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**AB-1788 Pesticides: use of anticoagulants.** (2019-2020)

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CALIFORNIA LEGISLATURE— 2019–2020 REGULAR SESSION

**ASSEMBLY BILL**

**NO. 1788**

**Introduced by Assembly Member Bloom**  
**(Coauthor: Assembly Member Friedman)**  
*(Coauthor: Senator Stern)*

**February 22, 2019**

An act to amend Section 12978.7 of, and to add Section 12978.8 to, the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL'S DIGEST

AB 1788, as amended, Bloom. Pesticides: use of anticoagulants.

**Existing**

*(1) Existing* law regulates the use of pesticides and authorizes the Director of Pesticide Regulation to adopt regulations to govern the possession, sale, or use of any pesticide, as prescribed. Existing law prohibits the use of any pesticide that contains one or more of specified anticoagulants in wildlife habitat areas, as defined. Existing law exempts from this prohibition the use of these pesticides for agricultural activities, as defined. Existing law requires the director, and each county agricultural commissioner under the direction and supervision of the director, to enforce the provisions regulating the use of pesticides. A violation of these provisions is a misdemeanor.

This bill would create the California Ecosystems Protection Act of 2019 and expand this prohibition against the use of a pesticide containing specified anticoagulants in wildlife habitat areas to the entire state. The bill would expand the exemption for agricultural activities to include activities conducted in certain locations and would also exempt from its provisions the use of pesticides by any governmental agency employee who uses pesticides for public health ~~activities and a~~ *activities, a* mosquito or vector control district that uses pesticides to protect the public ~~health.~~ *health, and the use of any pesticide or rodenticide used for the eradication of nonnative invasive species inhabiting or found to be present on offshore islands in a manner that is consistent with all otherwise applicable federal and state laws and regulations.*

*(2) Existing law provides that the above-described provisions do not preempt or supersede any federal statute or the authority of any federal agency.*

*This bill would additionally provide that these provisions do not preempt or supersede special local need or emergency exemptions for the use of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act.*

**The**

*(3) The bill would also prohibit the use of any pesticide that contains one or more specifically identified anticoagulants on state-owned property.*

**By**

*(4) By imposing additional duties on county agricultural commissioners, and expanding the definition of a crime, this bill would impose a state-mandated local program.*

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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** (a) The Legislature finds and declares all of the following:

(1) Wildlife, including birds of prey, mountain lions, bobcats, fishers, foxes, coyotes, and endangered species such as the northern spotted owl, pacific fisher, and San Joaquin kit fox, are an irreplaceable part of California's natural ecosystems. As predators of small mammals, they play an important role in regulating and controlling the population of rodents throughout the state to improve public health and welfare.

(2) Millions of people annually visit California for the purposes of viewing and photographing wildlife, and these visits contribute millions of dollars to California's economy.

(3) Urban areas are increasingly being used by predatory mammals and birds of prey and the public enjoys seeing them and values these animals and the ecosystem services they provide.

(4) The ecosystem services provided by native wildlife predators are a public trust, just like clean air and water. We, as California residents, are obligated to conserve these wildlife populations for future generations of Californians.

(5) Scientific research and state studies have found rodenticides in over 75 percent of animals tested. These rodenticides lead to direct mortality and chronic long-term health impacts for natural predators, nontarget organisms, and endangered species and further steps are needed to reduce rodenticide exposure in nontarget animals.

(6) While all anticoagulant rodenticides have a harmful impact on nontarget animals, second generation anticoagulant rodenticides (SGARs) are particularly dangerous to nontarget wildlife as SGARs are higher potency than prior generations and a single dose has a half-life of more than 100 days in a rodent's liver. Due to high toxicity and concern for impact on nontarget wildlife, *the* Department of Pesticide Regulation banned consumer sales and use of SGARs in 2014, restricting their purchase and use to certified pesticide applicators.

(7) Despite the 2014 regulations issued by the Department of Pesticide Regulation, scientific research and state studies have found no significant reduction in the number of nontarget wildlife with detectable levels of SGARs in their system. From 2014 through 2018, the Department of Fish and Wildlife found SGARs in more than 90 percent of tested mountain lions, 88 percent of tested bobcats, 85 percent of protected Pacific fishers tested, and 70 *percent* of northern spotted owls tested. Such data indicates that a consumer sales and use ban of SGARs has been insufficient to reduce rodenticide exposure in nontarget animals and further steps must be taken.

(8) Rodenticides can be counterproductive to rodent control by poisoning, harming, and killing natural predators that help regulate rodent populations throughout California.

*(9) The use of pesticides and rodenticides to reduce or eliminate nonnative invasive species inhabiting or found to be present on offshore islands is critically important for the environmental and ecosystem health of these islands, and for allowing federally and state-listed endangered and threatened species, including species presumed extinct or on the verge of extinction, to recover and propagate back to population levels that existed before the presence of these nonnative invasive species and for avoiding federal or state listing of native and endemic species due to their displacement by nonnative invasive species.*

(b) It is the intent of the Legislature in enacting this act to ensure that aquatic, terrestrial, and avian wildlife species remain a fully functional component of the ecosystems they inhabit and move through in California.

(c) This act shall be known, and may be cited, as the California Ecosystems Protection Act of 2019.

**SEC. 2.** Section 12978.7 of the Food and Agricultural Code is amended to read:

**12978.7.** (a) Except as provided in subdivision (c), (d), or (e), the use of any pesticide that contains one or more of the following anticoagulants is prohibited in this state:

(1) Brodifacoum.

(2) Bromadiolone.

(3) Difenacoum.

(4) Difethialone.

(b) State agencies are directed to encourage federal agencies to comply with subdivision (a).

(c) This section does not apply to ~~either~~ *any* of the following:

(1) The use of pesticides used by any governmental agency employee who complies with Section 106925 of the Health and Safety Code, who uses pesticides for public health activities.

(2) A mosquito or vector control district formed under Chapter 1 (commencing with Section 2000) of Division 3 or Chapter 8 (commencing with Section 2800) of Division 3 of the Health and Safety Code, that uses pesticides to protect the public health.

*(3) The use of any pesticide or rodenticide used for the eradication of nonnative invasive species inhabiting or found to be present on offshore islands in a manner that is consistent with all otherwise applicable federal and state laws and regulations.*

(d) (1) This section does not apply to the use of pesticides for agricultural activities, as defined in Section 564.

(2) For purposes of paragraph (1), "agricultural activities" include activities conducted in any of the following locations:

(A) A warehouse used to store foods for human or animal consumption.

(B) An agricultural food production site, including, but not limited to, a slaughterhouse ~~and or~~ cannery.

(C) A factory, brewery, or winery.

(e) This section does not preempt or supersede any federal statute or the authority of any federal ~~agency;~~ *agency, including special local need or emergency exemptions for the use of pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.).*

**SEC. 3.** Section 12978.8 is added to the Food and Agricultural Code, to read:

**12978.8.** (a) Except as provided in subdivision (d), the use of any pesticide that contains one or more of the following anticoagulants is prohibited on any state-owned property in California:

(1) Chlorophacinone.

(2) Diphacinone.

- (3) Warfarin.
- (b) State agencies are directed to encourage federal agencies to comply with subdivision (a).
- (c) This section does not apply to the use of pesticides for agricultural activities, as defined in Section 564.
- (d) This section does not preempt or supersede any federal statute or the authority of any federal agency.

**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.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.