercises discretion and independent judgment in these duties. These duties shall be specified in a written job description issued no later than 90 days before the date of the flood, storm, fire, earthquake, or other disaster.

(C) Earns a monthly salary equivalent to no less than two times the state minimum wage for full-time employment at the time of the flood, storm, fire, earthquake, or other disaster.

(2) "Qualifying livestock producer" means a commercial livestock producer, as determined by the county agency, who has been certified as successfully completing the curriculum developed pursuant to Section 13105.6 of the Health and Safety Code.

(b) (1) Upon the approval of a county board of supervisors, a county agricultural commissioner, or other agency designated by the county board of supervisors, is authorized to establish within that county a livestock pass program for the purpose of issuing identification documents granting any qualifying livestock producer, or a managerial employee of the qualifying livestock producer, access to the qualifying livestock producer's ranch property during or following a flood, storm, fire, earthquake, or other disaster.

(2) (A) A managerial employee of a qualifying livestock producer shall not be required by the qualifying livestock producer to obtain a livestock pass. Access to a qualifying livestock producer's ranch by a managerial employee shall be fully voluntary on the part of the managerial employee.

(B) A person shall not require any employee to obtain or use a livestock pass or to enter or be present on the livestock producer's ranch property during or following a flood, storm, fire, earthquake, or other disaster. A person shall not in any manner discriminate, retaliate, or take any adverse action against an employee for refusing to obtain or use a livestock pass or to enter or be present on the livestock producer's ranch property during or following a flood, storm, fire, earthquake, or other disaster. Any person who believes that they have been discriminated or retaliated against in violation of this section may, in addition to any other available remedy, file a complaint pursuant to Section 98.7 of the Labor Code for remedies available under Section 98.6 of the Labor Code.

(C) Nothing in this section shall be construed as requiring a managerial employee of a qualifying livestock producer to be present on a ranch property during or following a flood, storm, fire, earthquake, or other disaster.

(c) (1) An applicant for a livestock pass shall provide, or the relevant county agency shall otherwise obtain, documentation sufficient to demonstrate that the applicant is a commercial livestock producer, or a managerial employee of a commercial livestock producer. The documentation may include, but is not limited to, any of the following:

(A) An operator identification number issued by a county agricultural commissioner.

(B) An Internal Revenue Service Schedule F (Form 1040) attesting to the applicant's Profit or Loss From Farming.

(C) Assessor's parcel numbers confirming agricultural zoning for the property or properties upon which access is sought.

(D) Agricultural land lease documentation.

(E) Documentation attesting to the applicant's enrollment in a Williamson Act contract as authorized pursuant to Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code.

(F) Documentation from the United States Department of Agriculture Farm Service Agency attesting that the applicant is a commercial livestock producer.

(G) Current registration of a livestock brand with the Bureau of Livestock Identification.

(2) An applicant for a livestock pass shall furnish to the relevant county agency a description or map of all lands owned or managed by the applicant for which disaster access is sought.

(d) (1) Access granted pursuant to a livestock pass shall be limited to the purposes of sheltering, moving, transporting, evacuating, feeding, watering, or administering veterinary care to livestock, or providing local expertise to peace officers and emergency personnel. Local expertise shall only be provided upon the request of peace officers and emergency personnel.

(2) A holder of a livestock pass may have access to the ranch property that is owned by another holder of a livestock pass, with permission from that livestock passholder, for purposes of providing assistance with those activities specified in paragraph (1) during or following a flood, storm, fire, earthquake, or other disaster.

(3) Access under this section to areas closed pursuant to subdivision (a) of Section 409.5 of the Penal Code may only be granted by the incident commander, a law enforcement official having jurisdiction, or their designee. When access is granted by emergency response personnel other than the incident commander, the emergency response personnel shall notify incident command that access has been provided to the livestock passholder.

(4) For purposes of this subdivision, "local expertise" may include identifying access roads, water points, and other local knowledge that may assist firefighters or other emergency response personnel.

(e) (1) A livestock pass identification document issued pursuant to subdivision (b) for the purpose of authorizing access during a disaster shall include, at a minimum, all of the following information:

(A) The name of the applicant and cardholder.

(B) The name or names of the ranch to which the cardholder seeks access in the event of a disaster.

(C) The expiration date of the identification document, if an expiration date was established by the county.

(D) The seal or logo of the authorizing agency and the signature of the issuing officer.

(2) A livestock pass identification document authorizing access during a disaster that does not include a photograph of the cardholder shall not be a valid document for purposes of subdivision (b) unless accompanied by a valid photo identification document issued by the state or federal government.

(f) Notwithstanding this section, a livestock pass issued by a county in which a livestock pass or equivalent program was established before January 1, 2022, shall be deemed to be in compliance with this section until the expiration date noted on the livestock pass or until December 31, 2025, whichever date occurs first.

SEC. 2. Section 13105.6 is added to the Health and Safety Code, to read:

13105.6. On or before January 1, 2023, the State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, shall develop a curriculum for livestock producers eligible for the livestock pass program described in Section 2350 of the Food and Agricultural Code. The curriculum shall, at a minimum, provide education regarding basic fire behavior, communications during a disaster emergency, and incident command structure. The curriculum shall provide for the initial certification as well as the continuing education or recertification of livestock producers eligible for the livestock pass program. It is the intent of the Legislature that any certification training utilizing the curriculum developed pursuant to this section be no more than four hours in duration, ensuring that commercial livestock producers may avail themselves of the curriculum.

SEC. 3. Section 409.5 of the Penal Code is amended to read:

409.5. (a) Whenever a menace to the public health or safety is created by a calamity including a flood, storm, fire, earthquake, explosion, accident, or other disaster, officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, an officer or employee of the Department of Forestry and Fire Protection designated a peace officer by subdivision (g) of Section 830.2, an officer or employee of the Department of Parks and Recreation designated a peace officer by subdivision (f) of Section 830.2, an officer or employee of the Department of Fish and Wildlife designated a peace officer under subdivision (e) of Section 830.2, and a publicly employed full-time lifeguard or publicly employed full-time marine safety officer while acting in a supervisory position in the performance of their official duties, may close the area where the menace exists for

the duration of the menace by means of ropes, markers, or guards to any and all persons not authorized by the lifeguard or officer to enter or remain within the enclosed area. If the calamity creates an immediate menace to the public health, the local health officer may close the area where the menace exists pursuant to the conditions set forth in this section.

(b) Officers of the Department of the California Highway Patrol, police departments, marshal's office or sheriff's office, officers of the Department of Fish and Wildlife designated as peace officers by subdivision (e) of Section 830.2, or officers of the Department of Forestry and Fire Protection designated as peace officers by subdivision (g) of Section 830.2 may close the immediate area surrounding any emergency field command post or any other command post activated for the purpose of abating any calamity enumerated in this section or any riot or other civil disturbance to any and all unauthorized persons pursuant to the conditions set forth in this section whether or not the field command post or other command post is located near the actual calamity or riot or other civil disturbance.

(c) An unauthorized person who willfully and knowingly enters an area closed pursuant to subdivision (a) or (b) and who willfully remains within the area after receiving notice to evacuate or leave shall be guilty of a misdemeanor.

(d) This section shall not prevent a duly authorized representative of a news service, newspaper, or radio or television station or network from entering the areas closed pursuant to this section.

(e) This section shall not prevent an individual who holds a valid livestock pass identification document, pursuant to Section 2350 of the Food and Agricultural Code, from entering the areas closed pursuant to this section, unless a peace officer identified in subdivision (a) finds that the disaster is of such a nature that it would be unsafe for the documentholder to enter or that the presence of the documentholder would interfere with disaster response.

SEC. 4. 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.