

1 private property for the purpose of enforcing
2 citrus canker eradication efforts; specifying
3 responsibilities of the sheriff; authorizing
4 the department to reimburse the sheriff for
5 reasonable costs of implementing the provisions
6 of the act; providing for satisfaction of
7 specified notice requirements; amending s.
8 298.22, F.S.; authorizing water control
9 districts to construct and operate facilities
10 to control and prevent agricultural pests and
11 diseases; amending s. 298.005, F.S.; revising
12 the definition of "owner" with respect to water
13 control districts; amending s. 298.11, F.S.;
14 providing that water control district voting
15 rights are based on ownership of assessable
16 acres of land; amending s. 298.12, F.S.;
17 prohibiting landowners in arrears for the
18 previous year's assessments from voting in the
19 annual election of water control district
20 supervisors; amending s. 298.225, F.S.;
21 defining "minor insubstantial amendments" to a
22 water control district's water control plan;
23 providing an effective date.

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

28 WHEREAS, every citizen in the state benefits from
29 property taxes, sales taxes, and other revenues generated by
30 the citrus industry, and

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1 WHEREAS, Florida is known worldwide for its fresh and
2 processed citrus, and

3 WHEREAS, an emergency exists in the South Florida area
4 regarding the spread of citrus canker, a bacterial disease
5 that damages fruit, weakens and eventually kills trees, is
6 highly contagious, and the presence of which causes
7 quarantines to be imposed on the shipment of fresh fruit, and

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

10 WHEREAS, despite destruction of citrus trees infected
11 with citrus canker and of citrus trees within 125 feet of
12 canker-infected trees, citrus canker has spread at an alarming
13 rate and is now present throughout Miami-Dade County and
14 Broward County, and

15 WHEREAS, if not eradicated quickly, citrus canker will
16 spread to other parts of the state and may destroy the citrus
17 industry and dooryard citrus throughout Florida, and

18 WHEREAS, recent scientific studies have shown that
19 citrus trees as far as 1,900 feet from infected citrus trees
20 will develop the disease from wind-blown rain or by other
21 means, and

22 WHEREAS, the Third District Court of Appeals, in Sapp
23 Farms, Inc., v. Florida Department of Agriculture and Consumer
24 Services, DCA Case No. 3D00-487, held that citrus trees within
25 a certain radius of infection (originally thought to be 125
26 feet but now scientifically determined to be at least 1,900
27 feet) necessarily harbor the citrus canker bacteria and thus
28 are diseased and have no value, NOW, THEREFORE,

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

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

3 581.091 Noxious weeds and infected plants or regulated
4 articles; sale or distribution; receipt; information to
5 department; withholding information.--

6 (1) It is unlawful for any person to knowingly sell,
7 offer for sale, or distribute any noxious weed, or any plant
8 or plant product or regulated article infested or infected
9 with any plant pest declared, by rule of the department, to be
10 a public nuisance or a threat to the state's agricultural and
11 horticultural interests.

12 (2) Any person who knows or reasonably should know
13 that such person possesses or has knowingly received ~~knowingly~~
14 ~~receives~~ any noxious weed or any plant, plant product, or
15 regulated article sold, given away, carried, shipped, or
16 delivered for carriage or shipment ~~within this state,~~ in
17 violation of the provisions of this chapter or the rules
18 adopted thereunder shall immediately inform the department and
19 isolate and hold the weed, plant, plant product, or other
20 thing unopened or unused subject to inspection or other
21 disposition as may be provided by the department.

22 (3) It is unlawful for any person to fail to disclose
23 ~~knowingly conceal~~ or ~~willfully~~ withhold available information
24 regarding any infected or infested plant, plant product,
25 regulated article, or noxious weed.

26 Section 2. Section 581.184, Florida Statutes, is
27 amended to read:

28 581.184 Promulgation of rules; citrus canker
29 eradication; voluntary destruction agreements; buffer zone.--

30 (1) For the purposes of this section:
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1 (a) "Infected or infested" means citrus trees
2 harboring the citrus canker bacteria and exhibiting visible
3 symptoms of the disease.

4 (b) "Exposed to infection" means citrus trees
5 harboring the citrus canker bacteria due to their proximity to
6 infected citrus trees, and which do not yet exhibit visible
7 symptoms of the disease but which will develop symptoms over
8 time, at which point such trees will have infected other
9 citrus trees.

10 ~~(2)(1)~~ In addition to the powers and duties set forth
11 under this chapter, the department is directed to adopt rules
12 specifying facts and circumstances that, if present, would
13 require the destruction of plants for purposes of eradicating,
14 controlling, or preventing the dissemination of citrus canker
15 disease in the state. In addition, the department is directed
16 to adopt rules regarding the conditions under which citrus
17 plants can be grown, moved, and planted in this state as may
18 be necessary for the eradication, control, or prevention of
19 the dissemination of citrus canker. Such rules shall be in
20 effect for any period during which, in the judgment of the
21 Commissioner of Agriculture, there is the threat of the spread
22 of citrus canker disease in the state. Such rules may provide
23 for the conduct of any activity regulated by such rules
24 subject to an agreement by persons wishing to engage in such
25 activity to voluntarily destroy, at their own expense, citrus
26 plants declared by the department to be imminently dangerous
27 by reason of being infected or infested with citrus canker or
28 exposed to infection and likely to communicate same. The
29 terms of such agreement may also require the destruction of
30 healthy plants under specified conditions. Any such
31 destruction shall be done after reasonable notice in a manner

1 pursuant to and under conditions set forth in the agreement.
2 Such agreements may include releases and waivers of liability
3 and may require the agreement of other persons.
4 ~~(3)(2)~~ The department, pursuant to s. 581.031(15) and
5 (17), may create a citrus canker host-free buffer area,
6 delineated by department rule, to retard the spread of citrus
7 canker from known infected areas. In addition, the department
8 shall develop a compensation plan for the trees removed from
9 the buffer area. Compensation for the trees removed from the
10 buffer area is subject to annual legislative appropriation.
11 (4) The department shall develop by rule, pursuant to
12 ss. 120.54 and 120.536(1), a statewide program of
13 decontamination to prevent and limit the spread of citrus
14 canker disease. Such program shall address the application of
15 decontamination procedures and practices to all citrus plants
16 and plant products, vehicles, equipment, machinery, tools,
17 objects, and persons who could in any way spread or aid in the
18 spreading of citrus canker in this state. In order to prevent
19 contamination of soil and water, such rules shall be developed
20 in consultation with the Department of Environmental
21 Protection. The department may develop compliance and other
22 agreements which it determines can aid in the carrying out of
23 the purposes of this section, and enter into such agreements
24 with any person or entity.
25 (5) Notwithstanding any other provision of law, the
26 Department of Environmental Protection may not institute
27 proceedings against any person under the provisions of s.
28 376.307(5) to recover any costs or damages associated with
29 contamination of soil or water, or the evaluation, assessment,
30 or remediation of contamination of soil or water, including
31 sampling, analysis, and restoration of soil or potable water

1 supplies, where the contamination of soil or water is
2 determined to be the result of a program of decontamination to
3 prevent and limit the spread of citrus canker disease pursuant
4 to rules developed under this section. This subsection does
5 not limit regulatory authority under a federally delegated or
6 approved program.

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

17 (7) Posting of an order on the property on which
18 citrus trees are to be cut pursuant to the citrus canker
19 eradication program shall meet the notice requirement of s.
20 120.569(1).

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

23 298.22 Powers of supervisors.--The board of
24 supervisors of the district has full power and authority to
25 construct, complete, operate, maintain, repair, and replace
26 any and all works and improvements necessary to execute the
27 water control plan. Subject to the applicable provisions of
28 chapter 373 or chapter 403, the board of supervisors:

29 (11) May construct and operate facilities to control
30 and prevent agricultural pests and diseases.

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1 Section 4. Subsection (2) of section 298.005, Florida
2 Statutes, is amended to read:

3 298.005 Definitions.--As used in this chapter, the
4 term:

5 (2) "Owner" means the owner of the freehold estate,
6 subject to assessment pursuant to this act as appears by the
7 deed record. The term does not include reversioners,
8 remaindermen, or mortgagees, who are not to be counted and
9 need not be notified by publication or served by process, but
10 are to be represented by the present owners of the freehold
11 estate in any proceeding under this chapter.

12 Section 5. Subsection (2) of section 298.11, Florida
13 Statutes, is amended to read:

14 298.11 Landowners' meetings; election of board of
15 supervisors; duties of Department of Environmental
16 Protection.--

17 (2) The landowners, when assembled, shall organize by
18 the election of a chair and secretary of the meeting, who
19 shall conduct the election. At the election, each and every
20 assessable acre of land in the district shall represent one
21 share, and each owner shall be entitled to one vote in person
22 or by proxy in writing duly signed, for every assessable acre
23 of land owned by him or her in the district, and the three
24 persons receiving the highest number of votes shall be
25 declared elected as supervisors. The appointment of proxies
26 shall comply with s. 607.0722. Landowners owning less than 1
27 assessable acre in the aggregate shall be entitled to one
28 vote. Landowners with more than 1 assessable acre are entitled
29 to one additional vote for any fraction of an acre greater
30 than 1/2 acre, when all of the landowners' acreage has been
31 aggregated for purposes of voting. The landowners shall at

1 such election determine the length of the terms of office of
2 each supervisor so elected by them, which shall be
3 respectively 1, 2, and 3 years, and they shall serve until
4 their successors shall have been elected and qualified.

5 Section 6. Subsection (1) of section 298.12, Florida
6 Statutes, is amended to read:

7 298.12 Annual election of supervisors; term of office;
8 vacancy.--

9 (1) Every year in the same month after the time for
10 the election of the first board of supervisors, it shall call
11 a meeting of the landowners in the district in the same manner
12 as is provided for in s. 298.11, and the owners of land in
13 such district shall meet at the stated time and place and
14 elect one supervisor. Owners whose assessments have not been
15 paid for the previous year shall not be entitled to vote.
16 ~~therefor, or~~ In case of ~~their~~ failure to elect, the Governor
17 shall appoint such supervisor, who shall hold the supervisor's
18 office for 3 years or until his or her successor is elected
19 and qualified; and in case of a vacancy in any office of
20 supervisor elected by the landowners, the remaining
21 supervisors or, if they fail to act within 30 days, the
22 Governor may fill such vacancy until the next annual meeting,
23 when a successor shall be elected for the unexpired term.

24 Section 7. Subsection (8) of section 298.225, Florida
25 Statutes, is amended to read:

26 298.225 Water control plan; plan development and
27 amendment.--

28 (8) If the preparation of a water control plan or
29 amendment under this section does not result in revision of
30 the district's current plan or require the alteration or
31 increase of any levy of assessments or taxes beyond the

1 maximum amount previously authorized by general law, special
2 law, or judicial proceeding, a change in the use of said
3 assessments or taxes, or substantial change to district
4 facilities, the provisions of s. 298.301(2)-(9) do not apply
5 to the plan adoption process. This section and s. 298.301 do
6 not apply to minor,insubstantial amendments to district plans
7 ~~authorized by special law.~~ Minor insubstantial amendments
8 shall include amendments to the water control plan which
9 replace, relocate, reconstruct, or improve and upgrade
10 district facilities and operations consistent with the adopted
11 water control plan but do not require increasing assessments
12 beyond the maximum amount authorized by law.

13 Section 8. This act shall take effect upon becoming a
14 law.

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