

Assembly Bill No. 2765

Passed the Assembly August 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 22, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to amend Sections 5771 and 5776 of, and to add Section 2276.5 to, the Food and Agricultural Code, relating to pests.

LEGISLATIVE COUNSEL'S DIGEST

AB 2765, Huffman. Pest eradication: aerial use of pesticide: public hearing: notice.

Existing law establishes the position of county agricultural commissioner, and prescribes duties and powers of that position.

The bill would state the intent of the Legislature in regard to the role of county agricultural commissioners in pest suppression.

Existing law authorizes the Secretary of Food and Agriculture, by regulation, to proclaim any area within the state an eradication area with respect to a pest, prescribe the boundaries of the area, and name the pest or hosts of the pest that are known to exist within the area, together with the means or methods that are to be used to eradicate or control the pest. The secretary or county agricultural commissioner, when the secretary proclaims an eradication project in an urban area, is required to notify residents and physicians practicing in the area, and the local broadcast and print media, before aerially applying a pesticide to effect the eradication.

This bill would additionally require the secretary or commissioner, when an eradication plan includes potential aerial application of a pesticide in an urban area, before the aerial application of a pesticide, to conduct at least one public hearing, as provided, in order to consider all alternatives to aerial application of a pesticide. The bill would also require the secretary or commissioner to seek an evaluation of human health risks and environmental risks jointly prepared by the Department of Pesticide Regulation and the Office of Environmental Health Hazard Assessment, including findings and recommendations regarding environmental and human risks of the proposed use of a pesticide by aerial application.

Existing law requires the notice to the residents, physicians, and media to contain specified information, including the date and approximate time of all proposed pesticide applications in the eradication area and the type of pesticide to be applied.

This bill would instead require the likely date or dates and approximate time or times of all proposed pesticide applications in the eradication area and the pesticides to be applied. The bill would also require the notice to include specified information regarding each active ingredient and inert material in the pesticide, as provided.

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

SECTION 1. Section 2276.5 is added to the Food and Agricultural Code, to read:

2276.5. (a) The Legislature finds and declares that, acting under policy direction of the Secretary of Food and Agriculture, California's unique system of county agricultural commissioners forms the front line of defense in protecting the state from the many exotic and invasive species threatening our people, commerce, and environment.

(b) It is the intent of the Legislature that agricultural commissioners take an increasingly assertive and proactive role in the exclusion and detection of exotic and invasive species in the urban environment, particularly those potentially spread by human activities, such as landscaping and yard maintenance.

SEC. 2. Section 5771 of the Food and Agricultural Code is amended to read:

5771. When the secretary proclaims an eradication project in an urban area pursuant to Article 4 (commencing with Section 5761), where the eradication plan includes potential aerial application of a pesticide, the secretary or the commissioner, pursuant to this article, shall do all of the following before aerially applying a pesticide to effect the eradication:

(a) Conduct at least one public hearing, to include a presentation by the department and the opportunity for public comment, in the area to consider all alternatives to aerial application of a pesticide.

(b) Seek an evaluation of human health risks and environmental risks jointly prepared by the Department of Pesticide Regulation and the Office of Environmental Health Hazard Assessment, including findings and recommendations regarding environmental and human risks of the proposed use of a pesticide by aerial application.

(c) Notify residents and physicians practicing in the area, and the local broadcast and print media.

SEC. 3. Section 5776 of the Food and Agricultural Code is amended to read:

5776. The notice distributed pursuant to this article shall contain all of the following:

(a) The likely date or dates and approximate time or times of all proposed pesticide applications in the eradication area.

(b) The pesticides to be applied.

(c) Any health and safety precautions that should be taken.

(d) A telephone number and address of public health personnel who are familiar with the eradication program.

(e) The active ingredients and inert materials of the pesticide, to the extent that the department is permitted by state and federal law to disclose them.

Approved _____, 2008

Governor