

Bill No. SB 1926

Amendment No. 1 Barcode 322556

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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The Committee on Agriculture and Consumer Services recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 581.184, Florida Statutes, is amended to read:

581.184 Adoption of rules; citrus canker eradication; voluntary destruction agreements; buffer zone.--

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

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

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

Bill No. SB 1926Amendment No. 1 Barcode 322556

1 (2) Notice of the removal of citrus trees may be
2 provided to the owner of the property on which the trees are
3 located by search warrant. A search warrant issued under this
4 section must contain notice to the property owner that the
5 citrus trees that are the subject of the search warrant will
6 be removed and destroyed unless the property owner, within 10
7 days after delivery of the search warrant under subsection
8 (5), requests and obtains a stay of the tree removal from the
9 district court of appeal having jurisdiction to review such
10 requests. The property owner is not required to seek a stay of
11 the tree removal by the department before seeking the stay
12 from the district court of appeal.

13 (3) Simultaneously with the delivery of a search
14 warrant under this section, the department shall also provide
15 the following information to the property owner:

16 (a) The physical location of the infected tree that
17 has necessitated destruction of the property owner's tree;

18 (b) The diagnostic report that resulted in the
19 determination that the tree is infected with the citrus
20 canker; and

21 (c) The distance between the infected citrus tree and
22 the property owner's nearest citrus tree.~~In addition to the~~
23 ~~powers and duties set forth under this chapter, the department~~
24 ~~is directed to adopt rules specifying facts and circumstances~~
25 ~~that, if present, would require the destruction of plants for~~
26 ~~purposes of eradicating, controlling, or preventing the~~
27 ~~dissemination of citrus canker disease in the state.~~

28 (4) In addition, the department is directed to adopt
29 rules regarding the conditions under which citrus plants,
30 other than those that are infected or exposed to infection,
31 can be grown, moved, and planted in this state as may be

Bill No. SB 1926Amendment No. 1 Barcode 322556

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

18 (5) Any search warrant issued under this section may
19 be delivered in person, by certified mail, or by attaching the
20 search warrant to a conspicuous place on the property on which
21 the citrus trees to be removed are located.

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

29 ~~(6)(4)~~ The department shall develop by rule, pursuant
30 to ss. 120.536(1) and 120.54, a statewide program of
31 decontamination to prevent and limit the spread of citrus

Bill No. SB 1926Amendment No. 1 Barcode 322556

1 canker disease. Such program shall address the application of
2 decontamination procedures and practices to all citrus plants
3 and plant products, vehicles, equipment, machinery, tools,
4 objects, and persons who could in any way spread or aid in the
5 spreading of citrus canker in this state. In order to prevent
6 contamination of soil and water, such rules shall be developed
7 in consultation with the Department of Environmental
8 Protection. The department may develop compliance and other
9 agreements which it determines can aid in the carrying out of
10 the purposes of this section, and enter into such agreements
11 with any person or entity.

12 ~~(7)(5)~~ Owners and ~~and/or~~ operators of nonproduction
13 vehicles and equipment shall follow the department guidelines
14 for citrus canker decontamination effective June 15, 2000.
15 The department shall publish the guidelines in the Florida
16 Administrative Weekly and on the department Internet website.
17 ~~The guidelines shall be posted no later than May 15, 2000.~~

18 ~~(8)(6)~~ Notwithstanding any provision of law, the
19 Department of Environmental Protection is not authorized to
20 institute proceedings against any person under the provisions
21 of s. 376.307(5) to recover any costs or damages associated
22 with contamination of soil or water, or the evaluation,
23 assessment, or remediation of contamination of soil or water,
24 including sampling, analysis, and restoration of soil or
25 potable water supplies, where the contamination of soil or
26 water is determined to be the result of a program of
27 decontamination to prevent and limit the spread of citrus
28 canker disease pursuant to rules developed under this section.
29 This subsection does not limit regulatory authority under a
30 federally delegated or approved program.

31 ~~(9)(7)~~ Upon request of the department, the sheriff or

Bill No. SB 1926Amendment No. 1 Barcode 322556

1 chief law enforcement officer of each county in the state
2 shall provide assistance in obtaining access to private
3 property for the purpose of enforcing the provisions of this
4 section. The sheriff or chief law enforcement officer shall be
5 responsible for maintaining public order during the
6 eradication process and protecting the safety of department
7 employees, representatives, and agents charged with
8 implementing and enforcing the provisions of this section. The
9 department may reimburse the sheriff for the reasonable costs
10 of implementing the provisions of this subsection.

11 (10)(8) Posting of an order on the property on which
12 citrus trees are to be cut pursuant to the citrus canker
13 eradication program shall meet the notice requirement of s.
14 120.569(1).

15 (11) The department shall adopt by rule a
16 quality-control program under which the department or its
17 contractors shall within, 72 hours after written notification
18 of the damage by a property owner to the department, commence
19 repair of damage to the premises of any property owner whose
20 citrus trees are removed under this section.

21 (12) Upon request of any local governing body, the
22 department shall conduct training classes to educate
23 environmental-resources employees of the local governing body.

24 (13) Upon request of any municipality in which citrus
25 trees are being removed under this section, the department
26 shall post, during the period in which citrus trees are being
27 removed from the municipality under this section, a department
28 employee in the administrative officers of the municipality to
29 provide information to residents concerning the removal of
30 trees under this section.

31 Section 2. Section 933.02, Florida Statutes, is

Bill No. SB 1926

Amendment No. 1 Barcode 322556

1 amended to read:

2 933.02 Grounds for issuance of search warrant.--Upon
 3 proper affidavits being made a search warrant may be issued
 4 under the provisions of this chapter upon any of the following
 5 grounds:

6 (1) When the property shall have been stolen or
 7 embezzled in violation of law;

8 (2) When any property shall have been used:

9 (a) As a means to commit any crime,

10 (b) In connection with gambling, gambling implements
 11 and appliances, or

12 (c) In violation of s. 847.011 or other laws in
 13 reference to obscene prints and literature;

14 (3) When any property constitutes evidence relevant to
 15 proving that a felony has been committed;

16 (4) When any property is being held or possessed:

17 (a) In violation of any of the laws prohibiting the
 18 manufacture, sale, and transportation of intoxicating liquors,
 19 ~~or~~

20 (b) In violation of the fish and game laws, ~~or~~

21 (c) In violation of the laws relative to food and
 22 drug,~~+~~

23 (d) In violation of a quarantine for citrus canker
 24 under s. 581.184, or

25 (e) Which may be destroyed pursuant to a warrant under
 26 s. 581.184, which warrant may be issued in a manner consistent
 27 with the provisions of s. 668.004. Before the issuance of the
 28 first warrant in each county under this subsection, there must
 29 be a hearing at which the court, in accordance with s.
 30 581.184(1)(b), determines the distance from
 31 citrus-canker-infected citrus trees within which all citrus

Bill No. SB 1926

Amendment No. 1 Barcode 322556

1 trees must be destroyed to eradicate citrus canker. After the
 2 initial hearing, the court shall, before the issuance of
 3 additional warrants for the destruction of citrus trees under
 4 this section, hold an evidentiary hearing to determine whether
 5 the tree for which a warrant is sought is within the
 6 destruction distance determined in the initial hearing to be
 7 necessary to accomplish eradication of citrus canker; or

8 (5) When the laws in relation to cruelty to animals
 9 have been or are violated in any particular building or place,
 10 but no search shall be made in such building or place after
 11 sunset, unless specially authorized by the officer issuing the
 12 warrant upon satisfactory cause shown; in which case such
 13 property may be taken on the warrant so issued from any house
 14 or place in which it is concealed, or from any vehicle,
 15 aircraft, or watercraft in which it may be found, or from the
 16 possession of any person by whom it shall have been used in
 17 the commission of any offense or from any person in whose
 18 possession it may be.

19
 20 The provisions of this section shall apply also to any papers
 21 or documents used as a means of or in aid of the commission of
 22 any offense against the laws of the state.

23 Section 3. This act shall take effect upon becoming a
 24 law.

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27 ===== T I T L E A M E N D M E N T =====

28 And the title is amended as follows:

29 Delete everything before the enacting clause

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31 and insert:

Bill No. SB 1926

Amendment No. 1 Barcode 322556

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A bill to be entitled
An act relating to citrus canker; amending s.
581.184, F.S.; providing for notice of
citrus-tree removal by search warrant;
providing a process for a property owner to
seek a stay of the removal; requiring the
Department of Agriculture and Consumer Services
to adopt a program to repair damage from tree
removal; providing for citrus-canker training
programs for local-government employees;
amending s. 933.02, F.S.; providing grounds for
issuance of search warrants relating to citrus
canker; providing an effective date.