ARTICLE 1. General Provisions [5301 - 5312]

5301.

The director may establish, maintain, and enforce such quarantine regulations as he deems necessary to protect the agricultural industry of this state from pests. The regulations may establish a quarantine at the boundaries of this state or elsewhere within the state.

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

5302.

The director may make and enforce such regulations as he deems necessary to prevent any plant or thing which is, or is liable to be, infested or infected by, or which might act as a carrier of, any pest, from passing over any quarantine line which is established and proclaimed pursuant to this division.

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

5303.

All quarantine regulations which involve another state, territory, district, or foreign country shall be made by the director. The regulations shall be approved and proclaimed by the Governor, or by the director as the Governor's designee.

(Amended by Stats. 1978, Ch. 584.)

5304.

The proclamation shall be signed in duplicate. The original shall be filed in the office of the Secretary of State and a copy in the office of the department before the regulation takes effect.

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

5305.

A quarantine shall not be established by one county, city, district, or other public agency, against another county, city, district, or public agency, on account of the existence of any pest, without the written consent of the director.
(Enacted by Stats. 1967, Ch. 15.)

5306.

(a) It is unlawful for any person to refuse to comply with any quarantine regulation which is established by the director pursuant to this division.
(b) It is unlawful for any person to possess, propagate, plant, process, sell, or take any other action with regard to a plant or thing subject to a quarantine which has been imported or moved in violation of the quarantine.
(c) Notwithstanding Section 5309, any violation of this section is a misdemeanor.
(Amended by Stats. 1991, Ch. 513, Sec. 1.)

5307.

It is unlawful for any person, who is employed by any agency or institution that is supported or financed from public funds, willfully or knowingly to neglect or refuse to make a report to the commissioner of the county or to the director, or such person’s immediate superior for the purpose of having such report transmitted to the commissioner of the county or to the director, of the presence in this state of any pest, as defined in Section 5006, which is new to, or not widely distributed in, the area or locality in which the pest exists, if the presence of such pest has been determined as a result of investigation, research, survey, or inspection which is made in behalf of the employing agency or institution.
(Enacted by Stats. 1967, Ch. 15.)

5308.

If there are any authorities or officers of the United States that are authorized to act with respect to any quarantine regulations that are established pursuant to this division, the director shall notify the authorities or officers and seek their cooperation as far as possible.
(Enacted by Stats. 1967, Ch. 15.)

5309.

Any violation of this chapter by any person, or an agent of any person, is an infraction, punishable by a fine of not more than one thousand dollars ($1,000) for the first offense. For a second or subsequent offense within three years of a prior conviction of a violation of this chapter, the violation is punishable as a misdemeanor.
(Amended by Stats. 1995, Ch. 149, Sec. 1. Effective January 1, 1996.)
5310.

(a) In addition to any other penalties prescribed in this division, any person who violates this division or any regulation adopted pursuant to this division is liable civilly in an amount not exceeding ten thousand dollars ($10,000) for each violation.
(b) Upon a complaint by the director, the Attorney General may bring an action for civil penalties in any court of competent jurisdiction in this state against any person violating this division or any regulation adopted pursuant to this division.
(c) Upon the failure of any person to comply with this division, the Attorney General, upon request of the director, or the county counsel upon request of the commissioner, as the case may be, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person from continuing any activities in violation of this division. The court shall issue an order directing the person to appear before the court at a time and place certain and show cause why the injunction should not be issued. The court may grant the prohibitory or mandatory relief that may be warranted. The court may also issue the temporary relief that may be necessary to preserve the status of the parties until a hearing can be held.
(d) Any funds recovered by the department pursuant to this section shall be deposited in the Department of Food and Agriculture Fund to cover costs related to the enforcement of this division when appropriated by the Legislature therefor.

(Added by Stats. 1988, Ch. 240, Sec. 2.)

5311.

(a) In lieu of any civil action pursuant to Section 5310, except as provided in Article 5 (commencing with Section 5781) of Chapter 8, the secretary or the commissioner may levy a civil penalty against a person violating this division or any regulation adopted pursuant to this division in an amount not to exceed two thousand five hundred dollars ($2,500) for each violation.
(b) Before a civil penalty is levied, the person charged with the violation shall receive notice of the nature of the violation and shall be given an opportunity to be heard. This shall include the right to review the evidence and a right to present evidence on his or her own behalf.
(c) A review of the decision of the secretary to impose a penalty may be sought by the person against whom the penalty was levied within 30 days of the date of the decision pursuant to Section 1094.5 of the Code of Civil Procedure.
(d) The person against whom a civil penalty is levied by a commissioner may appeal to the secretary within 10 days of the date of receiving notification of the penalty, as follows:
(1) The appeal need not be formal, but it shall be in writing and signed by the appellant or his or her authorized agent, and shall state the grounds for the appeal.
(2) Any party, at the time of filing the appeal or within 10 days thereafter, may present written evidence and a written argument to the secretary.
(3) The secretary may grant oral arguments upon application made at the time written arguments are filed.
(4) If an application to present an oral argument is granted, written notice of the
time and place for the oral argument shall be given at least 10 days prior to the
date set therefor. This time requirement may be altered by an agreement between
the secretary and the person appealing the penalty.
(5) The secretary shall decide the appeal on any oral or written arguments, briefs,
and evidence that he or she has received.
(6) The secretary shall render a written decision within 45 days of the date of
appeal or within 15 days of the date of oral arguments.
(7) On an appeal pursuant to this section, the secretary may sustain, modify by
reducing the amount of the penalty levied, or reverse the decision. A copy of the
secretary’s decision shall be delivered or mailed to the appellant and the
commissioner who levied the penalty, if this is the case.
(8) Review of the decision of the secretary may be sought by the appellant
pursuant to Section 1094.5 of the Code of Civil Procedure.
(e) Any funds recovered by the commissioner pursuant to this section shall be
deposited in the county general fund in the county in which the action is brought
and shall be allocated to the commissioner to cover costs related to the
enforcement of this division. Any funds recovered by the secretary pursuant to this
section shall be deposited in the Department of Food and Agriculture Fund to cover
costs related to the enforcement of this division.
(Amended byStats. 1995, Ch. 157, Sec. 2. Effective January 1, 1996.)

5312.

After the exhaustion of the appeal and review procedures provided in Section 5311,
the commissioner or his or her representative may file a certified copy of a final
decision of the commissioner that directs the payment of a civil penalty and, if
applicable, a copy of any decision of the secretary or his or her representative
rendered on an appeal from the commissioner’s decision and a copy of any order
that denies a petition for a writ of administrative mandamus, with the clerk of the
superior court of any county. Judgment shall be entered immediately by the clerk in
conformity with the decision or order. No fees shall be charged by the clerk of the
superior court for the performance of any official service required in connection with
the entry of judgment pursuant to this section.
(Added byStats. 2006, Ch. 499, Sec. 1. Effective January 1, 2007.)

ARTICLE 2. Quarantine and Other Regulations for Pests Within the State [5321 - 5323]
(Article 2 enacted byStats. 1967, Ch. 15.)

5321.

If the director receives information of the existence of any pest which is not
generally distributed within this state, he shall thoroughly investigate the existence
and probability of its spread, and the feasibility of its control or eradication.
(Enacted byStats. 1967, Ch. 15.)
The director may establish, maintain, and enforce quarantine, eradication, and such other regulations as are in his or her opinion necessary to circumscribe and exterminate or prevent the spread of any pest which is described in Section 5321.  
(Amended by Stats. 1982, Ch. 1531, Sec. 2.)

This division and the regulations which are established pursuant to this division are of a statewide interest and concern and are intended to occupy the field. No local jurisdiction shall adopt ordinances, laws, or regulations which prevent, hinder, or delay the effect or application of this division or regulations established pursuant to this division. Regulations established pursuant to this division are not valid unless they are clearly consistent with a strict interpretation of this division and are necessary to effectuate the purpose of this division. The adoption of the regulations does not create any presumption of their necessity or validity.  
(Amended by Stats. 1982, Ch. 1531, Sec. 3.)

ARTICLE 3. Plant Quarantine Inspection Stations [5341 - 5353]  
(Article 3 enacted by Stats. 1967, Ch. 15.)

To prevent the introduction into, or the spread within this state, of pests, the director shall maintain at such places within this state as he deems necessary plant quarantine inspection stations for the purpose of inspecting all conveyances which might carry plants or other things which are, or are liable to be, infested or infected with any pest.  
(Enacted by Stats. 1967, Ch. 15.)

(a) Every operator of a motor vehicle entering the state with a shipment of any agricultural commodity shall cause the vehicle and the shipment to be inspected, and shall obtain a certificate of inspection, at the plant quarantine inspection station nearest the point of entry into the state.  
(b) Failure to obtain the required certificate of inspection shall subject the operator of the vehicle and the registered owner of the vehicle, if a different person or legal entity, to separate civil penalties of not more than two thousand five hundred dollars ($2,500) for each violation. In determining the severity of the penalty to be imposed, the court shall consider any prior violations of the same nature within the preceding 24 months, the commodity being transported, and any evidence, including deviation from normal and usual routes, that the operator of the vehicle intentionally avoided inspection.
(c) Inspection shall not be required when the operator of the vehicle would be required to travel a distance of 15 miles or more from normal and usual routes for the particular trip to obtain the required inspection and certification, or when weather conditions or road closures on normal and usual routes prevent travel to the nearest plant quarantine inspection station.

(d) Violation of this section is a separate offense from violation of any other provision of this code and proceedings under this section shall not be deemed to prevent separate proceedings for any other offense.

(e) Proceedings under this section may be brought by the secretary or, with the secretary’s concurrence, by the district attorney of the county in which the violation occurred. The civil penalty shall be awarded to the agency which brings the enforcement action for use by that agency in enforcing the provisions of this code.

(f) The secretary may, by regulation or executive order, as the secretary deems advisable, permit exceptions for certain commodities, areas, and times consistent with the purposes of this division, patterns of local traffic near border areas, and availability of inspection stations.

(g) Persons holding a valid permit to transport cattle pursuant to Section 21067 are exempt from this section.

(Amended by Stats. 2010, Ch. 344, Sec. 2. (AB 219) Effective January 1, 2011.)

5342.

Plant quarantine officers at plant quarantine inspection stations may ascertain the origin, quantity, and kinds of meat and meat products, poultry and poultry products, eggs, and livestock transported into or out of this state through the stations. The operator of any vehicle which is transporting any such commodity into or out of the state through any plant quarantine inspection station shall stop and give this information upon request to a plant quarantine officer at the plant quarantine inspection station. Such request may be by a sign which is openly displayed at the station or by any other means which is deemed by the director as effective.

The director may accept, on behalf of the state, donations of money from any person to defray the costs of the department under this section. Any such money shall be paid into the State Treasury and credited to the Department of Agriculture Fund. The director may limit expenditures under this section relating to livestock to the amounts so donated for this purpose, and shall limit expenditures under this section relating to poultry and poultry products and eggs to the amounts so donated for this purpose.

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

5343.

The director shall cause conspicuous signs to be erected at or near each inspection station which disclose the existence of the station.

(Enacted by Stats. 1967, Ch. 15.)
At any inspection station maintained at or near the California border by the director pursuant to Section 5341, the following sign shall be conspicuously posted in block letters not less than four inches in height:
“NOTICE: IF YOU ARE A CALIFORNIA RESIDENT, THE FEDERAL GUN CONTROL ACT MAY PROHIBIT YOU FROM BRINGING WITH YOU INTO THIS STATE FIREARMS THAT YOU ACQUIRED OUTSIDE OF THIS STATE.
IN ADDITION, IF YOU ARE A NEW CALIFORNIA RESIDENT, STATE LAW REGULATES YOUR BRINGING INTO CALIFORNIA HANDGUNS AND OTHER DESIGNATED FIREARMS AND MANDATES THAT SPECIFIC PROCEDURES BE FOLLOWED.
IF YOU HAVE ANY QUESTIONS ABOUT THE PROCEDURES TO BE FOLLOWED IN BRINGING FIREARMS INTO CALIFORNIA OR TRANSFERRING FIREARMS WITHIN CALIFORNIA, YOU SHOULD CONTACT THE CALIFORNIA DEPARTMENT OF JUSTICE OR A LOCAL CALIFORNIA LAW ENFORCEMENT AGENCY.”
(Added by Stats. 1997, Ch. 462, Sec. 1. Effective January 1, 1998.)

It is unlawful for the operator of any vehicle to fail to stop the vehicle at an inspection station or to willfully avoid an inspection station. It is also unlawful for the operator to fail to stop either upon demand of a clearly identified plant quarantine officer or upon demand of an officer of the California Highway Patrol, when the officer orders the operator to stop for the purpose of determining whether any quarantine which is established pursuant to any provision of this division is being violated.
(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor and grounds for the vehicle to be stopped for inspection.
(Amended by Stats. 1984, Ch. 539, Sec. 1.)

It is unlawful for any person to operate upon any highway in this state any vehicle which, in violation of Section 5344, was not stopped as required by that section, if the person who is operating such vehicle knows of such violation of Section 5344. The violation of this section continues unless and until one of the following occurs:
(a) A period of 24 hours has elapsed following the violation of Section 5344.
(b) The operator who violated Section 5344 has been apprehended and the vehicle which is involved has been inspected and released from quarantine by any authorized state plant quarantine officer. An operator who is so apprehended does not violate this section by reason of operating the vehicle en route to the closest inspection station immediately following his apprehension for violation of Section 5344, nor does any other person, who operates the vehicle for such purpose, violate this section.
(Enacted by Stats. 1967, Ch. 15.)
5346.

(a) It is unlawful for any person to conceal any plant from any plant quarantine officer or to fail to present it or any quarantined article for inspection at the request of such officer.
(b) It is unlawful to move into California any outdoor household article from a federally regulated gypsy moth area unless accompanied by certification that the article has been inspected and does not contain gypsy moth egg masses. The director may adopt regulations to specify the type of certification and inspection required as necessary to carry out this section.

(Amended by Stats. 1986, Ch. 468, Sec. 1.)

5348.

Plant quarantine officers, and officers of the California Highway Patrol, are authorized to cite persons for any violation of this article.

(Amended by Stats. 1983, Ch. 994, Sec. 3.)

5349.

(a) It is unlawful for the operator of a vehicle to intentionally route the vehicle and travel on that route in order to prevent the vehicle from passing through a plant quarantine inspection station.
(b) Notwithstanding Section 5309, a violation of this section is a misdemeanor.

(Added by Stats. 1984, Ch. 559, Sec. 1.)

5350.

(a) The director shall establish a program for the inspection of conveyances entering California through airport and maritime facilities to prevent the introduction into, or the spread within, this state of pests.
(b) The director shall maintain plant quarantine inspection stations at points of entry at airports and marine terminals pursuant to Section 5341.
(c) The director shall establish a program for the dissemination of information at airports and marine terminals in order to provide the users of the facilities information regarding the pest control and quarantine requirements of this state.
(d) The director may authorize the inspection and certification of conveyances outside the state if the director finds that the inspection and certification meets the standards established for in-state inspection and certification programs and, for that purpose, may enter into any agreements necessary with any other state or the federal government. The director may provide that conveyances inspected and certified pursuant to this subdivision are not required to be inspected at California airports or marine terminals.
(e) The functions of this section shall be performed by the Division of Plant Industry, Pest Exclusion Branch, of the department, and the duties shall be performed by plant quarantine officers.
(Added by Stats. 1990, Ch. 1612, Sec. 3. Effective September 30, 1990.)

5350.5.

(a) The director may establish a task force comprised of representatives of the following industries:
(1) Air common carriers.
(2) Port authorities.
(3) Maritime common carriers.
(4) Other industries that the director deems appropriate.

(b) The goal of this task force shall be to develop and implement a program of preventive measures to reduce the likelihood that pests will be transported into the state aboard aircraft or vessels. The program may include, but is not limited to:
(1) Educational materials to warn passengers of the special quarantine and pest exclusion rules and regulations that apply in California.
(2) Recommendations of appropriate methods for distributing those educational materials to passengers.
(3) Special training for employees of carriers who handle cargo and baggage that may contain pests.
(4) Special training and educational materials aimed at enlisting the assistance of passenger ticket agents in educating potential passengers of the special pest exclusion measures in effect at California points of entry.
(5) Public announcements to passengers enroute to California regarding the rules and regulations related to transporting pests into the state.

(c) The program shall include methods for determining the effectiveness of the preventative measures developed pursuant to this section.

(d) The task force shall also develop a program for the purposes of seeking federal funds sufficient to maintain airport pest inspection activities at the same levels as the level maintained during the 1991–92 fiscal year.

(Added by Stats. 1992, Ch. 829, Sec. 1. Effective January 1, 1993.)

5351.

(a) The director shall levy a service charge, to the extent authorized by subsection (b) of Section 1513 of Title 49 of the United States Code, based on the schedule established pursuant to Section 5353, on each air carrier or foreign air carrier engaged in foreign air commerce, as those terms are defined by Section 5353, for the use of airport facilities for plant and animal pest inspection, quarantine, and eradication.

(b) For the purposes of this section, “airport facilities” means those airports owned or operated by any public entity.

(Added by Stats. 1990, Ch. 1612, Sec. 4. Effective September 30, 1990.)
5352.

To the extent permitted by federal law, the director shall levy a fee on commercial marine carriers, based on the schedule established pursuant to Section 5353, for the use of marine terminal facilities for plant and animal pest inspection, quarantine, and eradication. The director shall identify and establish a list of countries which the director has reason to believe are potential sources of exotic plant and animal pests.

(Added by Stats. 1990, Ch. 1612, Sec. 5. Effective September 30, 1990.)

5353.

(a) Each air carrier or foreign air carrier engaged in foreign air commerce which carries animals or plants or other materials which are, or are likely to be, infected or infested with any pest shall pay a charge of eighty-five dollars ($85) to the director upon the initial landing in this state of each flight of the carrier which originates outside the United States.

(b) Each commercial marine carrier engaged in foreign commerce which carries animals or plants or other materials which are, or are likely to be, infected or infested with any pest shall pay a fee of two hundred dollars ($200) to the director upon the initial arrival in this state of the carrier on a voyage which originated outside the United States from a country identified and listed by the director pursuant to Section 5352, or which made an intermediate stop on that voyage in a country identified and listed by the director pursuant to Section 5352.

(c) Each such carrier shall maintain records, which shall be subject to inspection by the director, and pay the charges and fees prescribed by this section in accordance with a procedure adopted by the director, by regulation.

(d) Each such carrier who fails to pay the charges and fees required pursuant to this section and the regulations adopted pursuant to this section is subject to a penalty of 2 percent on the amount of the unpaid charge or fee for each month, or portion thereof, that the charges or fees are not paid.

(e) The charges and fees collected pursuant to this section shall be deposited in the Department of Food and Agriculture Fund and shall be used by the director for the purposes of this section and Section 5350.

(f) The director may, by regulation, increase or decrease any of the charges or fees prescribed in subdivision (a) or (b) upon determining that the revenue received is inadequate or in excess of the amount needed to conduct an effective inspection program. The maximum adjusted charge or fee shall not exceed three times the amount of the charge or fee specified in subdivision (a) or (b).

(g) The director may contract with federal and state agencies and with county agricultural commissioners to assist the director in carrying out the purposes of this section and Section 5350.

(h) The regulations adopted by the director pursuant to this section shall be deemed to relate to rates for purposes of Section 11343 of the Government Code and are not subject to review, approval, or disapproval by the Office of Administrative Law pursuant to Article 6 (commencing with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title 2 of the Government Code.
(i) “Air carrier,” “foreign air carrier,” and “foreign air commerce,” as used in this section, and Section 5351 shall have the same meaning as specified in subsections (3), (22), and (23), respectively, of Section 1301 of Title 49 of the United States Code.

(Added by Stats. 1990, Ch. 1612, Sec. 6. Effective September 30, 1990.)