

FOOD AND AGRICULTURAL CODE - FAC

GENERAL PROVISIONS AND DEFINITIONS

(General Provisions enacted by Stats. 1967, Ch. 15.)

1.

This act shall be known as the "Food and Agricultural Code."

(Amended By Stats. 1972, Ch. 225.)

3.

It is hereby declared, as a matter of legislative determination, that the provisions of this code are enacted in the exercise of the power of this state for the purposes of promoting and protecting the agricultural industry of the state and for the protection of the public health, safety, and welfare. In all civil actions the provisions of this code shall be liberally construed for the accomplishment of these purposes and for the accomplishment of the purposes of the several divisions of this code, and in criminal actions the rule of construction set forth in Section 4 of the Penal Code shall be the rule of construction for this code.

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

4.

The provisions of this code, insofar as they are substantially the same as existing law, are restatements and continuations of existing law, and not new enactments. The enactment of this code shall not impair any privilege granted or right acquired under any of the laws of this state prior to the date it takes effect.

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

5.

All persons who, at the time this code goes into effect, hold office under any of the laws that are repealed by this code, which offices are continued by this code, continue to hold the offices according to their former tenure.

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

6.

No action or proceeding which is commenced before this code takes effect, and no right which is accrued, is affected by any provision of this code, but all procedure thereafter taken in such action or proceeding shall conform to the provisions of this code so far as possible.

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

7.

(a) Any person in whom the enforcement of any provision of this code is vested shall have the authority, as a public officer, to arrest, without a warrant, another person whenever such officer has reasonable cause to believe that the person to be arrested has, in his presence, violated any provision of this code, the violation of which is declared to be public offense. If such violation is a felony, or if the arresting officer has reasonable cause to believe that the person to be arrested has violated a provision of this code which is declared to be a felony, although no felony has in fact been committed, he may make an arrest although the violation or suspected violation did not occur in his presence.

In any case in which an arrest is made pursuant to this authority for an offense declared to be a misdemeanor or an infraction, the arresting officer may, instead of taking the person arrested before a magistrate, follow the procedure prescribed by Chapter 5C (commencing with Section 853.5) of Title 3 of Part 2 of the Penal Code, unless the arrested person demands to be taken before a magistrate. The provisions of such chapter shall thereafter apply with reference to any proceeding based upon the issuance of a citation pursuant to this authority.

(b) There shall be no civil liability on the part of, and no cause of action shall arise against, any person, acting pursuant to subdivision (a) and within the scope of his authority, for false arrest or false imprisonment arising out of any arrest which is lawful or which the arresting officer, at the time of such arrest, had reasonable cause to believe was lawful. No such officer shall be deemed an aggressor or lose his right to self-defense by the use of reasonable force to effect the arrest or to prevent escape or to overcome resistance.

(c) Any person in whom the enforcement of any provision of this code is vested may serve all processes and notices throughout the state; provided, that county employees authorized to enforce the provisions of this code are authorized to serve processes and notices only within the boundaries of the county which employs them.

(Amended by Stats. 1979, Ch. 871.)

8.

The district attorney of any county in which a violation of any provision of this code occurs shall, upon request of any enforcing officer or other interested person, prosecute such violation. The prosecutor of any municipality has concurrent jurisdiction as to any violation which is committed within his territorial jurisdiction.

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

9.

Unless a different penalty is expressly provided, a violation of any provision of this code is a misdemeanor.

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

10.

Whenever any notice, report, statement, or record is required by this code, it shall be in writing unless it is expressly provided that it may be oral.

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

10.5.

It is unlawful for any person to alter any record or document in the office of a commissioner required to be filed pursuant to any provision of this code or pursuant to rules and regulations authorized by this code, without the approval of the commissioner or an authorized deputy.

(Added by Stats. 1987, Ch. 733, Sec. 1.)

11.

Whenever any notice, report, statement, or record is required by this code to be kept or made in writing, it shall be in the English language.

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

12.

Unless otherwise specifically provided, whenever any document is required or permitted by this code to be recorded, it shall be recorded in the office of the county recorder of the county in which the property or thing which is affected is situated.

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

13.

Whenever any power or authority is given by this code to any person, it may be exercised by any deputy, inspector, or agent who is duly authorized by him.

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

14.

Wherever, pursuant to this code, any state department, officer, board, agency, committee, or commission is authorized to adopt rules and regulations, such regulations shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, to the extent that that chapter is not specifically in conflict with the express terms of the provisions of this code which authorize the adoption of such regulations. Those rules and regulations which are building standards, as defined in Section 18909 of the Health and Safety Code, shall be adopted and approved pursuant to the provisions of Chapter 4 (commencing with Section 18935) of Part 2.5 of Division 13

of the Health and Safety Code unless the provisions of Sections 18930, 18933, 18938, 18940, 18943, 18944, and 18945 of the Health and Safety Code are expressly excepted in the provision of this code under which the authority to adopt the specific building standard is delegated. Any building standard adopted in violation of this section shall have no force or effect. Any building standard adopted prior to January 1, 1980, pursuant to this code and not expressly excepted by statute from such provisions of the State Building Standards Law shall remain in effect only until January 1, 1985, or until adopted, amended, or superseded by provisions published in the State Building Standards Code, whichever occurs sooner.

The authority to adopt any rule, regulation, or rule and regulation which is vested in any state department, officer, board, agency, committee, or commission pursuant to this code includes the authority to amend or repeal the rule, regulation, or rule and regulation.

(Amended by Stats. 1982, Ch. 454, Sec. 22.)

15.

Whenever reference is made to any portion of this code or of any other law of this state, the reference applies to all amendments and additions to it.

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

16.

Division, part, chapter, and article headings do not in any manner affect the scope, meaning, or intent of the provisions of this code.

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

17.

If any provision of this code or its application to any person or circumstance is held invalid, the remainder of the code or the application of the provision to any other person or circumstance is not affected.

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

18.

In all matters which arise under this code, proof of the fact of possession by any person engaged in the sale of a commodity establishes a rebuttable presumption that the commodity is for sale. This presumption is a presumption affecting the burden of producing evidence.

(Amended by Stats. 1967, Ch. 262.)

19.

Unless the context otherwise requires, the present tense includes the past and future tenses, and the future, the present tense.

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

20.

Unless the context otherwise requires, the masculine gender includes the feminine and neuter.

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

21.

Unless the context otherwise requires, the singular number includes the plural, and the plural the singular.

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

22.

Inasmuch as the planned production of trees is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, the production of trees shall be considered a branch of the agricultural industry of the state for the purposes of any law which provides for the benefit or protection of the agricultural industry of the state.

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

23.

(a) Inasmuch as the planned production of trees, vines, rose bushes, ornamental plants, floricultural crops, and other horticultural crops is distinguishable from the production of other products of the soil only in relation to the time elapsing before maturity, plants and floricultural crops that are being produced by nurseries, whether in open fields or in greenhouses, shall be considered to be "growing agricultural crops" for the purpose of any laws that pertain to the agricultural industry of the state, and those laws shall apply equally to greenhouses and open field nursery operations.

(b) For the reasons stated in subdivision (a), a nursery where the primary activity is the planned production of horticultural crops, is a farm. However, for the purposes of this section and any laws that pertain to farms in this state, a retail nursery is not a farm.

(Amended by Stats. 2005, Ch. 605, Sec. 1. Effective January 1, 2006.)

23.5.

The commercial production of aquatic plants and animals propagated and raised by a registered aquaculturist pursuant to Section 15101 of the Fish and Game Code in the state is a growing industry and provides a healthful and nutritious food product, and, as a commercial operation, utilizes management, land, water, and feed as do other agricultural enterprises. Therefore, the commercial production of that aquatic life shall be considered a branch of the agricultural industry of the state for the purpose of any law that provides for the benefit or protection of the agricultural industry of the state except those laws relating to plant quarantine or pest control.
(Amended by Stats. 1995, Ch. 810, Sec. 11. Effective January 1, 1996.)

23.6.

The Legislature hereby finds and declares that greenhouse production of floricultural, ornamental, or other nursery and agricultural products in the state is a growing industry that provides valuable agricultural products and year-round employment for agricultural workers. The Legislature further declares that greenhouse production is an efficient self-contained production system that offers protections for the environment and allows for the use of conservation-oriented production technologies, including drip irrigation, water recycling, and hydroponics, and the use of energy conservation systems.
(Added by Stats. 2005, Ch. 605, Sec. 2. Effective January 1, 2006.)

23.7.

The Legislature hereby finds and declares that vermiculture in the state is a growing industry and that use of vermiculture and vermiculture by-products for the commercial purpose of producing agricultural commodities should be encouraged. As used in this section, "vermiculture" is the raising of animals belonging to the order Oligochaeta, class Chaetopoda, phylum Annelida. Vermiculture, and the processing, packaging, sale, and use of its by-products, shall be considered a branch of the agricultural industry.
(Added by Stats. 1978, Ch. 589.)

24.

It is hereby declared, as a matter of legislative determination, that the provisions of this section are enacted in the exercise of the power of this state for the purpose of protecting and furthering the public health and welfare. It is further declared that the floriculture and nursery industry of this state is affected with a public interest, in that, among other things:

(a) The production, processing, manufacture, and distribution of floriculture and nursery products constitute a paramount industry of this state which not only provides substantial and required revenues for the state and its political subdivisions by tax revenues and other means, and employment and a means of

livelihood for many thousands of its population, but also furnishes substantial employment to related industries that are vital to the public health and welfare.

(b) Basic research and development for floriculture and the nursery industries contribute substantially to food production in this state which is essential to the welfare and health of its citizens.

It is also declared that the elimination of disorderly marketing of California floricultural and nursery products, and the development of new and larger markets through education, promotion and other means for these products, are affected with the public interest.

(c) All production of floriculture and nursery products in greenhouses shall be deemed equivalent to the production of floricultural products in open fields.

(Amended by Stats. 2005, Ch. 605, Sec. 3. Effective January 1, 2006.)

24.5.

Inasmuch as plants growing in native stands or planted for ornamental purposes contribute to the environmental and public health and welfare needs of the people of the state, the Legislature hereby finds and declares that such plants shall be considered as a part of the agricultural industry for the purpose of any law that provides for the protection of the agricultural industry from pests.

(Added by Stats. 1975, Ch. 1000.)

25.

Unless the context otherwise requires, the definitions in the following sections govern the construction of this code.

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

25.5.

“Aquaculture” means that form of agriculture devoted to the propagation, cultivation, maintenance, harvesting, processing, distribution, and marketing of aquatic plants and animals in marine, brackish, and fresh water. “Aquaculture” does not include species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes that are maintained in closed systems for personal, pet industry, or hobby purposes.

(Added by Stats. 1995, Ch. 810, Sec. 12. Effective January 1, 1996.)

26.

“Commissioner” means any county agricultural commissioner.

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

29.

“County” includes city and county.

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

32.

“Department” means the Department of Food and Agriculture.

(Amended by Stats. 1972, Ch. 225. Note: See this section as modified on July 17, 1991, in Governor's Reorganization Plan No. 1 of 1991.)

33.

“Greenhouse” means a structure covered with transparent or translucent materials for the purpose of admitting natural light and controlling the atmosphere for growing plants, including floricultural, ornamental, or other nursery and agricultural products.

(Added by Stats. 2005, Ch. 605, Sec. 4. Effective January 1, 2006.)

35.

“Secretary” means the Secretary of Food and Agriculture.

(Amended by Stats. 1993, Ch. 42, Sec. 1. Effective January 1, 1994.)

36.

“Spouse” includes “registered domestic partner,” as required by Section 297.5 of the Family Code.

(Added by Stats. 2016, Ch. 50, Sec. 43. (SB 1005) Effective January 1, 2017.)

38.

“Person” means any individual, partnership, association, corporation, limited liability company, or any organized group of persons whether incorporated or not.

(Amended by Stats. 1994, Ch. 1010, Sec. 125. Effective January 1, 1995.)

39.

“Qualified representative of the commissioner” means a deputy commissioner or inspector who holds an appropriate certificate of qualification issued by the director as provided in Chapter 2 (commencing with Section 2101) of Division 2 of this code.

(Added by Stats. 1967, Ch. 26.)

[41.](#)

"Section" means a section of this code, unless some other statute is specifically mentioned.

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

[44.](#)

"Sell" includes offer for sale, expose for sale, possess for sale, exchange, barter, or trade.

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

[47.](#)

"Shall" is mandatory, and "may" is permissive.

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

[49.](#)

"Subdivision" means a subdivision of the section in which that term occurs unless some other section is expressly mentioned.

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

[50.](#)

Whenever the term "department" or "Department of Agriculture" appears in any law, it means the "Department of Food and Agriculture."

Whenever the term "director," "secretary," "Director of Agriculture," or "Secretary of Agriculture" appears in any law, it means the "Secretary of Food and Agriculture."

Whenever the term "Agricultural Code" appears in any law, it means the "Food and Agricultural Code."

(Amended by Stats. 1993, Ch. 42, Sec. 2. Effective January 1, 1994.)

[51.](#)

(a) If, in connection with the use of roads, highways, and freeways, the assistance, control, or protection by Highway Patrol officers is desired, applications by an entity engaged in agricultural production to utilize services of Highway Patrol officers in the transportation of agricultural commodities shall be made to the Commissioner of the California Highway Patrol. The commissioner may approve the application provided that employees are available and the department is fully reimbursed for additional costs incurred.

(b) Applications to utilize Highway Patrol employee services shall be approved or disapproved by the Commissioner of the California Highway Patrol within 30 days of receipt of the application and shall be approved sooner, if possible.

(Added by Stats. 1982, Ch. 454, Sec. 23.)