

By the Committee on Agriculture and Consumer Services; and  
Senator Thomas

303-1777-00

1                                   A bill to be entitled  
2           An act relating to protection of agriculture  
3           and horticulture; amending s. 581.091, F.S.;  
4           clarifying provisions with respect to a  
5           requirement to immediately inform the  
6           Department of Agriculture and Consumer Services  
7           upon receipt or possession of any noxious weed,  
8           plant, plant product, or regulated article  
9           infected or infested with any plant pest,  
10          declared to be a threat to the state's  
11          agricultural and horticultural interests, and  
12          to hold such weed, plant, or article for  
13          inspection; providing that it is unlawful to  
14          fail to disclose information regarding any  
15          infected or infested plant, plant product,  
16          regulated article, or noxious weed; amending s.  
17          581.184, F.S.; defining the terms "infected or  
18          infested" and "exposed to infection" for  
19          purposes of the act; requiring the department  
20          to develop a statewide program of  
21          decontamination to prevent and limit the spread  
22          of citrus canker disease; providing program  
23          requirements; authorizing the department to  
24          develop specified compliance agreements and  
25          other agreements; requiring county sheriffs,  
26          upon request of the department, to provide  
27          assistance in obtaining access to private  
28          property for the purpose of enforcing citrus  
29          canker eradication efforts; specifying  
30          responsibilities of the sheriff; authorizing  
31          the department to reimburse the sheriff for

1 reasonable costs of implementing the provisions  
2 of the act; providing for satisfaction of  
3 specified notice requirements; providing an  
4 effective date.

5  
6 WHEREAS, the citrus industry is very important to  
7 Florida's economy, generating \$8 billion in revenue and  
8 providing nearly 100,000 jobs for Floridians, and

9 WHEREAS, every citizen in the state benefits from  
10 property taxes, sales taxes, and other revenues generated by  
11 the citrus industry, and

12 WHEREAS, Florida is known worldwide for its fresh and  
13 processed citrus, and

14 WHEREAS, an emergency exists in the South Florida area  
15 regarding the spread of citrus canker, a bacterial disease  
16 that damages fruit, weakens and eventually kills trees, is  
17 highly contagious, and the presence of which causes  
18 quarantines to be imposed on the shipment of fresh fruit, and

19 WHEREAS, joint state and federal attempts to eradicate  
20 citrus canker have so far been unsuccessful, and

21 WHEREAS, despite destruction of citrus trees infected  
22 with citrus canker and of citrus trees within 125 feet of  
23 canker-infected trees, citrus canker has spread at an alarming  
24 rate and is now present throughout Miami-Dade County and  
25 Broward County, and

26 WHEREAS, if not eradicated quickly, citrus canker will  
27 spread to other parts of the state and may destroy the citrus  
28 industry and dooryard citrus throughout Florida, and

29 WHEREAS, recent scientific studies have shown that  
30 citrus trees as far as 1,900 feet from infected citrus trees

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1 will develop the disease from wind-blown rain or by other  
2 means, and

3 WHEREAS, the Third District Court of Appeals, in Luis  
4 Varela, et al. v. State of Florida, Department of Agriculture  
5 and Consumer Services, DCA Case No. 98-2966, held that citrus  
6 trees within a certain radius of infection (originally thought  
7 to be 125 feet but now scientifically determined to be at  
8 least 1,900 feet) necessarily harbor the citrus canker  
9 bacteria and thus are diseased and have no value, NOW,  
10 THEREFORE,

11

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

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14

15 Section 1. Section 581.091, Florida Statutes, is  
16 amended to read:

17 581.091 Noxious weeds and infected plants or regulated  
18 articles; sale or distribution; receipt; information to  
19 department; withholding information.--

20 (1) It is unlawful for any person to knowingly sell,  
21 offer for sale, or distribute any noxious weed, or any plant  
22 or plant product or regulated article infested or infected  
23 with any plant pest declared, by rule of the department, to be  
24 a public nuisance or a threat to the state's agricultural and  
25 horticultural interests.

26 (2) Any person who knows or reasonably should know  
27 that such person possesses or has received ~~knowingly receives~~  
28 any noxious weed or any plant, plant product, or regulated  
29 article sold, given away, carried, shipped, or delivered for  
30 carriage or shipment ~~within this state,~~ in violation of the  
31 provisions of this chapter or the rules adopted thereunder

1 shall immediately inform the department and isolate and hold  
2 the weed, plant, plant product, or other thing unopened or  
3 unused subject to inspection or other disposition as may be  
4 provided by the department.

5 (3) It is unlawful for any person to fail to disclose  
6 ~~knowingly conceal~~ or ~~willfully~~ withhold available information  
7 regarding any infected or infested plant, plant product,  
8 regulated article, or noxious weed.

9 Section 2. Section 581.184, Florida Statutes, is  
10 amended to read:

11 581.184 Adoption ~~Promulgation~~ of rules; citrus canker  
12 eradication; voluntary destruction agreements; buffer zone.--

13 (1) As used in this section, the term:

14 (a) "Infected or infested" means citrus trees  
15 harboring the citrus canker bacteria and exhibiting visible  
16 symptoms of the disease.

17 (b) "Exposed to infection" means citrus trees  
18 harboring the citrus canker bacteria due to their proximity,  
19 within a 1,900-foot radius, to infected citrus trees, and  
20 which do not yet exhibit visible symptoms of the disease but  
21 which will develop symptoms over time, at which point such  
22 trees will have infected other citrus trees.

23 (2)~~(1)~~ In addition to the powers and duties set forth  
24 under this chapter, the department is directed to adopt rules  
25 specifying facts and circumstances that, if present, would  
26 require the destruction of plants for purposes of eradicating,  
27 controlling, or preventing the dissemination of citrus canker  
28 disease in the state. In addition, the department is directed  
29 to adopt rules regarding the conditions under which citrus  
30 plants can be grown, moved, and planted in this state as may  
31 be necessary for the eradication, control, or prevention of

1 the dissemination of citrus canker. Such rules shall be in  
2 effect for any period during which, in the judgment of the  
3 Commissioner of Agriculture, there is the threat of the spread  
4 of citrus canker disease in the state. Such rules may provide  
5 for the conduct of any activity regulated by such rules  
6 subject to an agreement by persons wishing to engage in such  
7 activity to voluntarily destroy, at their own expense, citrus  
8 plants declared by the department to be imminently dangerous  
9 by reason of being infected or infested with citrus canker or  
10 exposed to infection and likely to communicate same. The  
11 terms of such agreement may also require the destruction of  
12 healthy plants under specified conditions. Any such  
13 destruction shall be done after reasonable notice in a manner  
14 pursuant to and under conditions set forth in the agreement.  
15 Such agreements may include releases and waivers of liability  
16 and may require the agreement of other persons.

17 ~~(3)(2)~~ The department, pursuant to s. 581.031(15) and  
18 (17), may create a citrus canker host-free buffer area,  
19 delineated by department rule, to retard the spread of citrus  
20 canker from known infected areas. In addition, the department  
21 shall develop a compensation plan for the trees removed from  
22 the buffer area. Compensation for the trees removed from the  
23 buffer area is subject to annual legislative appropriation.

24 (4) The department shall develop by rule, pursuant to  
25 ss. 120.54 and 120.536(1), a statewide program of  
26 decontamination to prevent and limit the spread of citrus  
27 canker disease. Such program shall address the application of  
28 decontamination procedures and practices to all citrus plants  
29 and plant products, vehicles, equipment, machinery, tools,  
30 objects, and persons who could in any way spread or aid in the  
31 spreading of citrus canker in this state. The department may

1 develop compliance and other agreements which it determines  
2 can aid in the carrying out of the purposes of this section,  
3 and enter into such agreements with any person or entity.

4 (5) Upon request of the department, the sheriff of  
5 each county in the state shall provide assistance in obtaining  
6 access to private property for the purpose of enforcing the  
7 provisions of this section. The sheriff shall be responsible  
8 for maintaining public order during the eradication process  
9 and protecting the safety of department employees,  
10 representatives, and agents charged with implementing and  
11 enforcing the provisions of this section. The department may  
12 reimburse the sheriff for the reasonable costs of implementing  
13 the provisions of this subsection.

14 (6) Posting of an order on the property on which  
15 citrus trees are to be cut pursuant to the citrus canker  
16 eradication program shall meet the notice requirement of s.  
17 120.569(1).

18 Section 3. This act shall take effect upon becoming a  
19 law.

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21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
22 COMMITTEE SUBSTITUTE FOR  
23 Senate Bill 1114

24 The Committee Substitute for Senate Bill 1114 is different  
25 from Senate Bill 1114 in that it:

- 26 \* Clarifies the Department of Agriculture and Consumer  
Services' authority to eradicate citrus canker.
- 27 \* Authorizes the department to develop a statewide program  
28 of decontamination to prevent and limit the spread of  
citrus canker.
- 29 \* Requires a person to notify the department when they  
30 have received or are in possession of a noxious weed or  
any plant, plant product, or regulated article infected  
31 or infested with any plant pest which has been declared  
to be a threat to the state's agricultural and  
horticultural interests.