ARTICLE 1. Definitions [5001 - 5012]

5001.

Unless the context otherwise requires, the definitions in this article govern the construction of this division.

(Enacted by Stats. 1967, Ch. 15.)

5002.

“Appliance” means any box, tray, container, ladder, tent, vehicle, implement, or any other article which is, or may be, used in connection with the growing, harvesting, handling, or transportation of any agricultural commodity.

(Enacted by Stats. 1967, Ch. 15.)

5003.

“Crop seed” means the seed or seedlike fruit of grain, beans, flax, beets, onions, or any other crop, whether or not it is intended for planting purposes.

(Enacted by Stats. 1967, Ch. 15.)

5004.

“Noxious weed” means any species of plant that is, or is liable to be, troublesome, aggressive, intrusive, detrimental, or destructive to agriculture, silviculture, or important native species, and difficult to control or eradicate, which the director, by regulation, designates to be a noxious weed. In determining whether or not a species shall be designated a noxious weed for the purposes of protecting silviculture or important native plant species, the director shall not make that designation if the designation will be detrimental to agriculture.

(Amended by Stats. 1992, Ch. 556, Sec. 1. Effective January 1, 1993.)

5005.

“Nursery stock” means any plant for planting, propagation, or ornamentation.

(Enacted by Stats. 1967, Ch. 15.)
“Pest” means any of the following things that is, or is liable to be, dangerous or detrimental to the agricultural industry of the state:
(a) Any infectious, transmissible, or contagious disease of any plant, or any disorder of any plant which manifests symptoms or behavior which the director, after investigation and hearing, finds and determines is characteristic of an infectious, transmissible, or contagious disease.
(b) Any form of animal life.
(c) Any form of vegetable life.

“Plant” includes any part of a plant, tree, plant product, shrub, vine, fruit, vegetable, seed, bulb, stolon, tuber, corm, pip, cutting, scion, bud, graft, or fruit pit.

“Shipments” means any article or thing which is, may be, or has been transported from one place to another place.

“Horticultural product” means those products as stated in Group Number 18 of the Standard Industrial Classification Manual which are grown under cover or outdoors, including bulbs, flowers, shrubbery, florist greens, fruit stock, floral products, nursery stock, ornamental plants, potted plants, roses, seed, sod, fruits, food crops grown in greenhouses, vegetables, and horticultural specialties not otherwise specified.

Agricultural or farm products include any horticultural product.

Unless otherwise provided in this code, for the purposes of pest management, “crop” means a plant or animal, or a product derived from a plant or animal, that can be grown and harvested for profit or for the subsistence of humans or animals.
5012.

Unless otherwise provided in this code, for the purposes of pest management, “forage” means food for domestic or other wild animals that is taken by browsing or grazing, or food that wild or domestic animals take for themselves.
(Added by Stats. 2003, Ch. 414, Sec. 3. Effective January 1, 2004.)

ARTICLE 2. General Provisions [5021 - 5029]
( Article 2 enacted by Stats. 1967, Ch. 15. )

5021.

Unless otherwise provided, any treatment which may be required pursuant to this division is at the risk and at the expense of the owner or person in charge or in possession of the property which is treated at the time of treatment.
(Enacted by Stats. 1967, Ch. 15.)

5022.

This division shall not be construed to conflict with any other law which provides for the extermination or control of ground squirrels or other animal pests. If any proceedings are commenced, however, pursuant to this division, this division and no other law applies to such proceedings.
(Enacted by Stats. 1967, Ch. 15.)

5023.

The commissioner, whenever necessary, may enter and make an inspection of any premises, plant, conveyance, or thing in his jurisdiction.
(Enacted by Stats. 1967, Ch. 15.)

5024.

(a) The secretary or the commissioner shall, during the maintenance of any quarantine established by the secretary pursuant to Article 1 (commencing with Section 5301) of Chapter 5, inspect any plant or thing that is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest. The person who conducts the inspection shall not permit any of those plants or things to pass over the quarantine line during the quarantine, except pursuant to a certificate of inspection and release that is signed by that person.
(b) Whenever the commissioner finds that a plant or thing does not, and will not, present a threat to the state, the commissioner may recommend to the secretary
the waiver of, and the secretary may waive, the inspection and certification
requirements specified in subdivision (a).
(Amended by Stats. 1995, Ch. 214, Sec. 1. Effective January 1, 1996.)

5025.

The Regents of the University of California may collect and, subject to the
provisions of Section 6305, import into this state from foreign countries, parasitic
and predaceous insects for use in the control of insect pests of horticultural and
agricultural crops and of livestock. The regents may, for this purpose, employ and
send abroad experts who shall be allowed, in addition to their compensation, their
necessary subsistence, traveling, and other expenses incidental to the performance
of their duties.
(Enacted by Stats. 1967, Ch. 15.)

5025.5.

(a) The department, in consultation with the University of California, the United
States Department of Agriculture, and members of the scientific community with
expertise in exotic pest management, shall conduct a study on the desirability and
feasibility of establishing an Exotic Pest Research Containment Facility, which shall,
as a primary function, conduct exotic pest research and perform additional activities
with respect to the administration, training, service, and diagnostics relating to
exotic pests. The research of the facility shall emphasize flexibility and adaptability
to accommodate technological advances and research into new exotic pest problem
areas. The study shall include, but not be limited to, the following:
(1) The availability of funding for the facility from federal, state, local, and private
sources.
(2) Whether to locate the facility within or outside of California.
(3) Protocol for access to and operation of the facility.
(b) The department shall report its findings and recommendations to the
Legislature, not later than January 1, 1992.
(Added by Stats. 1990, Ch. 721, Sec. 2.)

5026.

(a) The director may overrule a local agency’s ordinance or regulation where that
ordinance or regulation would prevent or inhibit an eradication effort. The director
may act under this section only when the Governor has declared a state of
emergency relating to the eradication effort and the effect of the local ordinance or
regulation will be to threaten agriculture on a statewide basis, to materially
interfere with the ability of the director or the commissioner to eradicate a pest, or
where the pest is of such a nature that it could rapidly spread to other areas
beyond the boundaries of the local agency.
(b) “Local agency” means any public agency, other than a state agency, board, or commission and includes, but is not limited to, cities (chartered or otherwise), counties, and special districts.

(Added by Stats. 1982, Ch. 1531, Sec. 1.)

5027.

Unless otherwise expressly provided, a violation of any provision of this division is a misdemeanor.

(Added by Stats. 1982, Ch. 899, Sec. 1. Effective September 13, 1982.)

5028.

(a) Any person who intentionally violates any state or federal quarantine law or regulation is liable civilly as provided in Sections 5310 and 5311, and subdivision (c) of this section, and is subject to criminal or civil penalties, or both, pursuant to the Unfair Practices Act (Chapter 4 (commencing with Section 17000) of Part 2 of Division 7) of the Business and Professions Code.

(b) Either of the following factual findings shall constitute prima facie evidence that a violation of any state or federal quarantine law or regulation pursuant to subdivision (a) is an intentional violation:

(1) A violation of Section 6401 and possession of a shipment, plant, or thing that is regulated by a state or federal quarantine law or regulation and that has not been inspected and released by a federal, state, or county quarantine official in either of the following circumstances:

(A) The plant or thing is found concealed from view.

(B) The person in possession has been found repeatedly in possession of those plants or things.

(2) A combination of findings showing that a person is in possession of a shipment, plant, or thing that is regulated by a state or federal quarantine law or regulation and that was fraudulently or secretly brought into the state and the person in possession is engaged in a business or other commercial activity where a reasonable expectation exists that the person was aware of the state or federal quarantine laws or regulations.

(c) Any person who negligently or intentionally violates any state or federal law or regulation, including any quarantine regulation, by importing any plant, or other article, that, by virtue of being pest or disease infested, causes an infestation of a plant, pest, or disease, or causes an existing infestation to spread beyond any quarantine boundaries, is liable civilly in a sum not to exceed twenty-five thousand dollars ($25,000) for each act that constitutes a violation of the law or regulation.

(d) The Attorney General, upon request of the secretary, shall petition the superior court to impose, assess, and recover the sum imposed pursuant to subdivision (c). In determining the amount to be imposed, the court shall take into consideration all relevant circumstances, including, but not limited to, the extent of harm caused by the violation and the nature and persistence of the violation.
(e) The remedy under this section is in addition to, and does not supersede or limit, any and all other remedies, civil or criminal, that are otherwise available to the state.
(f) Any funds recovered pursuant to this section shall be deposited in the Department of Food and Agriculture Fund for emergency pest or disease exclusion, detection, eradication, or research of agricultural plant or animal pests or diseases. These funds may be allocated to cover costs related to the enforcement of this division. These funds are in addition to any funds appropriated for those purposes pursuant to Section 224.

(Amended by Stats. 1995, Ch. 157, Sec. 1. Effective January 1, 1996.)

5029.

(a) The department, in consultation with the State Department of Health Services, shall design and implement a program to provide information to persons who reside in areas scheduled to be treated with pesticides on an emergency basis in order to eradicate plant pests.
(b) The purpose of this program is to provide information about the health effects of the pesticides used in eradication projects. The program shall be designed to provide the greatest amount of information practicable to affected citizens. The department shall conduct outreach efforts to inform the public about the existence of this program.

(Amended by Stats. 2004, Ch. 193, Sec. 24. Effective January 1, 2005.)

ARTICLE 3. Proof of Ownership [5030 - 5035]

(Article 3 added by Stats. 1993, Ch. 806, Sec. 1.)

5030.

Upon probable cause to believe a person buying, selling, or transporting a shipment of plant material intended to be marketed for commercial purposes is in violation of this division, proof of ownership of the plant material shall be made available for inspection upon request of the director, the commissioner, or any peace officer. If the director or the commissioner has probable cause to believe that a person is in unlawful possession of any shipment of plant material, he or she may request a peace officer to stop the vehicle for inspection. The record of proof of ownership shall contain the following information:
(a) The name, address, telephone number, and signature of the seller or the seller’s authorized representative.
(b) The name, address, and telephone number of the buyer, or consignee if the commodity has not been sold.
(c) The common or generic name and quantity of the commodity.
(d) The name of the country, state, or territory where the commodity was grown.

(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)
5031.
It is unlawful for any person to knowingly falsify, misrepresent, or cause to be falsified or misrepresented, any information in a record intended to show proof of ownership.
(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)

5032.
The director or commissioner may compile information and make any necessary investigations relative to suspected violations of this division. The director or commissioner may call and conduct a hearing in furtherance of the investigation.
(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)

5033.
The person in custody of any records containing information required pursuant to Section 5030 shall exhibit those records upon a demand therefor by the director or commissioner, as their designees, or by a peace officer. The records may include, but are not limited to, certificates of inspection or treatment, bills of sale or consignment, truck invoices, or bills of lading.
(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)

5034.
At the time of the hearing, the director or commissioner may take any of the following actions:
(a) Administer oaths and take testimony.
(b) Issue subpoenas that compel the attendance of any witness before the director or commissioner, together with the production of all relevant documents.
(c) Compel disclosure by witnesses of all facts that are known to them relative to the matter under investigation.
(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)

5035.
Any party that disobeys any order or subpoena of the director is subject to Section 11188 of the Government Code.
(Added by Stats. 1993, Ch. 806, Sec. 1. Effective January 1, 1994.)