

Senate Bill No. 705

CHAPTER 481

An act to add Sections 41855.5 and 41855.6 to the Health and Safety Code, relating to air quality.

[Approved by Governor September 22, 2003. Filed with Secretary of State September 22, 2003.]

LEGISLATIVE COUNSEL'S DIGEST

SB 705, Florez. Air quality: agricultural burning: San Joaquin Valley Unified Air Pollution Control District.

(1) Existing law prohibits any person from knowingly setting or permitting agricultural burning unless he or she has a valid permit designated by the State Air Resources Board to issue a permit in the area where the burning is to take place. Existing law requires the state board to designate public fire protection agencies or other equivalent agencies to issue permits, and to adopt rules and regulations to provide a procedure for the issuance of those permits.

This bill would prohibit the issuance of any permit to a person to burn certain categories of agricultural waste, as defined, within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District, commencing on the date specified for each category, except that the bill would authorize the district to postpone those dates under certain circumstances. The bill also would require the district to develop and adopt, by June 1, 2005, rules establishing the best management practices for certain other weeds and maintenance, as defined, and would require those rules to become operative by June 1, 2006. The bill would require the district to develop and adopt rules to regulate the burning of diseased crops. The bill would prescribe the circumstances under which a conditional crop burning permit would be authorized to be issued.

The additional duties of the bill for the district would impose a state-mandated local program.

(2) Existing law makes a violation of any rule, regulation, or order of the state board or a district a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) This bill would make findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of the California Constitution.

(4) 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 no reimbursement is required by this act for specified reasons.

The people of the State of California do enact as follows:

SECTION 1. Section 41855.5 is added to the Health and Safety Code, to read:

41855.5. (a) Notwithstanding any other provision of law, no permit may be issued to a person to burn any of the following categories of agricultural waste within the jurisdiction of the San Joaquin Valley Unified Air Pollution Control District, commencing on the following dates:

(1) Commencing June 1, 2005, for field crops, prunings, and weed abatement.

(2) Commencing June 1, 2007, for orchard removals.

(3) Commencing June 1, 2010, for other materials, vineyard removals, and surface harvested prunings.

(b) The San Joaquin Valley Unified Air Pollution Control District, in consultation with the University of California Cooperative Extension, shall develop and adopt, not later than June 1, 2005, rules establishing best management practices for the control of other weeds and maintenance. The rules adopted pursuant to this subdivision shall be operative not later than June 1, 2006.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Field crops" means any of the following crops:

(A) Alfalfa.

(B) Asparagus.

(C) Barley stubble.

(D) Beans.

(E) Corn.

(F) Cotton.

(G) Flower straw.

(H) Hay.

(I) Lemon grass.

(J) Oat stubble.

(K) Other field crops, as determined by the state board.

(L) Pea vines.

(M) Peanuts.

(N) Rice stubble.

(O) Safflower.



- (P) Sugar cane.
- (Q) Vegetable crops.
- (R) Wheat stubble.
- (2) “Orchard removals” includes, but is not limited to, any of the following:
 - (A) Orchard removal matter.
 - (B) Stumps.
 - (C) Untreated sticks.
- (3) “Other materials” includes, but is not limited to, any of the following:
 - (A) Brooder paper.
 - (B) Deceased goats.
 - (C) Diseased bee hives.
- (4) “Other weeds and maintenance” includes, but is not limited to, any of the following:
 - (A) Ditch bank work.
 - (B) Canal bank work.
 - (C) Dodder weed.
 - (D) Star thistle.
 - (E) Tumbleweed.
 - (F) Noxious weeds.
 - (G) Pesticide sacks.
 - (H) Fertilizer sacks.
- (5) “Prunings” means prunings from any of the following:
 - (A) Apple crops.
 - (B) Apricot crops.
 - (C) Avocado crops.
 - (D) Bushberry crops.
 - (E) Cherry crops.
 - (F) Christmas trees.
 - (G) Citrus crops.
 - (H) Date crops.
 - (I) Eucalyptus crops.
 - (J) Fig crops.
 - (K) Kiwi crops.
 - (L) Nectarine crops.
 - (M) Nursery prunings.
 - (N) Olive crops.
 - (O) Other prunings, as determined by the state board.
 - (P) Pasture or corral trees.
 - (Q) Peach crops.
 - (R) Pear crops.
 - (S) Persimmon crops.



- (T) Pistachio crops.
- (U) Plum crops.
- (V) Pluot crops.
- (W) Pomegranate crops.
- (X) Prune crops.
- (Y) Quince crops.
- (Z) Rose prunings.
- (6) “Surface harvested prunings” includes, but is not limited to, any of the following:
 - (A) Almond prunings.
 - (B) Walnut prunings.
 - (C) Pecan prunings.
 - (D) Grape vines.
 - (E) Vineyard removal materials.
- (7) “Vineyard materials” includes, but is not limited to, any of the following:
 - (A) Grape canes.
 - (B) Raisin trays.
- (8) “Weed abatement” includes, but is not limited to, any of the following:
 - (A) Berms.
 - (B) Bermuda grass.
 - (C) Fence rows.
 - (D) Grass.
 - (E) Pasture.
 - (F) Ponding or levee banks.
- (d) (1) The San Joaquin Valley Unified Air Pollution Control District shall develop and adopt, by January 1, 2005, rules to regulate the burning of diseased crops. The rules shall become operative no later than June 1, 2005. The rules shall provide for the issuance of a conditional crop burning permit if all of the following criteria are met:
 - (A) The fields to be burned are specifically described.
 - (B) The applicant has not been cited for a violation of burning rules or regulations in the past 3 years, unless the violation was of a de minimis nature, as determined by the district and the county agricultural commissioner.
 - (C) The county agricultural commissioner has determined all of the following:
 - (i) During the growing season for that crop, there is the presence of a disease that will cause a substantial, quantifiable reduction in yield or poses a threat to the health of adjacent vines, trees, or plants in the field proposed to be burned, during the current or next growing season.



(ii) There is no economically feasible alternative means of eliminating the disease other than burning.

(2) A conditional crop burning permit shall authorize the burning of only the identified diseased crop.

(3) The holder of a permit may not transfer, sell, or trade the permit to any other individual.

(4) A citation for a violation of burning rules or regulations may be appealed to the San Joaquin Air Pollution Control District Hearing Board.

SEC. 2. Section 41855.6 is added to the Health and Safety Code, to read:

41855.6. The district may postpone the commencement dates set forth in subdivision (a) of Section 41855.5 for any category of agricultural waste or crop described if all of the following applies:

(a) The district determines that there is no economically feasible alternative means of eliminating the waste.

(b) The district determines that there is no long-term federal or state funding commitment for the continued operation of biomass facilities in the San Joaquin Valley or development of alternatives to burning.

(c) The district determines that the continued issuance of permits for that specific category or crop will not cause, or substantially contribute to, a violation of an applicable federal ambient air quality standard.

(d) The State Air Resources Board concurs with the district's determinations pursuant to this section.

SEC. 3. The Legislature finds and declares that, due to the unique circumstances applicable to agricultural waste and its impacts on air quality in the San Joaquin Valley, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution.

SEC. 4. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

In addition, no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain other costs that may be incurred by a local agency or school district because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level



of service mandated by this act, within the meaning of Section 17556 of the Government Code.

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