

AMENDED IN ASSEMBLY JUNE 21, 2007

AMENDED IN SENATE MAY 9, 2007

AMENDED IN SENATE APRIL 19, 2007

**SENATE BILL**

**No. 556**

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**Introduced by Senator Wiggins**

February 22, 2007

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An act to add *and repeal* Article 10 (commencing with Section 6049.5) 6050) to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural Code, relating to the Light Brown Apple Moth, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 556, as amended, Wiggins. The Light Brown Apple Moth.

Existing law provides for the control and abatement of plant pests.

This bill, *the Light Brown Apple Moth Act of 2007*, would make various findings and declarations relating to the ~~Light Brown Apple Moth~~ *agricultural pest*. This bill would create the Light Brown Apple Moth Advisory Task Force to advise the Secretary of ~~Program~~ in the Department of Food and Agriculture ~~on the environmental and economic impact of the potential spread of the Light Brown Apple Moth in California on or before September 1, 2007~~. This bill would provide that appointments to the task force would be made by the secretary ~~and the Light Brown Apple Moth Account in the Department of Food and Agriculture Fund~~. This bill would require the department to report to the Legislature on January 10, 2008, and on each January 10th thereafter while these provisions are operative, regarding its expenditures, progress, and ongoing priorities in combating the Light Brown Apple Moth in California. This bill would provide that these

provisions would become inoperative on March 1, 2018, and as of January 1, 2019, would be repealed unless a later enacted statute extends that date.

This bill would declare that it is to take effect immediately as an urgency measure.

Vote: 2/3. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. *This act shall be known as the Light Brown Apple*  
2 *Moth Act of 2007.*

3 SEC. 2 *Article 10 (commencing with Section 6050) is added*  
4 *to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural*  
5 *Code, to read:*

6  
7 Article 10. *Light Brown Apple Moth*  
8

9 6050. *The Legislature hereby finds and declares all of the*  
10 *following:*

11 (a) *The introduction of the Light Brown Apple Moth represents*  
12 *a clear, present, significant, and imminent danger to California's*  
13 *natural environment and agricultural industry. This is an insect*  
14 *species that feeds on over 250 species of native and ornamental*  
15 *plants, fruits, and vegetables.*

16 (b) *The introduction of the Light Brown Apple Moth also*  
17 *represents a clear, present, significant, and imminent threat to*  
18 *California's native areas as it will feed on alder, ceanothus,*  
19 *columbine, cottonwood, cypress, ferns, fir, hawthorn, honeysuckle,*  
20 *lupine, madrone, oak, pine, poplar, redwood, spruce, and willow.*

21 (c) *The general area of the infestation contains numerous*  
22 *sensitive plant and animal species and habits. There is an imminent*  
23 *threat for adverse effect and ultimate extinction to some of these*  
24 *sensitive species if this pest becomes permanently established in*  
25 *California.*

26 (d) *The State of California has a great interest in protecting its*  
27 *native species and agricultural products from further harm caused*  
28 *by the introduction of the Light Brown Apple Moth.*

1 (e) *The Light Brown Apple Moth is currently found in the urban*  
2 *and natural areas in all parts of nine California counties and could*  
3 *move into agricultural croplands.*

4 (f) *Valued at \$31.7 billion in 2005, California's agricultural*  
5 *economy continues to rank first in the nation constituting 13.3*  
6 *percent of the total United States agricultural economy value in*  
7 *2005. It is estimated to have a minimum potential impact of \$133*  
8 *million to only four of the potentially impacted crops, apples,*  
9 *pears, oranges, and grapes, and environmental impact from*  
10 *increased pesticide use.*

11 (g) *To avoid potentially catastrophic loss to some of California's*  
12 *most important industries and to native species, the Legislature*  
13 *declares that this article is in the interest of the public health and*  
14 *welfare.*

15 (h) *This article is not intended to establish a precedent, or to*  
16 *supersede, reduce, or in any way alter government funding related*  
17 *to plant pest eradication and control in this state.*

18 6050.1. (a) *There is hereby created in the Department of Food*  
19 *and Agriculture the Light Brown Apple Moth Program.*

20 (b) *The Secretary of Food and Agriculture shall provide an*  
21 *appropriate level of support staffing and logistical support for*  
22 *eradicating the Light Brown Apple Moth.*

23 (c) (1) *There is hereby created the Light Brown Apple Moth*  
24 *Account in the Department of Food and Agriculture Fund.*

25 (2) *The account shall consist of money made available from the*  
26 *federal government and other sources or transferred from the*  
27 *General Fund. Money made available from the federal government*  
28 *and other sources shall be available for expenditure without regard*  
29 *to fiscal years for the purpose of eradicating the Light Brown*  
30 *Apple Moth.*

31 (d) *During the first 36 months of the operation of the Light*  
32 *Brown Apple Moth Program the department's actions pursuant*  
33 *to this act shall be deemed an emergency response for the benefit*  
34 *of the environment under Division 13 (commencing with Section*  
35 *21000) of the Public Resources Code. During this period, the*  
36 *department shall complete the statutorily required environmental*  
37 *documentation.*

38 (e) *Notwithstanding Section 7550.5 of the Government Code,*  
39 *the department shall report to the Legislature on January 10, 2008,*  
40 *and on each January 10th thereafter while this section is operative,*

1 regarding its expenditures, progress, and ongoing priorities in  
2 combating the Light Brown Apple Moth in California.

3 (f) This article shall become inoperative on March 1, 2018, and  
4 as of January 1, 2019, is repealed, unless a later enacted statute  
5 that is enacted before January 1, 2019, deletes or extends that date

6 SEC. 3. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10 To protect, as soon as possible, the 250 host commodities, their  
11 associated industries, and native species from the Light Brown  
12 Apple Moth, it is necessary that this act take effect immediately.

13 SECTION 1. ~~The Legislature hereby finds and declares all of~~  
14 ~~the following:~~

15 (a) ~~On March 22, 2007, the U.S. Department of Agriculture's~~  
16 ~~Animal and Plant Health Inspection Service (APHIS) confirmed~~  
17 ~~the presence of Light Brown Apple Moth (LBAM), *Epiphyas*~~  
18 ~~*posvittan*, in California.~~

19 (b) ~~Since then, the presence of this invasive species has been~~  
20 ~~detected in portions of Alameda, Contra Costa, Marin, San~~  
21 ~~Francisco, San Mateo, Santa Clara, Santa Cruz, and Monterey~~  
22 ~~Counties.~~

23 (c) ~~This moth is originally from Australia, and has become~~  
24 ~~established in New Zealand, New Caledonia, Hawaii, and the~~  
25 ~~British Isles. Its discovery in California is a new North American~~  
26 ~~record.~~

27 (d) ~~The presence of the Light Brown Apple Moth has been~~  
28 ~~recorded in over 200 plants in 120 plant genera in 50 families.~~  
29 ~~Notable trees are apple, pear, peach, apricot, nectarine, citrus,~~  
30 ~~persimmon, cherry, almond, avocado, oak, willow, walnut, poplar,~~  
31 ~~cottonwood, coast redwood, pine, and eucalyptus. Common shrub~~  
32 ~~and herbaceous hosts are grape, kiwifruit, strawberry, blackberry,~~  
33 ~~blueberry, boysenberry, raspberry, corn, pepper, tomato, pumpkin,~~  
34 ~~beans, cabbage, carrot, alfalfa, rose, camellia, jasmine,~~  
35 ~~chrysanthemum, clover, and plantain.~~

36 (e) ~~Development of the Light Brown Apple Moth is continuous,~~  
37 ~~with no true dormancy. In Australia, this moth typically has three~~  
38 ~~generations per year and over-winters as a larva. Adults deposit~~  
39 ~~egg masses containing 20-50 eggs on the upper leaf surface or on~~  
40 ~~fruit. Larvae disburse and construct silken shelters on the~~

1 undersides of leaves, usually near a midrib or large vein. Older  
2 larva roll together leaves and buds or fruit with webbing.

3 (f) ~~Damage to fruit occurs as surface feeding by the larva.~~  
4 ~~Pupation takes place within the larval nests. The pest destroys,~~  
5 ~~stunts, or deforms, young seedlings, spoils the appearance of~~  
6 ~~ornamental plants, and injures deciduous fruit-tree crops, citrus,~~  
7 ~~and grapes.~~

8 (g) ~~California is the nation's leader in agricultural exports and~~  
9 ~~in 2003 shipped more than \$7.2 billion in both food and agricultural~~  
10 ~~commodities around the world.~~

11 (h) ~~The Light Brown Apple Moth has the potential to cause~~  
12 ~~significant economic losses due to increased production costs and~~  
13 ~~the possible loss of international and domestic markets.~~

14 ~~SEC. 2.— Article 10 (commencing with Section 6049.5) is added~~  
15 ~~to Chapter 9 of Part 1 of Division 4 of the Food and Agricultural~~  
16 ~~Code, to read:~~

17  
18 ~~Article 10. Light Brown Apple Moth~~  
19

20 ~~6049.5.— (a) The Light Brown Apple Moth Advisory Task Force~~  
21 ~~is hereby created. The task force shall advise the Secretary of the~~  
22 ~~Department of Food and Agriculture on the environmental and~~  
23 ~~economic impact of the potential spread of the Light Brown Apple~~  
24 ~~Moth in California.~~

25 ~~(b) The task force shall report its findings to the secretary on or~~  
26 ~~before September 1, 2007.~~

27 ~~(c) Appointments to the task force shall be made by the~~  
28 ~~Secretary of the Department of Food and Agriculture.~~

29 ~~SEC. 3.— This act is an urgency statute necessary for the~~  
30 ~~immediate preservation of the public peace, health, or safety within~~  
31 ~~the meaning of Article IV of the Constitution and shall go into~~  
32 ~~immediate effect. The facts constituting the necessity are:~~

33 ~~The Light Brown Apple Moth is a new exotic pest that is not~~  
34 ~~yet established in the United States. In order that swift action to~~  
35 ~~assess its potential impact on the environmental and economic~~  
36 ~~health of California can be taken as soon as possible, it is necessary~~  
37 ~~that this act take effect immediately.~~