



County of Sonoma
State of California

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ATTEST: August 30, 2022

SHERYL BRATTON, Clerk/Secretary
BY *Noelle Francis*

Date: August 30, 2022

Item Number: 11

Resolution Number: 22-0338

4/5 Vote Required

Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Opting To Establish A County Agricultural Access Verification Card Program Modeled On Section 2350 Of The California Food And Agricultural Code; Providing Additional Direction On The Parameters To Be Included In Said Program; And Delegating Authority To The Sheriff Or His/Her Designee To Lead Administration Of Said Program

Whereas, in October 2021, the California Legislature adopted Assembly Bill 1103 (“AB 1103”) creating authority for each county in the state to adopt a livestock pass program for the purpose of granting identification documents to a qualifying livestock producer or a managerial employee of said producer to permit such persons to access the qualifying livestock producer’s property during or following a flood, storm, fire, earthquake, or other disaster; and

Whereas, AB 1103 added section 2350 to the California Food and Agricultural Code (“Section 2350”) establishing parameters for a livestock pass program; and

Whereas, Section 2350 authorizes the Board of Supervisors (“Board”) to designate the County department or agency to develop guidelines and implement such a program; and

Whereas, Penal Code section 409.5 grants law enforcement discretion to close an area whenever a menace to the public health or safety is created by a calamity—including a flood, storm, fire, earthquake, explosion, accident, or other disaster—for the duration the menace exists (“evacuation zone”); and

Whereas, AB 1103 did not usurp law enforcement’s discretion and authority pursuant to Penal Code section 409.5 to grant (or deny) access to an evacuation zone, but allows issuance of identification documents to assist law enforcement in determining whether to grant access to an evacuation zone to a qualified livestock producer or a managerial employee of said producer; and

Whereas, the Sheriff's Office is the law enforcement agency who makes the determinations under Penal Code section 409.5 for the County of Sonoma ("County"); and

Whereas, the County additionally possesses inherent police power to protect the public health, safety, and general welfare as well as broad discretionary powers related to emergencies and natural disasters under the California Emergency Services Act (Cal. Gov. Code Section 8550 *et seq.*); and

Whereas, since 2017, Sonoma County has experienced a series of devastating wildfires and floods that have required the evacuation of large areas of the County to protect public safety, including areas that house commercial agricultural operations; and

Whereas, as wildfires in Sonoma County continue to increase in frequency and intensity, the threat to life, property and infrastructure has increased the demand on County officials to provide agricultural producers with access to evacuation zones while also ensuring resident and worker safety; and

Whereas, in early 2022, the Board established an Ad Hoc Committee to identify local and state efforts that address evacuation zone access with a focus on farmworker protections and other access issues (livestock and animals, commercial activities, etc.); and

Whereas, an agricultural access verification card program may help support quick and effective decisions of law enforcement in the field by facilitating pre-vetted information delivery to those officers, thereby conserving limited staff resources during an emergency and eliminating the need to divert limited resources to verify agricultural access information during an event; and

Whereas, the Board has determined that the most legally sound and efficient course of action is to establish an Agriculture Access Verification Card Program with suggested parameters; and authorize the Sheriff's Office to lead administration of said program; and

Whereas, in order to provide a uniform and efficient method to identify to law enforcement and other emergency personnel those persons who are commercial agriculture farm owner-operators, livestock producers ("commercial agricultural operation"), and their full-time employees, the Board desires to invoke the authority bestowed upon the County by AB 1103 to establish and administer an Agriculture Access Verification Card Program for livestock and enhance that program under the County's inherent police power to protect the public health, safety, and general welfare and its broad discretionary powers related to emergencies and natural disasters under the California Emergency Services Act (Cal. Gov. Code Section 8550 *et seq.*).

Now, Therefore, Be It Resolved that the Board of Supervisors hereby elects to establish an Agriculture Access Verification Card Program modeled on Section 2350 of the California Food and Agriculture Code and enhance it through its inherent police power and authority under the California Emergency Services Act as provided more specifically below.

Be It Further Resolved that, pursuant to subdivision (b)(1) of said Section 2350 and its inherent police power to protect the public health, safety, and welfare and its express authority under the California Emergency Services Act, the Board of Supervisors hereby establishes an Agriculture Access Verification Card Program for the purpose of issuing verification documents to the owner/operators of qualified commercial agricultural operations and/or direct, full-time employees of such qualified commercial agricultural operations for the purpose of allowing the owner/operators of qualified commercial agricultural operations, or a direct, full-time employee of the qualified commercial agricultural operation, to access the property of the qualified commercial agricultural operation during or following a flood, storm, fire, earthquake, or other disaster subject to the limitations set forth in subdivision (d) of Section 2350; and authorizes the Sonoma County Sheriff or his/her designee to lead administration of said program and amend the administrative rules of the program from time to time in accordance with the parameters outlined below.

Be It Further Resolved that the Board of Supervisors specifically directs that the Agriculture Access Verification Card Program incorporate those parameters including, but not limited to, the following:

1. The Program shall address owners/operators or full-time direct employees of commercial agricultural operations and support potential access in order to conduct critical agricultural activities.
2. Ag Access Verification cards shall be issued to individual owners/operators or direct full-time employees of commercial agricultural operations rather than by operation or property location.
3. The Program shall incorporate an in-person fire and worker safety training requirement for participating owners/operators and full-time employees that reflects best practices in terms of scope and delivery methods. Training must be provided in the attendee's requested language and in an accessible format and venue. Staff shall assess the potential for allowing individuals or organizations to provide training subject to their compliance with an approved curriculum. The program shall identify the frequency and scope of required refresher training.

4. The four-hour training courses provided since 2020 and documented by the Sonoma County University of California Cooperative Extension (UCCE), Sonoma County Farm Bureau and Sonoma County Winegrowers shall qualify as satisfying this training requirement for initial applications when sufficient proof of attendance is provided. For applications utilizing this training, the expiration of the Verification Card shall be established as being no more than 42 months from date the training was taken by the applicant.
5. Commercial agricultural operation owners/operators must acknowledge continued responsibility to comply with all applicable worker safety regulations and protections required for the work location including those administered by the California Division of Occupational Safety and Health (Cal/OSHA). Commercial agricultural operation owners/operators shall indicate at the time of application if they are currently the subject of a CalOSHA investigation for alleged violations of workplace safety regulations.
6. Employers must keep a record of the identity of each employee that enters an evacuation zone, including when they enter and leave the property and report this information to the County as specified by the program's administrator.
7. Applicants must acknowledge and sign a Hold Harmless Agreement waiver.
8. All program materials including program description and application forms should be made available in English and Spanish and be accessible from the Sheriff's Office website as well as the County's www.SoCoEmergency.org website.
9. Following incidents in which the Ag Access Verification Card program is activated, Sheriff's staff and stakeholders will provide input as regards program effectiveness and performance as part of the County's After Action Report process.
10. The County Department of Agriculture Weights & Measures shall provide support, and seek the assistance of UCCE, in assessing the qualifications of applicants.

Be It Further Resolved that nothing in this Resolution shall be construed to abridge the Sheriff's authority under PC 409.5 to allow or prohibit access to an evacuation zone.

Be It Further Resolved that the Board of Supervisors authorizes the Office of Equity, Office of Emergency Services, UCCE, Sheriff's Office, and County Department of Agriculture Weights & Measures to collaborate on developing proposed program improvements for consideration by the Board of Supervisors on an as needed basis.

Supervisors:

Gorin: Aye Rabbitt: Aye Coursey: Aye Hopkins: Aye Gore: Aye

Ayes: 5 Noes: 0 Absent: 0 Abstain: 0

So Ordered.