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Agriculture

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Agriculture; economic poisons—assessment

Food and Agricultural Code §§ 12115, 12115.1, 12115.2, 12115.3, 12115.4, 12115.5, 12115.6, 12848, 12848.1, 12848.2, 12848.3, 12848.4, 12848.5, 12848.6, 12848.7, 12848.8, 12848.9, 12848.10, 12848.11, 12971.5 (new); §§ 12841, 12841.1, 12847, 12999.4 (amended).

AB 770 (Areias); 1993 STAT. Ch. 1176

Existing law requires registrants¹ of economic poisons² to pay an assessment to the Director of Pesticide Regulation (Director)³ for all sales of registered and labeled economic poisons for use in this state.⁴ Chapter

1. See CAL. FOOD & AGRIC. CODE § 11405 (West 1986) (defining registrant as any person that registers pursuant to the California Food and Agricultural Code §§ 11752, 12051); see also *id.* § 12755 (West 1986) (defining registrant as a person that has registered an economic poison and has obtained a certificate of registration from the department).

2. See *id.* § 12753 (West Supp. 1993) (defining economic poison as any spray adjuvant or substance which may infest or be detrimental to vegetation, man, animals, or households, or be present in any agricultural or nonagricultural environment).

3. See *id.* § 11454 (West Supp. 1993) (stating that the department is vested with all duties, powers, and jurisdiction as the Department of Food and Agriculture with regard to the regulation of pesticides).

4. *Id.* § 12841(a)(1) (amended by Chapter 1176); see *Leslie's Pool Mart, Inc. v. Department of Food & Agric.*, 223 Cal. App. 3d 1524, 1541, 273 Cal. Rptr. 373, 385 (1990) (stating that the clear purpose of requiring registrants to pay assessments is to help defray the administrative costs in enforcing the provisions of the Economic Poisons Act and other laws relating to the manufacture, sale, and use of pesticides), *review denied*, 1991 Cal. LEXIS 142 (Jan. 16, 1991); cf. 7 U.S.C. §§ 136-136y (1988 & Supp. II 1990) (codifying the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 1972 amendments known as the Federal Environmental Pesticide Control Act (FEPCA)); *id.* § 136a(a) (1988 & Supp. II 1990) (providing that no person in any state may distribute or sell any pesticide that is not registered); *id.* § 136a-1 (1988 & Supp. II 1990) (providing for the re-registration of registered pesticides); *id.* § 136e (1988) (listing the requirements for the registration of establishments that produce pesticides); ALA. CODE § 2-27-9(a) (1993) (providing that applicants shall pay an annual registration fee of \$100 for each pesticide registered); COLO. REV. STAT. § 35-9-118(3)(a) (1993) (allowing the commissioner to determine annual pesticide registration fees for funding the groundwater protection fund and the pesticide fund); N.D. CENT. CODE § 19-18-04 (1991), OR. REV. STAT. § 634.016(1) (1992), VA. CODE ANN. § 3.1-249.40 (1993) (providing that any person selling or offering for sale any pesticides within the state must annually register such pesticides); *Wisconsin Public Intervenor v. Mortier*, 111 S. Ct. 2476, 2483 (1991) (stating that FIFRA does not expressly supersede local pesticide regulations, therefore FIFRA could be read as giving the states absolute discretion in their regulation of pesticides); *N. Jonas & Co., v. EPA*, 666 F.2d 829, 832 (3d Cir. 1981) (stating that a product is a pesticide under FIFRA, if a reasonable consumer would use it as a pesticide; the fact that the product may also have other uses does not affect the need to register); *McGill v. EPA*, 593 F.2d 631, 637 (5th Cir. 1979) (stating that FIFRA does not bar pesticide users from becoming registrants even though they are incapable of manufacturing the pesticide themselves); Marina M. Lolley, Comment, *Carcinogen Roulette: The Game Played Under FIFRA*, 49 MD. L. REV. 975, 982 (1990) (explaining that the 1988 FIFRA amendments allow the EPA to levy two different fees on manufacturers who want to register pesticides). The first fee is a one time active ingredient fee, while the other is a fee that the EPA can levy annually for each registration. *Id. Pesticides, New Fees Said Needed to Address Shortfall of Full-Time EPA Employees*, DAILY REPORT FOR EXECUTIVES, May 3, 1993, at 83 (discussing the need for a new fee structure

1176 requires a pesticide dealer⁵ or pesticide broker⁶ to pay to the Director an assessment of nine mills (\$0.009) per dollar, and until June 30, 1997, an assessment of twelve mills (\$0.012) per dollar, for specified sales of economic poisons.⁷ Chapter 1176 also requires the pesticide dealer or broker to report its sales quarterly to the Director, and to maintain certain records relating to its sales.⁸ Chapter 1176 specifies that it will be unlawful for any person, other than the pesticide dealer or registrant, to sell or distribute economic poison products unless the person is licensed as a pesticide broker.⁹ Chapter 1176 also requires that a pesticide labeled

for the re-registration of pesticides in order to generate revenue).

5. See CAL. FOOD & AGRIC. CODE § 11407 (West 1986) (defining pesticide dealer as any manufacturer, distributor, or retailer who sells pesticides for agricultural use, sells any method or device for control of agricultural pests, solicits sales of pesticides by making agricultural use recommendations through field agents, or sells a pesticide pursuant to California Food and Agricultural Code § 14004.5 as a restricted material that requires a permit for possession and use); see also *id.* § 11407.5 (West 1986) (listing exclusions from the definition of pesticide dealer).

6. See *id.* § 12848 (enacted by Chapter 1176) (permitting a licensed pesticide broker to sell or distribute economic poison products that have been registered by the Director and labeled for agricultural use); *id.* § 12841.1(a) (enacted by Chapter 1176) (listing information required for the application for a pesticide broker's license which shall be in a form presented by the Director).

7. *Id.* §§ 12115(a)-(b), 12848.6(a)-(b) (enacted by Chapter 1176); see *id.* § 12115(a) (enacted by Chapter 1176) (stating that pesticide dealers will be charged this assessment for the dealer's acquisition price or the registrant's sale price, whichever is higher, for all sales by the dealer into or within this state of economic poisons registered by the director, and labeled for agricultural use where the dealer is the person who first sold the economic poison into or within this state); *id.* § 12848.6(a) (enacted by Chapter 1176) (requiring licensed pesticide brokers to pay this assessment for all sales by the broker into or within this state of economic poisons registered by the director and labeled for agricultural use where the broker is the person who first sold the economic poison into or within this state); see also *id.* § 11408 (West 1986) (defining agricultural use).

8. *Id.* §§ 12115.3(a)-(b), 12848.9(a)-(b) (enacted by Chapter 1176); see *id.* (providing that the pesticide dealer and pesticide broker must maintain at their principal place of business the records of their purchases, sales, and distributions of economic poisons, and must report quarterly to the Director the dealer's acquisitions price, the registrant's sale price, the total dollars of sales, and total pounds or gallons sold of economic poisons registered by the Director); cf. 7 U.S.C. § 136f(a) (1988) (requiring producers, registrants, and applicants for registration to maintain records regarding operations and pesticide use); *id.* § 136i-1(a)(1) (Supp. II 1990) (requiring certified applicators of restricted use pesticides to maintain records comparable to records maintained by commercial applicators of pesticides in each state); IDAHO CODE § 22-3406(2)(a)(b) (1993) (stating that a pesticide dealer must maintain accurate sale and distribution records).

9. CAL. FOOD & AGRIC. CODE § 12848 (enacted by Chapter 1176); see *id.* (providing that this article does not apply to persons who operate as sellers or distributors of economic poisons that are labeled only for nonagricultural uses); cf. FLA. STAT. ANN. § 487.048(1) (West Supp. 1993) (requiring persons holding, selling, or distributing restricted use pesticides to obtain a dealer's license); IDAHO CODE § 22-3406 (1993); IOWA CODE ANN. § 206.8(1) (West 1987 & Supp. 1993); N.H. REV. STAT. ANN. § 430:35 (1991); N.C. GEN. STAT. § 143-448(a) (1990); OHIO REV. CODE ANN. § 921.13(A) (Anderson 1992); S.C. CODE ANN. § 46-13-50(A)(1) (Law. Co-op. 1987) (providing that no person may act in the capacity of a pesticide dealer unless the person obtains a license annually); KAN. STAT. ANN. § 2-2469 (1991) (requiring each person who is a pesticide dealer to register with the state board of agriculture). See generally *Nagel v. Thomas*, 666 F. Supp. 1002, 1007 (W.D. Mich. 1987) (stating that the rights of nonregistrants of pesticides must be limited to express statutory provisions); *Cantebury Termite Control, Inc. v. Structural Pest Control Bd.*, 207 Cal. App. 3d 422, 430, 254 Cal. Rptr. 873, 877 (1989) (holding that a pest control company violated or aided and abetted in the violation of structural pest control laws by allowing unlicensed personnel to quote prices and make arrangements for the

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for agricultural use that is to be used in this state to be purchased from a registrant, licensed pesticide dealer, or licensed pesticide broker.¹⁰ The Director is authorized to levy a civil penalty of up to \$5000 for each violation of these provisions.¹¹

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Agriculture; economic poisons—penalties

Food and Agricultural Code § 12999.5 (amended).
AB 2104 (Harvey); 1993 STAT. Ch. 737

Existing law allows a county agricultural commissioner¹ (Commissioner) to levy a civil penalty against a person violating the provisions of the Food and Agricultural Code that pertain to pest control operations² and agricultural chemicals.³ Existing law also provides that

performance of household pest control work); Sarah E. Redfield, *Chemical Trespass? - An Overview of Statutory and Regulatory Efforts to Control Pesticide Drift*, 73 KY. L.J. 855, 876 (1985) (providing that pesticide registration is an aspect of pesticide regulation in which state legislation is generally patterned after the federal model).

10. CAL. FOOD & AGRIC. CODE § 12115.6 (enacted by Chapter 1176).

11. *Id.* § 12999.4(a) (enacted by Chapter 1176); *see also* 7 U.S.C. § 136l(a)(1) (1988) (providing that any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA to be assessed a civil penalty not to exceed \$5,000 for each offense); *id.* § 136l(b) (1988) (stating that criminal prosecution may follow a knowing violation of FIFRA); *N. Jonas & Co. v. EPA*, 666 F.2d 829, 834 (3d Cir. 1981) (concluding that the EPA's assessment of a \$2500 penalty against a chemical producer for failing to register a swimming pool oxidizer as a pesticide was not an abuse of discretion); *Johnson v. Odom*, 536 So. 2d 541, 548-49 (La. Ct. App. 1988) (stating that a \$5000 penalty for applying pesticides without a license was excessive since the pesticide applicator may have been entitled to have its license reissued under the Commissioner of Agriculture's own decision; therefore, a penalty of \$500 for each offense is the maximum amount that can be imposed), *cert. denied*, 537 So. 2d 213 (1989). *See generally* Mary Lee A. Howarth, Comment, *Preemption and Punitive Damages: The Conflict Continues under FIFRA*, 136 U. PA. L. REV. 1301, 1306 (1988) (specifying that when a pesticide manufacturer violates either the general requirements of FIFRA or the specific guidelines created by the EPA for particular products, then the EPA will notify the United States Attorney General who will institute criminal or civil proceedings against the violator).

1. *See* CAL. FOOD & AGRIC. CODE § 2001 (West 1986) (establishing a county department of agriculture in each county); *id.* § 2002 (West 1986) (stating that the county department of agriculture is under the control of the county agricultural commissioner).

2. *See id.* §§ 11401-12258 (West 1986 & Supp. 1993) (setting forth provisions regulating pest control operations).

3. *Id.* § 12999.5(a) (amended by Chapter 737); *see id.* §§ 12501-15201 (West 1986 & Supp. 1993) (setting forth provisions concerning agricultural chemicals, livestock remedies, and commercial feeds); CAL. CODE REGS. tit. 3, § 6130 (1991) (establishing guidelines for agricultural commissioners when determining types of violations for which fines may be assessed and the amounts of the fines); *cf.* 7 U.S.C. §§ 136-136y (1988

the Commissioner must grant a hearing on the matter if requested by the person being cited.⁴ Existing law further specifies that the penalty levied by the Commissioner may be appealed to the Director of the Department of Pesticide Regulation (Director).⁵

Chapter 737 specifies that a notice of a proposed action that is sent by certified mail to the last known address of the person charged shall be considered received even if delivery is refused or the notice is not accepted at that address.⁶ The person will be given an opportunity to be heard if the

& Supp. II 1990) (codifying the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 1972 amendments known as the Federal Environmental Pesticide Control Act (FEPCA); *id.* § 136l(2) (1988) (providing that any private applicator who violates any provision of FIFRA subsequent to receiving a warning from the administrator or following a prior citation may be assessed a civil penalty of not more than \$1000 for each offense); *id.* § 136l(a)(1) (1988) (providing that any registrant, commercial applicator, wholesaler, dealers, retailer, or other distributor who violates any provision of FIFRA to be assessed a civil penalty not to exceed \$5,000 for each offense); *id.* § 136l(b) (1988) (stating that criminal prosecution may follow a knowing violation of FIFRA); ALA. CODE § 2-2-18(a) (Supp. 1993) (establishing that a hearing must be granted before the commissioner of agriculture and industries may impose a civil penalty for a violation of the Alabama Pesticide Act); *N. Jonas & Co. v. EPA*, 666 F.2d 829, 834 (3d Cir. 1981) (providing that the EPA's assessment of a \$2500 penalty against a chemical producer for failing to register a swimming pool oxidizer as a pesticide was not an abuse of discretion); *Johnson v. Odom*, 536 So. 2d 541, 548-49 (La. Ct. App. 1st Cir. 1988) (stating that a \$5000 penalty for applying pesticides without a license was excessive since the pesticide applicator may have been entitled to have its license reissued under the Commissioner of Agriculture's own decision; therefore, a penalty of \$500 for each offense is the maximum amount that can be imposed). *See generally* Wisconsin Public Intervenor v. Mortier, 111 S. Ct. 2476, 2483 (1991) (stating that FIFRA does not expressly supersede local pesticide regulations; therefore, FIFRA could be read as giving the states absolute discretion in their regulation of pesticides); Mary Lee A. Howarth, Comment, *Preemption and Punitive Damages: The Conflict Continues under FIFRA*, 136 U. PA. L. REV. 1301, 1306 (1988) (specifying that when a pesticide manufacturer violates either the general requirements of FIFRA or the specific guidelines created by the EPA for particular products, then the EPA will notify the United States Attorney General who will institute criminal or civil proceedings against the violator); *Review of 1990 California Legislation*, 22 PAC. L.J. 323, 352-53 (1991) (analyzing pest control penalties under California Food and Agricultural Code §§ 11791, 12999.4, 12999.5).

4. CAL. FOOD & AGRIC. CODE § 12999.5(b) (amended by Chapter 737); *see id.* (providing that the opportunity to be heard shall include the right to review the Commissioner's evidence and a right to present evidence on the cited person's behalf); *cf.* 7 U.S.C. 136l (1988) (prohibiting the assessment of a civil penalty if the person charged has not been given notice and an opportunity to be heard, and specifying the maximum penalties for civil and criminal violations).

5. CAL. FOOD & AGRIC. CODE § 12999.5(c) (amended by Chapter 737); *see id.* (listing procedural guidelines for appeal of the Commissioner's decision); *see also id.* § 11454 (West Supp. 1993) (stating that the department is vested with all duties, power, and jurisdiction as the Department of Food and Agriculture regarding the regulation of pesticides); *id.* § 12752.2 (West Supp. 1993) (listing chapters where department is defined as Department of Pesticide Regulation); *cf.* 7 U.S.C. § 136n(b) (1988) (providing that any person may obtain judicial review by petitioning the United States Court of Appeals); ALA. CODE § 2-2-18(c) (Supp. 1993) (providing that the fine assessed by the Commissioner may be appealed to the Board of Agriculture and Industries within 15 days of the time the penalty was assessed).

6. CAL. FOOD & AGRIC. CODE § 12999.5(b) (amended by Chapter 737); *see Katzson Bros., Inc. v. EPA*, 839 F.2d 1396, 1398 (10th Cir. 1988) (establishing that the EPA followed proper procedures in serving a producer of pesticides prior to levying a penalty for failing to file an annual report as required by FIFRA by sending the complaint by certified mail); *Hankla v. Governing Bd.*, 46 Cal. App. 3d 644, 655, 120 Cal. Rptr. 827, 834 (1975) (stating that when a statute provides for service by registered or certified mail, the addressee cannot assert failure of service when he wilfully disregards a notice of certified mail delivered to his address

person requests a hearing within twenty days after receiving notice of the proposed action.⁷ Chapter 737 further provides that the Director is required to decide the appeal of the Commissioner's decision solely on the basis of the hearing's written record, and to affirm the decision if there is substantial evidence⁸ to support the Commissioner's decision.⁹ Chapter 737 also permits the Director to increase the amount of the civil penalty if the penalty is not greater than the penalty proposed in the Commissioner's notice of proposed action.¹⁰

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under circumstances where it can be reasonably inferred that the addressee was aware of the nature of the correspondence); *see also* CAL. CIV. PROC. CODE § 415.30 (West 1973) (specifying requirements for service by mail); FED R. CIV. P. 4(c)(2)(C)(ii) (providing that a summons and complaint may be served upon a defendant by mailing a copy of the summons and complaint to the person served).

7. CAL. FOOD & AGRIC. CODE § 12999.5(b) (amended by Chapter 737); *see id.* (providing that notice of the time and place of the hearing shall be given at least 10 days before the set hearing date once a hearing is requested).

8. *See* CAL. CIV. PROC. CODE § 1094.5 (West Supp. 1993) (establishing that at a minimum the reviewing court must determine whether substantial evidence supports the administrative agency's findings). *See generally* *Universal Camera Corp. v. NLRB*, 340 U.S. 474, 487-91 (discussing judicial review and the determination of the substantiality of evidence); *Environmental Defense Fund v. EPA*, 489 F.2d 1247, 1251 (D.C. Cir. 1973) (defining substantial evidence as relevant evidence a reasonable mind might accept as adequate to support a conclusion).

9. CAL. FOOD & AGRIC. CODE § 12999.5(c)(2), (5) (amended by Chapter 737); *cf.* 7 U.S.C. 136n(b) (1988) (providing that the administrative finding shall be sustained if supported by substantial evidence on the record); *Panhandle Co-op Ass'n v. EPA*, 771 F.2d 1149, 1152 (8th Cir. 1985) (stating that the EPA did not abuse its discretion in levying a \$5000 penalty for mislabeling a pesticide tank in violation of FIFRA regulations because of substantial evidence supporting the finding that the potential harm was high, and the review was limited to the evidence on the record). *See generally* Darly S. Landy, Comment, *The Constitutional Implications of Government Pesticide Spraying: The Cases for Limited Judicial Intervention and an Intermediate Standard of Review*, 76 CAL. L. REV. 221, 229 (1988) (setting forth an argument for a stricter standard of review in pesticide spraying cases).

10. CAL. FOOD & AGRIC. CODE § 12999.5(c)(7) (amended by Chapter 737); *see id.* (limiting the penalty to not more than \$1000 for each violation); *cf.* ALA. CODE § 2-2-18(b) (Supp. 1993) (stating that the maximum civil penalty shall not exceed \$10,000 for each violation of the Alabama Pesticide Act); DEL. CODE ANN. tit. 3, § 1225(a)(1) (Supp. 1992) (allowing a private applicator to be fined up to \$500 for each violation of the state's pesticide regulations); LA. REV. STAT. ANN. § 3:3213(6) (West 1987) (authorizing the commission to advise the commissioner on the civil penalties to be imposed for violations of the Louisiana Pesticide Law); MICH. COMP. LAWS ANN. § 286.576 Sec. 26 (West Supp. 1993); MONT. CODE ANN. § 80-15-412(1), (2) (1993); VT. STAT. ANN. tit. 6, § 1111(a),(c) (1988) (providing for a maximum \$1000 administrative penalty for each violation of pesticide regulations as long as the person has been given notice and an opportunity for a hearing). *See generally* *Johnson v. Odom*, 536 So. 2d. 541, 546 (La. Ct. App. 1st Cir. 1988) (stating that the court may reverse or modify the commissioner's decision regarding violations of the Louisiana Pesticide Law if the decision was manifestly erroneous in view of the substantial evidence on the record).

Agriculture; stolen economic poisons

Food and Agricultural Code §§ 12648.5, 12648.6, 14649, 14650 (new).

AB 774 (Areias); 1993 STAT. Ch. 848

Existing law provides that it is a public nuisance to use a pesticide¹ that is not registered for use on that specific plant,² crop,³ or commodity.⁴ Existing law additionally permits the Director of Pesticide Regulation⁵ to seize a crop if the pesticide used on the crop is not registered for use on that specific crop.⁶ Chapter 848 authorizes the use

1. See CAL. FOOD & AGRIC. CODE § 12503 (West 1986) (defining pesticide chemical as any substance which is used in the production, storage, or transportation of produce which is an economic poison according to California Food and Agricultural Code § 12753); *id.* § 12753 (West Supp. 1993) (defining economic poison as any spray adjuvant, or any substance, mixture of substances, which is used for defoliating plants, regulating plant growth, or for preventing, destroying, repelling, or mitigating any pest, as defined in California Food and Agricultural Code § 12754.5).

2. See *id.* § 5007 (West 1986) (defining plant).

3. See *id.* § 52001 (West 1986) (defining field crop products).

4. *Id.* § 12648(a) (West Supp. 1993); see *id.* § 58605 (defining commodity under the California Marketing Act of 1937); *id.* § 59504 (West 1986) (defining commodity under the Agricultural Producers Marketing Law); see also *id.* § 12504 (West 1986) (defining produce as any food in the raw or natural state which indicates that it is intended for consumer use with or without further processing); *cf.* 7 U.S.C. §§ 136-136y (1988 & Supp. II 1990) (codifying the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and 1972 amendments known as the Federal Environmental Pesticide Control Act (FEPCA)); *id.* § 136a(a) (1988 & Supp. II 1990) (providing that no person in any state may distribute or sell any pesticide that is not registered); *id.* § 136a-1 (1988 & Supp. II 1990) (providing for the re-registration of registered pesticides); *id.* § 136e (1988) (listing the requirements for the registration of establishments that produce pesticides); *id.* § 136j(a)(1)(A) (1988) (providing that it is unlawful for any person to distribute, sell, offer for sale, or receive any nonregistered pesticide). See generally *Wisconsin Public Intervenor v. Mortier*, 111 S. Ct. 2476, 2483 (1991) (stating that FIFRA does not expressly supersede local pesticide regulations, therefore, FIFRA could be read as giving the states absolute discretion in their regulation of pesticides); *N. Jonas & Co. v. EPA*, 666 F.2d 829, 832 (3d Cir. 1981) (stating that a product is a pesticide under FIFRA, if a reasonable consumer would use it as a pesticide). Moreover, the product must still be registered even if it has other uses. *Id.*; *Montana Pole & Treating Plant v. I.F. Laucks & Co.*, 775 F. Supp. 1339, 1343 (D. Mont. 1991) (providing that under FIFRA, the EPA is required to register pesticides if it determines the pesticides labeling and other materials comply with FIFRA's requirements), *aff'd*, 993 F.2d 676 (9th Cir. 1993).

5. See CAL. FOOD & AGRIC. CODE § 12752.5 (West Supp. 1993) (listing chapters under the Food and Agricultural Code where director is defined as the Director of Pesticide Regulation); see also *id.* § 11454 (West Supp. 1993) (stating that the department is vested with all duties, powers, and jurisdiction as the Department of Food and Agriculture with regard to the regulation of pesticides).

6. *Id.* § 12648(a) (West Supp. 1993); see *id.* § 12648(c) (West Supp. 1993) (providing that the director must give notice to the owner or person in control of the plant, crop, commodity, or site prior to seizure, unless the Director has reason to believe that notice would result in the Director's loss of control); see also *id.* § 12601 (West Supp. 1993) (providing that the director may seize and hold any lot of produce, or unharvested produce within one week of being in harvestable condition which carries or is suspected of carrying pesticide residue or other added deleterious ingredients); *Menefee & Son v. Department of Food & Agric.*, 199 Cal. App. 3d 774, 780, 245 Cal. Rptr. 166, 170 (1988) (authorizing the director of the Department of Food and Agriculture to seize and destroy a crop or commodity which has been treated with an unauthorized economic poison); *cf.* 7 U.S.C.

of penalties against anyone who knowingly treats a plant, crop, or commodity with an economic poison or fertilizer that is stolen or acquired by illegal means.⁷ Chapter 848 also provides that any person who is licensed and is found by a court to have knowingly sold, applied, or provided economic poisons or fertilizer that was stolen or obtained illegally to have their licenses suspended for a minimum of eighteen months.⁸

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§ 136k(b)(1)(B) (1988) (allowing the seizure of a nonregistered pesticide); CONN. GEN. STAT. ANN. § 22a-59(b) (West 1986), DEL. CODE ANN. tit. 3, § 1227(a) (1985), NEV. REV. STAT. ANN. § 586.440 (Michie 1991), N.Y. ENVTL. CONSERV. LAW § 33-1501(1)(a) (McKinney 1984), N.D. CENT. CODE § 19-18-09 (1991) (allowing the seizure of a pesticide that is adulterated, misbranded, or not registered).

7. CAL. FOOD & AGRIC. CODE § 12648.5(a) (enacted by Chapter 848); *see id.* § 12648.5(b) (enacted by Chapter 848) (providing that the owner of a crop who violates this section will be fined \$10,000 plus an amount equal to one-half the value of the crop on which the illegally obtained economic poison was applied); *see also id.* § 12991 (West 1986) (providing that it is unlawful for any person to engage in illegitimate business or dishonest dealings regarding economic poisons); CAL. PENAL CODE § 496(a) (West Supp. 1993) (providing that every person who buys or receives any property that has been stolen or obtained by illegal means, with knowledge that the property was stolen or illegally obtained, is punishable by imprisonment in a state prison, or a county jail for not more than one year); *People v. Anderson*, 210 Cal. App. 3d 414, 420-21, 258 Cal. Rptr. 482, 485-86 (1989) (stating that the defendant's knowing possession of recently stolen property raises a strong inference of defendant's knowledge of the illegal nature of the property, which is so substantial that only slight additional corroborating evidence is required to find defendant guilty of receiving stolen property), *review denied*, 1989 Cal. LEXIS 4080 (Aug. 10, 1989); *cf.* 7 U.S.C. § 1361(a)(1) (1988) (providing that any registrant, commercial applicator, wholesaler, dealer, retailer, or other distributor who violates any provision of FIFRA may be assessed a civil penalty not to exceed \$5,000 for each offense); *id.* § 1361(b) (1988) (setting forth criminal penalties for knowing violations of FIFRA). *See generally* Rob Lopez, *Costly Pesticides Stolen in Sonoma - Grape Growers are Latest Victims*, S.F. CHRON., Aug. 31, 1992, at A16 (stating that pesticide theft has been increasing in the Central Valley and Central Coast areas and has become more commonplace in the northern part of the state).

8. CAL. FOOD & AGRIC. CODE § 12648.6 (enacted by Chapter 848); *id.* § 14650(a) (enacted by Chapter 848); *see id.* § 14650(b) (enacted by Chapter 848) (providing that this section does not apply to a licensee whose employee or agent is found to have knowingly sold, applied, or provided fertilizer that was stolen or obtained illegally, unless the licensee had actual knowledge of that conduct).

