

By Representatives Spratt, Minton, Bronson, Putnam,
Harrington, Smith, Boyd, Wiles and Greene

1 A bill to be entitled
2 An act relating to the Department of
3 Agriculture and Consumer Services; amending s.
4 581.011, F.S.; revising definition of the term
5 "noxious weed"; amending s. 581.182, F.S.;
6 renaming an advisory committee; repealing s. 3,
7 ch. 92-153, Laws of Florida; abrogating the
8 repeal of s. 581.186, F.S., relating to the
9 Endangered Plant Advisory Council; amending s.
10 589.011, F.S.; authorizing the Division of
11 Forestry to prohibit certain activities and
12 providing penalties; authorizing leasing of
13 property and structures to telecommunications
14 providers; authorizing fees; amending s.
15 590.01, F.S.; providing Division of Forestry
16 responsibility for forest and wild land fire
17 protection; amending s. 590.02, F.S.;
18 clarifying that a specific appropriation is not
19 needed to build certain structures; amending s.
20 590.026, F.S.; clarifying requirements for
21 prescribed burning; amending s. 601.58, F.S.;
22 revising procedures relating to approval of a
23 citrus fruit dealer's license application;
24 amending s. 601.60, F.S.; authorizing the
25 department to refuse to issue a citrus fruit
26 dealer's license under certain conditions;
27 amending s. 601.67, F.S.; authorizing a fine
28 against a person who operates as a citrus fruit
29 dealer without a license; amending s. 602.065,
30 F.S.; revising provisions relating to the
31 deposit of certain funds for the eradication of

1 citrus canker; amending s. 604.15, F.S.;
2 revising definition of the term "agricultural
3 products"; providing an effective date.
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5 Be It Enacted by the Legislature of the State of Florida:
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7 Section 1. Subsection (18) of section 581.011, Florida
8 Statutes, is amended to read:

9 581.011 Definitions.--As used in this chapter:

10 (18) "Noxious weed" means any living stage, including,
11 but not limited to, seeds and productive parts, of a parasitic
12 or other plant of a kind, or subdivision of a kind, which may
13 be a serious agricultural threat in Florida or have a negative
14 impact on the plant species protected under s. 581.185.

15 Section 2. Paragraphs (b), (f), and (g) of subsection
16 (4) of section 581.182, Florida Statutes, are amended to read:

17 581.182 Citrus plants and citrus plant products from
18 other states, territories, or foreign countries.--

19 (4) In considering an application for a permit to
20 introduce into this state from another state, territory, or
21 foreign country any citrus plant or citrus plant product or
22 propagation therefrom, the department shall consider the
23 following guidelines:

24 (b) The clones introduced must:

25 1. Have been evaluated by the Citrus Budwood Technical
26 Advisory Registration Committee as having desirable and
27 superior characteristics to warrant testing under Florida
28 field conditions prior to possible release as a new clone; or

29 2. Be of a type desirable:

30 a. For research; or
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1 b. As a breeding stock to be used by the agricultural
2 experiment stations in Florida.

3 (f) When tests are completed, new clones will be
4 evaluated by the Citrus Budwood Technical Advisory
5 ~~Registration~~ Committee. If the committee recommends the
6 release and distribution of any clone to the industry, a
7 portion of this clone will be validated and maintained in a
8 Division of Plant Industry planting.

9 (g) The director is authorized to waive permit
10 requirements for certain species of plants of the subfamilies
11 Aurantioideae, Rutoideae, or Toddalioideae which the Citrus
12 Budwood Technical Advisory ~~Registration~~ Committee determines
13 pose no threat of introducing into the state a citrus plant
14 pest.

15 Section 3. Section 3 of chapter 92-153, Laws of
16 Florida, is hereby repealed.

17 Section 4. Subsections (5) and (6) are added to
18 section 589.011, Florida Statutes, to read:

19 589.011 Use of state forest lands; fees; rules.--

20 (5) The Division of Forestry may prohibit on state
21 forest lands, or any lands leased by or otherwise assigned to
22 the division for management purposes, activities that
23 interfere with management objectives, create a nuisance, or
24 pose a threat to public safety. Such prohibited activities
25 must be posted with signs not more than 500 feet apart along,
26 and at each corner of, the boundaries of the land. The signs
27 must be placed along the boundary line of posted land in a
28 manner and in such position as to be clearly noticeable from
29 outside the boundary line. A person who violates the
30 provisions of this subsection commits a misdemeanor of the
31

1 second degree, punishable as provided in s. 775.082 or s.
2 775.083.

3 (6) The Division of Forestry may enter into contracts
4 or agreements, with or without competitive bidding or
5 procurement, to make available, on a fair, reasonable, and
6 nondiscriminatory basis, property and other structures under
7 division control for the placement of new facilities by any
8 wireless provider of mobile service as defined in 47 U.S.C. s.
9 153(n) or 47 U.S.C. s. 332(d) or any telecommunications
10 company as defined in s. 364.02 when it is determined to be
11 practical and feasible to make such property or other
12 structures available. The division may, without adopting a
13 rule, charge a just, reasonable, and nondiscriminatory fee for
14 the placement of the facilities, payable annually, based on
15 the fair market value of space used by comparable
16 communications facilities in the state. The division and a
17 wireless provider or telecommunications company may negotiate
18 the reduction or elimination of a fee in consideration of
19 services provided to the division by the wireless provider or
20 telecommunications company. All such fees collected by the
21 division shall be deposited in the General Inspection Trust
22 Fund.

23 Section 5. Section 590.01, Florida Statutes, is
24 amended to read:

25 590.01 Protection of forests and wild land.--The
26 Division of Forestry of the Department of Agriculture and
27 Consumer Services has the primary responsibility for forest
28 and wild land fire protection. The division shall provide
29 leadership and direction in the evaluation, coordination, and
30 monitoring of wildfire management and protection, which
31 reduces threats to life and property, forest and wild land

1 resources, and other related values at risk. The division
2 shall promote natural resource management and wild land and
3 forest fuel reduction through the use of prescribed fire. The
4 division may designate and establish protection districts in
5 areas declared to need additional protection.~~Whenever it~~
6 ~~shall appear to the Division of Forestry of the Department of~~
7 ~~Agriculture and Consumer Services, hereinafter called the~~
8 ~~division, from investigation, hearing or otherwise that areas~~
9 ~~in the state are in need of special protection from forest~~
10 ~~fires, the said division may designate and establish a forest~~
11 ~~protection district in such areas. The limits of each such~~
12 ~~fire protection district shall be defined by the division, and~~
13 ~~public notice of its establishment shall be published in some~~
14 ~~one or more newspapers of general circulation in the region~~
15 ~~affected, once each week for 3 successive weeks (three~~
16 ~~insertions), and such additional publicity shall be given to~~
17 ~~the establishment of said district as the division may deem~~
18 ~~necessary.~~

19 Section 6. Subsection (4) of section 590.02, Florida
20 Statutes, 1996 Supplement, is amended to read:

21 590.02 Division powers, authority, and duties; law
22 enforcement; liability; building structures.--

23 (4) The department may build structures,
24 notwithstanding chapters 216 and chapter 255, not to exceed a
25 cost of \$50,000 per structure from existing resources on
26 forest lands, federal excess property, and unneeded existing
27 structures. These structures must meet all applicable building
28 codes.

29 Section 7. Subsection (5) of section 590.026, Florida
30 Statutes, is amended to read:

31 590.026 Prescribed burning; requirements; liability.--

1 (5) REQUIREMENTS; LIABILITY.--

2 (a) Prescribed burning conducted under the provisions
3 of this section shall:

4 1. Be accomplished only when at least one certified
5 prescribed burn manager is present on site while the burn is
6 being conducted.

7 2. Require that a written prescription be prepared
8 prior to receiving authorization to burn from the Division of
9 Forestry.

10 3. Be considered in the public interest and shall not
11 constitute a public or private nuisance when conducted
12 pursuant to state air pollution statutes and rules applicable
13 to prescribed burning.

14 4. Be considered a property right of the property
15 owner if naturally occurring vegetative fuels are used and
16 when conducted pursuant to the requirements of this section
17 ~~subsection~~.

18 (b) No property owner or his agent, conducting a
19 prescribed burn pursuant to the requirements of this section
20 ~~subsection~~, shall be liable for damage or injury caused by
21 fire or resulting smoke, unless negligence is proven.

22 Section 8. Subsection (1) of section 601.58, Florida
23 Statutes, is amended to read:

24 601.58 Application approval or disapproval.--

25 (1) Each citrus fruit dealer's license application
26 which is approved, or approved subject to conditions, shall be
27 forwarded immediately to the Department of Agriculture and
28 Consumer Services, ~~Division of Fruit and Vegetables, Bureau of~~
29 ~~Citrus License and Bond~~, which shall, upon satisfaction of the
30 stated conditions, if any are endorsed thereon, issue to the
31 applicant an appropriate license as prescribed in s. 601.60.

1 Section 9. Subsection (1) of section 601.60, Florida
2 Statutes, is amended to read:

3 601.60 Issuance of dealers' licenses.--

4 (1) Whenever an application bears the approved
5 endorsement of the Department of Citrus and satisfactions of
6 conditions of approval, if any, and the applicant has paid the
7 prescribed fee, the Department of Agriculture and Consumer
8 Services shall issue to such applicant a license, as approved
9 by the Department of Citrus, which shall entitle the licensee
10 to do business as a citrus fruit dealer during the effective
11 term of such license in accordance with s. 601.55 or until
12 such license may be suspended or revoked by the Department of
13 Agriculture and Consumer Services in accordance with the
14 provisions of law. The Department of Agriculture and Consumer
15 Services may refuse to issue a license to an applicant who:

16 (a) Is under investigation for an action that would
17 constitute a violation of this chapter; or

18 (b) Has pending against such applicant an
19 administrative or civil proceeding which alleges an action
20 that would constitute a violation of this chapter.

21 Section 10. Subsections (2) and (4) of section 601.67,
22 Florida Statutes, are renumbered as subsections (3) and (5),
23 respectively, subsection (3) is renumbered as subsection (4)
24 and amended, and a new subsection (2) is added to said
25 section, to read:

26 601.67 Disciplinary action by Department of
27 Agriculture and Consumer Services against citrus fruit
28 dealers.--

29 (2) The department may impose a fine not exceeding
30 \$50,000 per violation against any person who operates as a
31 citrus fruit dealer without a current citrus fruit dealer

1 license issued by the department pursuant to s. 601.60. In
2 addition, the department may order such person to cease and
3 desist operating as a citrus fruit dealer without a license.
4 An administrative order entered by the department under this
5 subsection may be enforced pursuant to s. 601.73.

6 (4)~~(3)~~ Any fine imposed pursuant to subsection (1), ~~or~~
7 subsection (2), or subsection (3), when paid, shall be
8 deposited by the Department of Agriculture and Consumer
9 Services into its General Inspection Trust Fund.

10 Section 11. Subsection (9) of section 602.065, Florida
11 Statutes, 1996 Supplement, is amended to read:

12 602.065 Citrus canker claims; procedures.--

13 (9) The Department of Legal Affairs shall provide
14 representation and assistance to the Office of Citrus Canker
15 Claims and may provide representation to any state agency
16 affected by this act. The Department of Legal Affairs shall
17 also take all necessary and appropriate action determined to
18 be available to ensure that the Federal Government releases to
19 the State of Florida any available funds which reimburse the
20 state the Federal Government's share of the costs arising from
21 the eradication of citrus canker. All funds received by the
22 state from the Federal Government to reimburse the state for
23 its share of the costs arising from the eradication of the
24 citrus canker shall be deposited in the Plant Industry Trust
25 Fund and shall be used only for the eradication of citrus
26 canker.~~divided and deposited in the following proportions:~~

27 ~~(a) Fifty percent into the General Revenue Fund; and~~
28 ~~(b) Fifty percent into the Citrus Advertising Trust~~
29 ~~Fund.~~

30 Section 12. Subsection (3) of section 604.15, Florida
31 Statutes, is amended to read:

1 604.15 Dealers in agricultural products;
2 definitions.--For the purpose of ss. 604.15-604.34, the
3 following words and terms, when used, shall be construed to
4 mean:
5 (3) "Agricultural products" means the natural products
6 of the farm, nursery, grove, orchard, vineyard, garden, and
7 apiary (raw or manufactured); livestock; milk and milk
8 products; poultry and poultry products; the fruit of the saw
9 palmetto (meaning the fruit of the Serenoa repens);and limes
10 (meaning the fruit Citrus aurantifolia, variety Persian,
11 Tahiti, Bearss, or Florida Key limes) produced in the state,
12 except tobacco, tropical foliage, sugarcane, and citrus other
13 than limes.

14 Section 13. This act shall take effect upon becoming a
15 law.

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18 HOUSE SUMMARY

19 Revises certain provisions relating to the plant
20 industry, forestry and forest protection, the Florida
21 Citrus Code, citrus canker disease, and dealers in
22 agricultural products under the regulatory authority of
23 the Department of Agriculture and Consumer Services.
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