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**AB-1298 Pesticides: use of 2nd generation anticoagulant rodenticides.** (2021-2022)

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**Assembly Bill No. 1298**

**CHAPTER 479**

An act to amend Section 12978.7 of the Food and Agricultural Code, relating to pesticides.

[ Approved by Governor October 04, 2021. Filed with Secretary of State October 04, 2021. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 1298, Bloom. Pesticides: use of 2nd generation anticoagulant rodenticides.

Existing law regulates the use of pesticides and authorizes the Director of Pesticide Regulation to adopt regulations to govern the possession, sale, or use of any pesticide, as prescribed. Existing law prohibits the use of 2nd generation anticoagulant rodenticides in wildlife habitat areas. Existing law additionally prohibits the use of 2nd generation anticoagulant rodenticides in the state until the director certifies to the Secretary of State that certain conditions have occurred including that the Department of Fish and Wildlife determines that control or eradication of invasive rodent populations is necessary for the protection of threatened or endangered species or their habitats and requires the use of a 2nd generation anticoagulant rodenticide. Existing law exempts the use of 2nd generation anticoagulant rodenticides from these prohibitions under certain circumstances.

This bill would delete the requirement that the director certify that the Department of Fish and Wildlife has made that specified determination. The bill would exempt the use any 2nd generation anticoagulant rodenticide that the Department of Fish and Wildlife determines is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.

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

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

**SECTION 1.** Section 12978.7 of the Food and Agricultural Code is amended to read:

**12978.7.** (a) For purposes of this section, the following terms have the following meanings:

(1) "Second generation anticoagulant rodenticide" means any pesticide product containing any of the following active ingredients:

- (A) Brodifacoum.
- (B) Bromadiolone.
- (C) Difenacoum.
- (D) Difethialone.

(2) "Wildlife habitat area" means any state park, state wildlife refuge, or state conservancy.

(b) Except as provided in subdivision (e), and notwithstanding subdivision (c), the use of any second generation anticoagulant rodenticide is prohibited in a wildlife habitat area.

(c) Except as provided in subdivision (e) or (f), the use of any second generation anticoagulant rodenticide is prohibited in this state until the director makes the certification described in subdivision (g).

(d) State agencies are directed to encourage federal agencies to comply with subdivisions (b) and (c).

(e) This section does not apply to any of the following:

(1) The use of second generation anticoagulant rodenticides by any governmental agency employee who complies with Section 106925 of the Health and Safety Code, who uses second generation anticoagulant rodenticides for public health activities.

(2) The use of second generation anticoagulant rodenticides otherwise prohibited by this section when used by any governmental agency employee for the purposes of protecting water supply infrastructure and facilities in a manner that is consistent with all otherwise applicable federal and state laws and regulations.

(3) The use of second generation anticoagulant rodenticides by a mosquito or vector control district formed under Chapter 1 (commencing with Section 2000) of Division 3 or Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code to protect the public health.

(4) The use of any second generation anticoagulant rodenticides for the eradication of nonnative invasive species inhabiting or found to be present on offshore islands in a manner that is consistent with all otherwise applicable federal and state laws and regulations.

(5) The use of any second generation anticoagulant rodenticide that the Department of Fish and Wildlife determines is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.

(6) The use of any second generation anticoagulant rodenticide to control an actual or potential rodent infestation associated with a public health need, as determined by a supporting declaration from the State Public Health Officer or a local public health officer. For purposes of this section, a public health need is an urgent, nonroutine situation posing a significant risk to human health in which it is documented that other rodent control alternatives, including nonchemical alternatives, are inadequate to control the rodent infestation.

(7) The use of any second generation anticoagulant rodenticide for research purposes related to the reevaluation described in paragraph (1) of subdivision (g). Before using a second generation anticoagulant in the manner described in this paragraph, a written authorization for research shall be obtained from the director. The director may specify the conditions in the authorization for research under which the research shall be conducted. The director may terminate, amend, or refuse to issue an authorization for research if the director determines any of the following:

(A) The research may involve a hazard to the environment.

(B) The research may be used for purposes unrelated to pesticide data development.

(C) A violation of the authorization for research, prior authorization for research, or Division 6 (commencing with Section 11401) or this division, or a regulation adopted pursuant to either or both of those divisions, has occurred in connection with the research.

(f) (1) This section does not apply to the use of second generation anticoagulant rodenticides in either of the following locations:

(A) A medical waste generator, as defined in Section 117705 of the Health and Safety Code.

(B) A facility registered annually and subject to inspection under Section 510 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. Sec. 360 et seq.) and compliant with the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(2) This section does not apply to the use of second generation anticoagulant rodenticides for agricultural activities, as defined in Section 564.

(3) For purposes of paragraph (2), "agricultural activities" include activities conducted in any of the following locations:

(A) A warehouse used to store foods for human or animal consumption.

(B) An agricultural food production site, including, but not limited to, a slaughterhouse or cannery.

(C) A factory, brewery, or winery.

(D) An agricultural production site housing water storage and conveyance facilities.

(E) An agricultural production site housing rights-of-way and other transportation infrastructure.

(g) After the director determines that both of the following conditions have occurred, the director shall certify to the Secretary of State of that determination:

(1) The department has completed the reevaluation of second generation anticoagulant rodenticides, as commenced by the department on March 12, 2019, pursuant to California Notice 2019-03 "(Notice of Final Decision to Begin Reevaluation of Second Generation Anticoagulant Rodenticides)."

(2) Consistent with the requirements of this division and regulations adopted pursuant to this division, the department has adopted any additional restrictions necessary to ensure that continued use of second generation anticoagulant rodenticides is not reasonably expected to result in significant adverse effects to nontarget wildlife and those restrictions are operative. Any restrictions described in this paragraph shall be developed in consultation with the Department of Fish and Wildlife.