

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON AGRICULTURE

Esmeralda Soria, Chair

SB 1117 (Laird) – As Amended May 30, 2024

**SENATE VOTE:** 38-0

**SUBJECT:** Organic products

**SUMMARY:** This bill authorizes the secretary of the California Department of Food and Agriculture (CDFA) to establish procedures for and conduct announced and unannounced spot inspections and collect samples to conduct periodic substance testing on products labeled as organic, and amends definitions within in the Food and Agricultural Code (FAC) to mirror the definitions contained in the United States Department of Agriculture (USDA) Agricultural Marketing Service’s March 20, 2023 Strengthening Organic Enforcement (SOE) Rule.

Specifically, **this bill:**

- 1) Authorizes the secretary of the CDFA, in consultation with the California Organic Products Advisory Committee (COPAC), to establish procedures for and conduct announced and unannounced periodic spot inspections and to collect samples in order to conduct periodic substance testing on products labeled as organic.
- 2) Prohibits any charge to the inspector or investigator for the samples taken.
- 3) Amends definitions contained in this code section to mirror the definitions contained in the USDA Agricultural Marketing Service’s SOE Rule.
- 4) States that an exempt handler, exempt operation, and exempt producer are only exempt from certification under federal organic standards and are still required to be registered with the SOP.
- 5) Clarifies a person, as specified, shall register and pay \$100 per year.
- 6) Clarifies any person, as specified, shall register and pay a fee based on total gross sales of product sold as organic in the calendar year that precedes the date of registration or, if no sales were made in the preceding year, based on the expected sales during the 12 calendar months following the date of registration, as specified.
- 7) States a person who provides temporary storage of 14 days or less or transportation for an organic product and does not handle the raw unpackaged product does not have to register.
- 8) States the secretary shall, to the extent funds are available, establish procedures for handling complaints, including provision of a written complaint form, and procedures for commencing an investigation within 5 working days after receiving a complaint regarding fresh food, and within 7 working days for other products, and completing an investigation and reporting findings and enforcement action taken, if any, to the complainant within 120 days thereafter.

- 9) States a person may appeal to the secretary for a hearing under current federal regulations or if aggrieved by any one of the following actions or decisions:
  - a. Denial of any registration.
  - b. Suspension of any registration.
  - c. Revocation of any registration.
- 10) Establishes the appeal shall be submitted to the secretary in writing within the time period provided in the letter of notification of adverse action or within 30 days of receipt of the letter of notification of adverse action, whichever is later.
- 11) States the secretary shall be entitled to receive reimbursement from any organic operation or person required to register with the CDFA that is found in violation of this chapter for any reasonable attorney's fees and other related costs, including, but not limited to, investigative costs, involved in the enforcement of this chapter.
- 12) Clarifies no food or product shall be advertised or labeled as "organic when available," or "better than organic," or use terminology that leaves in doubt whether the food or product is being sold is organic.

**EXISTING LAW:**

## Existing federal law:

- 1) USDA Agricultural Marketing Service (AMS) administers programs that create domestic and international marketing opportunities for U.S. producers of food, fiber, and specialty crops. The AMS also provides the agricultural industry with valuable services to ensure the quality and availability of wholesome food for consumers across the country and around the world. (7 Code of Federal Regulations (CFR) § 2.79)
- 2) USDA established the Organic Foods Production Act of 1990, which created the National Organic Program (NOP) to provide consistent national standards for the certification and regulation of organic products within the United States (*CFR, Title 7, Subtitle B, Chapter 1, Subchapter M, Part 205*).
- 3) The NOP is a federal regulatory program that develops and enforces consistent national standards for organically produced agricultural products sold in the United States. The NOP also accredits third-party organizations to certify that farms and businesses meet the national organic standards (*7 U.S.C. Sec. 6501 et seq.*).

## Existing state law:

- 1) The California Organic Food and Farming Act (COFFA) was signed into law, streamlining the registration process by allowing USDA-accredited organic certifying agents to submit registration information for their clients directly to the state. COFFA also updated the fee schedule, allowing very small producers the ability to pay lower fees as well as cap the current fee schedule unless the secretary of the CDFA, in consultation

with COPAC, determines any changes need to be made (*FAC 46000 (a)*) and *Health and Safety Code, Section 110810 et seq.*).

- 2) California State Organic Program (SOP) is responsible for enforcement of the federal Organic Foods Production Act of 1990, and COFFA. These statutes protect consumers, producers, handlers, processors and retailers by the establishment of standards under which fresh agricultural products/foods may be labeled and/or sold as "organic" (*FAC, Section 46000*).
- 3) COPAC advises the secretary of the CDFA on issues related to organic standards and enforcement, and on support for organic agriculture in California through education, outreach, technical assistance, and other industry activities (*FAC 4600*).

**FISCAL EFFECT:** Unkown.

**COMMENTS:** On March 20, 2023, the USDAs Strengthening Organic Enforcement (SOE) rule amended the rulemaking to strengthen oversight and enforcement of the production, handling, and sale of organic agricultural products. The amendments protect integrity in the organic supply chain and build consumer and industry trust in the USDA organic label by strengthening organic control systems, improving farm-to-market traceability, and providing robust enforcement of the USDA organic regulations.

This bill, in part, aligns the SOP with the definitions contained within the SOE, allows the secretary of CDFA to recover some costs from violations of COFFA and allows the secretary to establish procedures for announced and unannounced periodic spot inspections and to collect samples for substance testing to ensure products labeled as organic are actually organic.

According to the author, this bill ensures that the standards are met for agricultural products and foods that are labeled and sold as organic, protecting California consumers, producers, handlers, processors, and retailers. The bill aligns CDFA's SOP with recent updates to USDA's SOE Final Rule. This bill enhances the integrity of organic products by refining the process for inspections and sample collection, enabling reasonable cost recovery for attorney's fees and other costs from violations of COFFA, and by strengthening prohibitions on misleading labeling that leaves consumers in doubt whether the food or product is organic.

Supporters state, consumers should be fully informed about the composition, quality, and short- and long-term health effects of all products that go into people's bodies, such as food, water, air, pharmaceuticals, and cosmetics. This bill will authorize the secretary of CDFA to establish procedures for and conduct announced/unannounced periodic spot inspections, collecting samples to conduct periodic substance testing on products labeled as organic.

#### **REGISTERED SUPPORT / OPPOSITION:**

##### **Support**

A Voice for Choice Advocacy

##### **Opposition**

None on file.

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