

By Senator King

8-1831-99

See HB 539

1 A bill to be entitled
2 An act relating to forestry; providing
3 definitions; defining "champion tree" and
4 "candidate champion tree" for purposes of the
5 act; providing legislative intent; requiring
6 the Division of Forestry of the Department of
7 Agriculture and Consumer Services to develop
8 and maintain a registry of champion and
9 candidate champion trees; providing procedure
10 for proposal of inclusion of a tree to the
11 registry; providing for specified notice by the
12 division; providing procedure for approval of a
13 candidate champion tree for inclusion on the
14 registry; requiring protection of proposed
15 champion and proposed candidate champion trees
16 during specified periods; prohibiting the
17 taking of champion or candidate champion trees
18 on the registry; providing exceptions;
19 providing conditions under which the division
20 shall issue a permit for such taking;
21 prohibiting the trimming and pruning of
22 champion or candidate champion trees; providing
23 exceptions; prohibiting certain actions related
24 to propagation of champion or candidate
25 champion trees; providing exceptions; providing
26 that ownership of champion or candidate
27 champion trees located on public or private
28 lands remains with the landowner, subject to a
29 declared public trust in such trees; authorizes
30 taking of such trees by a private landowner
31 only in compliance with the act; requiring

1 certain notice; authorizing the division to
2 manage or cooperate in specified projects and
3 conduct or contract for certain research;
4 authorizing the division to establish programs
5 and enter into cooperative agreements;
6 providing for the establishment of rules;
7 providing civil fines and remedies; providing a
8 penalty for violation of the act; providing an
9 effective date.

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11 Be It Enacted by the Legislature of the State of Florida:

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13 Section 1. Champion trees; candidate champion trees.--

14 (1) DEFINITIONS.--As used in this act, the term:

15 (a) "Candidate champion tree" means any tree that,
16 according to its circumference, measured at 4.5 feet above the
17 ground and its height, is rated a second or third to any
18 champion tree species or genus as measured by national
19 champion standards, or which exceeds or is likely to exceed
20 the standards of a champion or candidate champion tree during
21 its life span.

22 (b) "Champion tree" means any tree within a species or
23 genus that has been or is listed on a recognized list of
24 national or state champion trees, including candidate champion
25 trees.

26 (c) "Champion tree habitat" means any organic and
27 inorganic matter, plants, and organisms within a screen
28 created by the outline of the outermost branches of a champion
29 tree drawn perpendicular to the surface of the ground, and
30 also includes any surface water, groundwater, or soils upon

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1 which a champion or candidate champion tree is dependent for
2 its health and survival.

3 (d) "Division" means the Division of Forestry of the
4 Department of Agriculture and Consumer Services.

5 (e) "Registry" means the registry of champion and
6 candidate champion trees developed and maintained under
7 subsection (3).

8 (f) "Person" means any individual, partnership,
9 corporation, association, governmental entity, or other legal
10 entity.

11 (g) "Soil" means the unconsolidated mineral or
12 material on the immediate surface of the earth that serves as
13 a natural medium for growth of woody plants, or the
14 unconsolidated mineral or organic matter on the surface of the
15 earth, which has been subject to and influenced by genetic and
16 environmental factors of parent material, climate,
17 macroorganisms and microorganisms, and topography, all acting
18 over a period of time and producing a product-soil that
19 differs from the materials from which it is derived.

20 (h) "State forester" means the State Forester within
21 the Division of Forestry of the Department of Agriculture and
22 Consumer Services.

23 (i) "Take" means to cut down, collect, injure, harm,
24 or destroy in any manner a champion or candidate champion
25 tree.

26 (j) "Tree" means a woody perennial plant with at least
27 one main dominant trunk or stem having a height greater than 5
28 meters.

29 (2) INTENT.--The protection, management,
30 sustainability, and restoration of Florida's trees and forests
31 are of paramount concern to the state. Located within the

1 state are older magnificent trees that have been or may be
2 identified as national champion trees or state champion trees
3 according to lists and records maintained by national and
4 state tree or forestry organizations. These champion trees
5 took root before the modern industrial age and have survived
6 as living examples of an extraordinarily rare, unique, and
7 valuable biological heritage. The educational, scientific,
8 ecological, and aesthetic value of these trees, as well as
9 their value for purposes of reforestation, is inestimable.
10 Accordingly, it is the intent of the Legislature that national
11 and state champion trees, their roots, soils, and habitat are
12 declared to be a public trust and are of paramount concern for
13 the conservation and development of the natural resources and
14 environment of the state.

15 (3) REGISTRY.--

16 (a) The division shall develop and maintain a registry
17 of champion and candidate champion trees that describes the
18 family, genus, and species of each tree included in the
19 registry, the measurements or parameters substantiating its
20 designation as a protected tree under this act, and the
21 section, town, and range of its location. Once a tree is
22 placed on the registry as a champion or candidate champion
23 tree, the tree shall remain on the registry as an "emeritus"
24 champion tree.

25 (b) Any person may submit to the division a proposal
26 for the inclusion of a champion or candidate champion tree to
27 the registry. The person proposing the classification of a
28 tree as a champion or candidate champion tree shall provide to
29 the division all of the following:

30 1. The family, genus, and species of the tree.

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1 2. The applicable measurements of the tree according
2 to both state and national champion standards. If a tree meets
3 or exceeds the state or national champion standards, it shall
4 be prima facie evidence of its classification as a champion
5 tree.

6 3. The soils, hydrology, and habitat of the tree.

7 4. The location of the tree according to section,
8 town, and range.

9 5. If on private property, written consent to the
10 inclusion of the tree on the registry by the private
11 landowner.

12 6. Any other botanical, biological, scientific, or
13 ecological evidence demonstrating a likelihood for inclusion
14 on the registry as a candidate champion tree.

15 (c) The division, through the State Forester, shall
16 give written notice in its publications, public notices, and
17 calendar of any submission for classification as a champion or
18 candidate champion tree, and shall give written notice to the
19 colleges and universities in the state, university research
20 facilities conducting research in agriculture or natural
21 resources, agricultural or botanical organizations or
22 societies, the landowner on whose property the proposed
23 candidate tree is located, and any other person who has made
24 request in writing to the State Forester or the division to be
25 placed on a notice list to be maintained by the State Forester
26 for such submissions.

27 (d) Upon receipt of a complete submission under
28 paragraph (b), the department shall classify the subject tree
29 as a proposed champion or proposed candidate champion tree and
30 shall study and evaluate the submission in cooperation with
31 university and college professors, scientists, and students

1 engaged in agriculture, forestry, horticulture, and plant
2 sciences, and representatives or professionals associated with
3 nonprofit organizations or other entities whose primary
4 purpose is the protection of trees, forestry, forest
5 management or reforestation, or animal and plant-life habitats
6 or communities. A member of the public shall have the
7 opportunity to submit information regarding any submission.
8 The division, through the State Forester, shall study, in
9 cooperation with other professionals or experts as provided in
10 this subsection, the proposed candidate champion tree for a
11 period of 1 calendar year, after which the division shall make
12 a decision within 120 days either approving or denying the
13 proposed addition to the registry. If the decision is not made
14 within this 120-day period, then the proposed candidate tree
15 shall be considered added to the registry. The division shall
16 conduct meetings with interested persons as described in this
17 subsection and give written notice of such meetings as
18 provided in paragraph (c).

19 (e) During any study, evaluation, or decision period
20 for the consideration of a proposed champion or candidate
21 champion tree, the proposed champion or candidate champion
22 tree shall be protected as if it were a champion or candidate
23 champion tree under the provisions of this act.

24 (4) TAKING PROHIBITED; EXCEPTIONS.--

25 (a) A champion or candidate champion tree on the
26 registry shall not be taken except as authorized in this
27 subsection.

28 (b) A person shall not take any champion or candidate
29 champion tree on the registry unless either of the following
30 conditions are met:

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1 1. The action is necessary to prevent an immediate
2 threat to the safety or well-being of any person or an
3 immediate threat of damage to property.

4 2. A permit for taking has been issued under this
5 subsection.

6 (c) The division, upon application, shall grant a
7 permit to take a champion tree or a candidate champion tree on
8 the registry if either of the following conditions are met:

9 1. There is no feasible and prudent alternative to the
10 proposed taking in order to protect the safety and well-being
11 of persons and property, and proper viable cuttings have been
12 obtained or contractually arranged for to achieve successful
13 propagation at a qualified tree nursery, university research
14 facility, or living library on an approved list established by
15 the division.

16 2. It is shown that the tree is diseased and dying,
17 with clear scientific evidence that the tree will not survive
18 more than 5 years from the date of the application for the
19 permit, and proper viable cuttings have been obtained or
20 secured in the same manner as provided in subparagraph 1.

21 (d) A person shall not trim, prune, or engage in other
22 similar action with respect to a champion or candidate
23 champion tree on the registry to prevent deterioration or
24 maintain or enhance the health or viability of such tree
25 unless it has been shown by the applicant and determined by
26 the State Forester in consultation with university professors,
27 experts, and other professionals that there is no likelihood
28 of long-term injury to the sustainability of the tree.

29 (e) A person shall not trim, collect, or remove a
30 portion of a branch of a champion or candidate champion tree
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1 on the list for purposes of propagation unless it is shown
2 that either of the following exists:
3 1. If a champion or candidate champion tree is located
4 on private property, written consent has been obtained from
5 the owner of the land on which any portion of the tree or its
6 habitat is located.
7 2. If a champion or candidate champion tree is located
8 on public land, proper permission has been obtained from the
9 division and the governmental owner of the land on which any
10 portion of the tree or its habitat is located.
11 (5) OWNERSHIP; RIGHTS OF OWNER.--
12 (a) It is recognized that champion or candidate
13 champion trees may be located on public or private lands.
14 Regardless of the title of these lands or legal ownership of a
15 champion or candidate champion tree, it remains in the
16 ownership of the landowner subject to a declared public trust
17 in these trees and their propagation for the purposes of this
18 act. To protect the public trust, a tree may be taken by the
19 private landowner only in compliance with the provisions of
20 this act. However, the public trust shall not deprive or deny
21 any private landowner of his or her lawful use of any such
22 tree.
23 (b) A person who owns and sells, transfers, leases, or
24 licenses any land on which a champion or candidate champion
25 tree on the registry is located shall give notice to the
26 purchaser, transferee, lessee, or licensee of the existence
27 and location of the champion or candidate champion tree.
28 (6) DUTIES OF DIVISION.--
29 (a) The division may manage or cooperate in the
30 management of conservation, forestry, agricultural,
31 horticulture, or plant science propagation projects related to

1 any champion, candidate champion, or proposed candidate
2 champion trees and their habitat. The division may conduct,
3 contract, or arrange for research and investigations in the
4 habitat, health, conditions, or other biological or management
5 data required to maintain or enhance the health, protection,
6 propagation, or reforestation of any champion or candidate
7 champion tree or its root stock.

8 (b) The division may establish programs, including
9 acquisition of trees and habitat through conservation or
10 nondevelopment easements, nurseries, or living libraries of
11 trees propagated from root stock or other method from a
12 champion or candidate champion tree, as are considered
13 necessary to carry out the provisions of this act. To carry
14 out these programs, the division may enter into cooperative
15 agreements with a person who has appropriate knowledge or
16 expertise.

17 (c) The division shall establish rules to implement
18 the provisions of this act.

19 (7) CIVIL FINES; REMEDIES.--

20 (a) The division may impose a civil fine of up to
21 \$2,500 for each occurrence of a violation of the provisions of
22 this act.

23 (b) In addition to or in lieu of a civil fine under
24 paragraph (a), the circuit court may, upon petition, provide
25 injunctive or other appropriate relief for a violation of this
26 act.

27 (c) Any person who is aggrieved or injured by reason
28 of a violation of the provisions of this act may bring an
29 action therefor in the appropriate circuit court of this state
30 and shall recover the actual damages sustained and the costs
31 of such action, including a reasonable attorney's fee.

