

By the Committee on Agriculture and Representatives
Putnam, Peadar, Bainter, Harrington, Spratt, J. Miller,
Patterson and Stansel

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 "infected or infested"
18 and "exposed to infection" for purposes of the
19 act; requiring the department to develop a risk
20 assessment program for commercial planting;
21 requiring the department to develop a statewide
22 program of decontamination to prevent and limit
23 the spread of citrus canker disease; providing
24 program requirements; authorizing the
25 department to develop specified compliance
26 agreements and other agreements; requiring
27 county sheriffs, upon request of the
28 department, to provide assistance in obtaining
29 access to private property for the purpose of
30 enforcing citrus canker eradication efforts;
31 specifying responsibilities of the sheriff;

1 authorizing the department to reimburse the
2 sheriff for reasonable costs of implementing
3 the provisions of the act; providing for
4 satisfaction of specified notice requirements;
5 amending s. 298.22, F.S.; authorizing water
6 control districts to construct and operate
7 facilities to control and prevent agricultural
8 pests and diseases; providing an effective
9 date.

10
11 WHEREAS, the citrus industry is very important to
12 Florida's economy, generating \$8 billion in revenue and
13 providing nearly 100,000 jobs for Floridians, and

14 WHEREAS, every citizen in the state benefits from
15 property taxes, sales taxes, and other revenues generated by
16 the citrus industry, and

17 WHEREAS, Florida is known worldwide for its fresh and
18 processed citrus, and

19 WHEREAS, an emergency exists in the South Florida area
20 regarding the spread of citrus canker, a bacterial disease
21 that damages fruit, weakens and eventually kills trees, is
22 highly contagious, and the presence of which causes
23 quarantines to be imposed on the shipment of fresh fruit, and

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

26 WHEREAS, despite destruction of citrus trees infected
27 with citrus canker and of citrus trees within 125 feet of
28 canker-infected trees, citrus canker has spread at an alarming
29 rate and is now present throughout Miami-Dade County and
30 Broward County, and

31

1 WHEREAS, if not eradicated quickly, citrus canker will
2 spread to other parts of the state and may destroy the citrus
3 industry and dooryard citrus throughout Florida, and

4 WHEREAS, recent scientific studies have shown that
5 citrus trees as far as 1,900 feet from infected citrus trees
6 will develop the disease from wind-blown rain or by other
7 means, and

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

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 581.091, Florida Statutes, is
20 amended to read:

21 581.091 Noxious weeds and infected plants or regulated
22 articles; sale or distribution; receipt; information to
23 department; withholding information.--

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

30 (2) Any person who knows or reasonably should know
31 that such person possesses or has received ~~knowingly receives~~

1 any noxious weed or any plant, plant product, or regulated
2 article sold, given away, carried, shipped, or delivered for
3 carriage or shipment ~~within this state~~, in violation of the
4 provisions of this chapter or the rules adopted thereunder
5 shall immediately inform the department and isolate and hold
6 the weed, plant, plant product, or other thing unopened or
7 unused subject to inspection or other disposition as may be
8 provided by the department.

9 (3) It is unlawful for any person to fail to disclose
10 ~~knowingly conceal~~ or ~~willfully~~ withhold available information
11 regarding any infected or infested plant, plant product,
12 regulated article, or noxious weed.

13 Section 2. Section 581.184, Florida Statutes, is
14 amended to read:

15 581.184 Promulgation of rules; citrus canker
16 eradication; voluntary destruction agreements; buffer zone.--

17 (1) For the purposes of this section:

18 (a) "Infected or infested" means citrus trees
19 harboring the citrus canker bacteria and exhibiting visible
20 symptoms of the disease.

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

27 (2)~~(1)~~ In addition to the powers and duties set forth
28 under this chapter, the department is directed to adopt rules
29 specifying facts and circumstances that, if present, would
30 require the destruction of plants for purposes of eradicating,
31 controlling, or preventing the dissemination of citrus canker

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

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

28 (4) The department shall develop by rule, pursuant to
29 ss. 120.54 and 120.536(1), and implement a risk assessment
30 program for commercial planting.
31

1 (5) The department shall develop by rule, pursuant to
2 ss. 120.54 and 120.536(1), a statewide program of
3 decontamination to prevent and limit the spread of citrus
4 canker disease. Such program shall address the application of
5 decontamination procedures and practices to all citrus plants
6 and plant products, vehicles, equipment, machinery, tools,
7 objects, and persons who could in any way spread or aid in the
8 spreading of citrus canker in this state. The department may
9 develop compliance and other agreements which it determines
10 can aid in the carrying out of the purposes of this section,
11 and enter into such agreements with any person or entity.

12 (6) Upon request of the department, the sheriff of
13 each county in the state shall provide assistance in obtaining
14 access to private property for the purpose of enforcing the
15 provisions of this section. The sheriff shall be responsible
16 for maintaining public order during the eradication process
17 and protecting the safety of department employees,
18 representatives, and agents charged with implementing and
19 enforcing the provisions of this section. The department may
20 reimburse the sheriff for the reasonable costs of implementing
21 the provisions of this subsection.

22 (7) Posting of an order on the property on which
23 citrus trees are to be cut pursuant to the citrus canker
24 eradication program shall meet the notice requirement of s.
25 120.569(1).

26 Section 3. Subsection (11) is added to section 298.22,
27 Florida Statutes, to read:

28 298.22 Powers of supervisors.--The board of
29 supervisors of the district has full power and authority to
30 construct, complete, operate, maintain, repair, and replace
31 any and all works and improvements necessary to execute the

1 water control plan. Subject to the applicable provisions of
2 chapter 373 or chapter 403, the board of supervisors:

3 (11) May construct and operate facilities to control
4 and prevent agricultural pests and diseases.

5 Section 4. This act shall take effect upon becoming a
6 law.

7
8 *****

9 HOUSE SUMMARY

10 Clarifies provisions with respect to a requirement to
11 immediately inform the Department of Agriculture and
12 Consumer Services upon receipt or possession of any
13 noxious weed, plant, plant product, or regulated article
14 infested or infected with any plant pest, declared to be
15 a threat to the state's agricultural and horticultural
16 interests, and to hold such weed, plant, or article for
17 inspection. Provides that it is unlawful to fail to
18 disclose information regarding any infected or infested
19 plant, plant product, regulated article, or noxious weed.
20 Defines "infected or infested" and "exposed to infection"
21 for purposes of the act. Requires the department to
22 develop a risk assessment program for commercial
23 planting. Requires the department to develop a statewide
24 program of decontamination to prevent and limit the
25 spread of citrus canker disease. Provides program
26 requirements. Authorizes the department to develop
27 specified compliance agreements and other agreements for
28 the purpose of carrying out the provisions of the act.
29 Requires county sheriffs, upon request of the department,
30 to provide assistance in obtaining access to private
31 property for the purpose of enforcing citrus canker
eradication efforts. Specifies responsibilities of the
sheriff. Authorizes the department to reimburse the
sheriff for reasonable costs of implementing the
provisions of the act. Provides that posting of an order
on property on which citrus trees are to be cut meets
specified notice requirements. Authorizes water control
districts to construct and operate facilities to control
and prevent agricultural pests and diseases.