

Date of Hearing: April 15, 2021

ASSEMBLY COMMITTEE ON AGRICULTURE

Robert Rivas, Chair

AB 1103 (Megan Dahle) – As Introduced February 18, 2021

SUBJECT: Agricultural lands: farmers and producers: agricultural pass program: disaster access to farm lands

SUMMARY: This bill would authorize specified local agencies to establish within a county an agricultural pass program for the purpose of issuing identification documents (ID) granting any qualifying agricultural producer, as defined, or employee access to the qualifying agricultural producer's farm or ranch property during or following a natural disaster, as specified. Specifically, *this bill*:

- 1) Allows a county board of supervisors, a county agricultural commissioner (CAC), or other agencies designated by the county board of supervisors, to establish within that county an agricultural pass program (Ag Pass).
- 2) Allows a county to issue IDs granting any qualifying agricultural producer, or employee of the qualifying agricultural producer, access to the qualifying agricultural producer's farm or ranch property during or following a flood, storm, fire, earthquake, or other disaster.
- 3) Defines qualifying agricultural producer as meaning commercial agricultural producer, as determined by the county agency, who has been certified as successfully completing the curriculum developed, as specified.
- 4) Requires an applicant for an Ag Pass to provide, or the relevant county agency to obtain, documentation sufficient to demonstrate that the applicant is a commercial agricultural producer, or employee of a commercial agricultural producer.
- 5) Allows the documentation to include, but is not limited to, any of the following:
 - a) An operator identification number issued by the Department of Pesticide Regulation.
 - 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 specified.
 - f) Documentation from the United States Department of Agriculture Farm Service Agency attesting that the applicant is a commercial agricultural producer.
 - g) Current registration of a livestock brand with the Bureau of Livestock Identification.

- 6) Requires an applicant for an Ag 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.
- 7) Requires access granted pursuant to an Ag Pass be limited to the purposes of sheltering, moving, transporting, evacuating, feeding, watering, or administering veterinary care to livestock, irrigating crops, or providing auxiliary support to peace officers and emergency personnel.
- 8) States auxiliary support may include identifying access roads, water points, and other local expertise that may assist in firefighting or other emergency response.
- 9) Requires an Ag Pass ID to include, at a minimum, all of the following information:
 - a) The name of the applicant and cardholder.
 - b) The name or names of the farm or ranch to which the cardholder seeks access in the event of a disaster.
 - c) The expiration date of the ID, 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.
- 10) Provides that an Ag Pass ID authorizing access during a disaster that does not include a photograph of the cardholder shall not be a valid document for purposes of subdivision (a) unless accompanied by a valid photo ID issued by the state or federal government.
- 11) Requires an Ag Pass issued by a county in which an Ag Pass or equivalent program was established before January 1, 2022, to be deemed to be in compliance with this section until the expiration date noted on the Ag Pass or until December 31, 2025, whichever date occurs first.
- 12) Requires, before January 1, 2023, the State Fire Marshal, with the involvement of the Statewide Training and Education Advisory Committee, to develop a curriculum for agricultural producers eligible for the Ag Pass program.
 - a) Requires the curriculum provide education regarding basic fire behavior, communications during a disaster emergency, and incident command structure.
 - b) Requires the curriculum to provide for the initial certification as well as the continuing education or recertification of agricultural producers eligible for the Ag Pass program.
 - c) Declares legislative intent that any certification training utilizing the curriculum developed pursuant to this section be no more than four hours in duration, ensuring that commercial agricultural producers may avail themselves of the curriculum.
- 13) Allows an individual who holds a valid Ag Pass ID, as specified, to enter an areas closed due to natural disaster, as specified, unless a peace officer, as specified, finds that the disaster

presents an imminent harm to the document holder or that the presence of the document holder would interfere with disaster response.

EXISTING LAW:

- 1) Requires the Secretary of CDFA to examine persons who desire to become CAC or deputy CAC.
- 2) Requires the CAC to be responsible for local administration of enforcement and requires the secretary to be responsible for overall statewide enforcement, as provided.
- 3) Requires the secretary to furnish assistance in planning and otherwise developing an adequate county enforcement program, as specified.
- 4) 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, as specified.

FISCAL EFFECT: Unknown.

COMMENTS: Wildfires in California are continuing to increase in frequency and intensity, resulting in loss of life and damage to property, infrastructure, and ecosystems. This year alone, wildfires have burned more than 4.1 million acres. Six of the 10 largest recorded fires in California's history happened this year (August Complex, Mendocino Complex, SCU Lightning Complex, Creek, LNU Lightning Complex, and North Complex). In 2020, there were more wildfires in closer proximity to agricultural lands. While much of Ag land in the Central Valley has seen a limited impact, the Coastal ranges and foothill communities on the edge of the Sierras have seen greater impact to Ag lands, specifically in vineyards and grazing lands throughout the state.

According to the author, lack of timely access to a farm or ranch during a wildfire or other emergency incident can be devastating to livestock and force farmers and ranchers to make truly difficult decisions. In 2020, one rancher lost hundreds of cattle to the Bear Fire (part of the North Complex Fire) as he struggled to gain access to his rangelands. Many farmers and ranchers have ignored evacuation orders, knowing that once they leave they may not be able to gain return access to care for their animals. Others have been evacuated only to eventually make the difficult choice to bypass roadblocks to access their farm or ranch, risking their safety and a misdemeanor charge to ensure the welfare of their animals.

When farmers and ranchers are granted access to their property during a wildfire or other emergency incident, they often must be escorted by law enforcement or emergency responders because they lack expertise in fire behavior and incident response. This supervised access diverts critical emergency response resources during a wildfire or other emergency. This bill aims to address all of these issues by providing farmers and ranchers training in fire behavior and emergency response and providing a process by which law enforcement and emergency responders may grant them access to a farm or ranch to care for animals or irrigate crops.

Supporters point out that Ventura County became the first jurisdiction to institute an Ag Pass program. The program trains farmers and ranchers in fire hazards and safety issues, entrapment avoidance, incident organization, and fire behavior to ensure they are equipped to safely access

the site during an emergency. The program also has protocols for identifying enrolled farmers and ranchers to emergency responders, streamlining access during a wildfire incident.

In the past year, Santa Barbara and Butte counties have followed Ventura's lead. Unfortunately, with no statewide framework, Ventura, Santa Barbara, and Butte counties have had to 'reinvent the wheel' in developing a training curriculum, coordinating with local and state emergency responders, and administering the Ag Pass program – significantly burdening limited local resources. This burden has deterred Supervisors, Agricultural Commissioners, and other officials in fire-prone counties from instituting their own Ag Pass programs.

Opposition stated, "We oppose granting passes that allow employees of farms and ranches to work inside evacuation zones because these workers should not be asked to work, or be allowed to work, in areas deemed unsafe for the public." Opposition also expressed concern about the proposed Ag Pass that would allow access to evacuation zones, unless a peace officer finds that the disaster presents an imminent harm to the Ag Pass holder. Experience over the last few years has shown that wildfires can expand rapidly. Allowing access until risk rises to the level of "imminent harm" leaves no margin of safety. The opposition has asked for amendments to address the concern about agriculture employee being sent into evacuation zones.

The California Climate & Agriculture Network (CalCAN) has a support if amended position and state the following: "AB 1103 offers a practical solution by enabling more counties to establish Ag Pass Programs, similar to the successful example set by Ventura County. Our coalition supports the expansion of these programs in a way that balances the need for improved access to farms and ranches during disasters with reasonable safety precautions and protocols to protect producers, their employees, and first responders. We believe striking this balance will result in broadly supported and sustainable Ag Pass Programs."

To that end, CalCAN is suggesting amendments that do the following:

- 1) Require at least two Ag Pass holders be present in order to gain access to ensure no one is ever alone in a disaster area.
- 2) Limit the number of Ag Pass holders that can gain access to a farm or ranch to what is reasonable to carry out the purposes of an Ag Pass, specifically for public safety concerns.
- 3) Clarify that no employee shall be required to work in an area that has been evacuated or closed due to a disaster.
- 4) Require an employee safety and evacuation plan in order to obtain an Ag Pass.
- 5) Add employee safety to the list of topics required to be addressed in the Ag Pass curriculum to be developed by the State Fire Marshall.

REGISTERED SUPPORT / OPPOSITION:

Support

California Cattlemen's Association (sponsor)
Wine Institute

Support If Amended

California Climate & Agriculture Network (CalCAN)

Oppose Unless Amended

California Rural Legal Assistance Foundation (CRLA Foundation)

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