

Bill No. CS for SB 994

Barcode 245564

CHAMBER ACTION

Senate

House

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The Committee on General Government Appropriations (Baker)  
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 disease management  
~~canker eradication; voluntary destruction agreements.--~~

(1) The department shall adopt by rule, pursuant to  
ss. 120.536(1) and 120.54, and implement a comprehensive  
citrus health plan to minimize the impact of exotic citrus  
pests and diseases to citrus production and to allow for the  
orderly marketing of citrus fruit in other states and  
countries. 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 located~~

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1 ~~within 1,900 feet of an infected tree.~~

2           ~~(2)(a) The department shall remove and destroy all~~  
3 ~~infected citrus trees and all citrus trees exposed to~~  
4 ~~infection. The department may destroy, by chipping, trees~~  
5 ~~removed pursuant to this section. Notice of the removal of~~  
6 ~~such trees, by immediate final order, shall be provided to the~~  
7 ~~owner of the property on which such trees are located. An~~  
8 ~~immediate final order issued by the department pursuant to~~  
9 ~~this section shall notify the property owner that the citrus~~  
10 ~~trees that are the subject of the immediate final order will~~  
11 ~~be removed and destroyed unless the property owner, no later~~  
12 ~~than 10 days after delivery of the immediate final order~~  
13 ~~pursuant to subsection (3), requests and obtains a stay of the~~  
14 ~~immediate final order from the district court of appeal with~~  
15 ~~jurisdiction to review such requests. The property owner shall~~  
16 ~~not be required to seek a stay of the immediate final order by~~  
17 ~~the department prior to seeking the stay from the district~~  
18 ~~court of appeal.~~

19           ~~(2)(b)~~ Regulation of the removal or destruction of  
20 citrus trees pursuant to this section is hereby preempted to  
21 the state. No county, municipal, or other local ordinance or  
22 other regulation that would otherwise impose requirements,  
23 restrictions, or conditions upon the department or its  
24 contractors with respect to the removal or destruction of  
25 citrus trees pursuant to this section shall be enforceable  
26 against the department or its contractors.

27           ~~(3) Any immediate final order issued by the department~~  
28 ~~pursuant to this section:~~

29           ~~(a) May be delivered in person, by certified mail, or~~  
30 ~~by attaching the order to a conspicuous place on the property~~  
31 ~~on which a citrus tree to be removed is located.~~

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1           ~~(b) Is not required to be adopted by the department as~~  
2 ~~a rule.~~

3           ~~(4) Simultaneously with the delivery of an immediate~~  
4 ~~final order, the department shall also provide the following~~  
5 ~~information to a property owner:~~

6           ~~(a) The physical location of the infected tree which~~  
7 ~~has necessitated removal and destruction of the property~~  
8 ~~owner's tree.~~

9           ~~(b) The diagnostic report that resulted in the~~  
10 ~~determination that the infected tree is infected with the~~  
11 ~~citrus canker.~~

12           ~~(3)(5) The department shall is directed to adopt~~  
13 ~~rules, pursuant to ss. 120.536(1) and 120.54, regarding the~~  
14 ~~conditions under which citrus plants, other than those that~~  
15 ~~are infected or exposed to infection, can be grown, moved, and~~  
16 ~~planted in this state as may be necessary for the eradication,~~  
17 ~~control, or prevention of the dissemination of citrus diseases~~  
18 ~~canker. Such rules shall be in effect for any period during~~  
19 ~~which, in the judgment of the Commissioner of Agriculture,~~  
20 ~~there is the threat of the spread of citrus diseases ~~canker~~~~  
21 ~~disease in the state. Such rules may provide for the conduct~~  
22 ~~of any activity regulated by such rules subject to an~~  
23 ~~agreement by persons wishing to engage in such activity to~~  
24 ~~voluntarily destroy, at their own expense, citrus plants~~  
25 ~~declared by the department to be imminently dangerous by~~  
26 ~~reason of being infected or infested with citrus canker or~~  
27 ~~exposed to infection and likely to communicate same. The terms~~  
28 ~~of such agreement may also require the destruction of healthy~~  
29 ~~plants under specified conditions. Any such destruction shall~~  
30 ~~be done after reasonable notice in a manner pursuant to and~~  
31 ~~under conditions set forth in the agreement. Such agreements~~

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1 ~~may include releases and waivers of liability and may require~~  
2 ~~the agreement of other persons.~~

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

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

23       (6)(8) Notwithstanding any provision of law, the  
24 Department of Environmental Protection is not authorized to  
25 institute proceedings against any person under the provisions  
26 of s. 376.307(5) to recover any costs or damages associated  
27 with contamination of soil or water, or the evaluation,  
28 assessment, or remediation of contamination of soil or water,  
29 including sampling, analysis, and restoration of soil or  
30 potable water supplies, where the contamination of soil or  
31 water is determined to be the result of a program of

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1 decontamination to prevent and limit the spread of citrus  
2 canker disease pursuant to rules developed under this section.  
3 This subsection does not limit regulatory authority under a  
4 federally delegated or approved program.

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

17 ~~(10) 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 2. Section 581.1843, Florida Statutes, is  
22 created to read:

23 581.1843 Citrus nursery stock propagation and  
24 production and the establishment of regulated areas around  
25 citrus nurseries.--

26 (1) As used in this section, the term "commercial  
27 citrus grove" means a solid set planting of 40 or more citrus  
28 trees.

29 (2) Effective January 1, 2007, it is unlawful for any  
30 person to propagate for sale or movement any citrus nursery  
31 stock that was not propagated or grown on a site and within a

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1 protective structure approved by the department and that is  
2 not at least 1 mile away from commercial citrus groves. A  
3 citrus nursery registered with the department prior to April  
4 1, 2006, shall not be required to comply with the 1-mile  
5 setback from commercial citrus groves while continuously  
6 operating at the same location for which it was registered.  
7 However, the nursery shall be required to propagate citrus  
8 within a protective structure approved by the department.  
9 Effective January 1, 2008, it shall be unlawful to distribute  
10 any citrus nursery stock that was not produced in a protective  
11 structure approved by the department.

12 (3) The department shall adopt rules pursuant to ss.  
13 120.536(1) and 120.54 which set forth the conditions under  
14 which citrus nursery stock can be propagated, grown, sold, or  
15 moved and the specifications for the approved site and  
16 protective structure.

17 (4) Under the provisions of this chapter, the  
18 department shall adopt rules that are consistent with  
19 scientific findings and recommendations of the Citrus Budwood  
20 Technical Advisory Committee to regulate all genera of the  
21 Rutaceous subfamilies Aurantioideae, Rutoideae, and  
22 Toddalioideae that pose a threat of introducing or spreading a  
23 citrus plant pest.

24 (5) The department shall establish regulated areas  
25 around the perimeter of commercial citrus nurseries that were  
26 established on sites after April 1, 2006, not to exceed a  
27 radius of 1 mile. The planting of citrus in an established  
28 regulated area is prohibited. The planting of citrus within a  
29 1-mile radius of commercial citrus nurseries that were  
30 established on sites prior to April 1, 2006, must be approved  
31 by the department. Citrus plants planted within a regulated

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1 area prior to the establishment of the regulated area may  
2 remain in the regulated area unless the department determines  
3 the citrus plants to be infected or infested with citrus  
4 canker or citrus greening. The department shall require the  
5 removal of infected or infested citrus, nonapproved planted  
6 citrus, and citrus that has sprouted by natural means in  
7 regulated areas. The property owner shall be responsible for  
8 the removal of citrus planted without proper approval. Notice  
9 of the removal of citrus trees, by immediate final order of  
10 the department, shall be provided to the owner of the property  
11 on which the trees are located. An immediate final order  
12 issued by the department under this section shall notify the  
13 property owner that the citrus trees, which are the subject of  
14 the immediate final order, must be removed and destroyed  
15 unless the property owner, no later than 10 days after  
16 delivery of the immediate final order, requests and obtains a  
17 stay of the immediate final order from the district court of  
18 appeal with jurisdiction to review such requests. The property  
19 owner shall not be required to seek a stay from the department  
20 of the immediate final order prior to seeking a stay from the  
21 district court of appeal.

22 (6) Regulation of the removal or destruction of citrus  
23 plants under this section is preempted to the state. No  
24 county, municipal, or other local ordinance or other  
25 regulation that would otherwise impose requirements,  
26 restrictions, or conditions upon the department or its  
27 contractors with respect to the removal or destruction of  
28 citrus trees under this section shall be enforceable against  
29 the department or its contractors.

30 (7) The department shall relocate foundation source  
31 trees maintained by the Division of Plant Industry from

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1 various locations, including those in Dundee and Winter Haven,  
 2 to protective structures at the Division of Forestry nursery  
 3 in Chiefland or to other protective sites located a minimum of  
 4 10 miles from any commercial citrus grove. The department is  
 5 authorized to expend existing funds from its Contracts and  
 6 Grants Trust Fund for this purpose.

7 Section 3. Subsection (1) of section 581.1845, Florida  
 8 Statutes, is amended, and subsection (6) is added to that  
 9 section, to read:

10 581.1845 Citrus canker eradication; compensation to  
 11 homeowners whose trees have been removed.--

12 (1) The Department of Agriculture and Consumer  
 13 Services shall provide compensation to eligible homeowners  
 14 whose citrus trees have been removed under a citrus canker  
 15 eradication program. Funds to pay this compensation may be  
 16 derived from both state and federal matching sources and shall  
 17 be specifically appropriated by law. Eligible homeowners shall  
 18 be compensated subject to the availability of ~~appropriated~~  
 19 funds specifically appropriated for such purpose in the  
 20 2006-2007 fiscal year or prior fiscal years.

21 (6) Any claim for compensation under this section or  
 22 under the Shade Dade or Shade Florida programs must be filed  
 23 with the department no later than December 31, 2007. Effective  
 24 January 1, 2008, all unfiled claims shall expire.

25 Section 4. Paragraph (c) of subsection (2) of section  
 26 120.80, Florida Statutes, is amended to read:

27 120.80 Exceptions and special requirements;  
 28 agencies.--

29 (2) DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES.--

30 ~~(c) The provisions of ss. 120.54 and 120.56 shall not~~  
 31 ~~apply to any statement or action by the department in~~



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1 ~~furtherance of its duties pursuant to s. 581.184(2).~~

2 Section 5. Subsection (2) of section 348.0008, Florida  
3 Statutes, is amended to read:

4 348.0008 Acquisition of lands and property.--

5 (2) An authority and its authorized agents,  
6 contractors, and employees are authorized to enter upon any  
7 lands, waters, and premises, upon giving reasonable notice to  
8 the landowner, for the purpose of making surveys, soundings,  
9 drillings, appraisals, environmental assessments including  
10 phase I and phase II environmental surveys, archaeological  
11 assessments, and such other examinations as are necessary for  
12 the acquisition of private or public property and property  
13 rights, including rights of access, air, view, and light, by  
14 gift, devise, purchase, or condemnation by eminent domain  
15 proceedings or as are necessary for the authority to perform  
16 its duties and functions; and any such entry shall not be  
17 deemed a trespass or an entry that would constitute a taking  
18 in an eminent domain proceeding. An expressway authority shall  
19 make reimbursement for any actual damage to such lands, water,  
20 and premises as a result of such activities. Any entry  
21 authorized by this subsection shall be in compliance with the  
22 premises protections and landowner liability provisions  
23 contained in s. ss. 472.029 ~~and 581.184~~.

24 Section 6. Section 933.02, Florida Statutes, is  
25 amended to read:

26 933.02 Grounds for issuance of search warrant.--Upon  
27 proper affidavits being made, a search warrant may be issued  
28 under the provisions of this chapter upon any of the following  
29 grounds:

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

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- 1 (2) When any property shall have been used:
- 2 (a) As a means to commit any crime;~~i;~~
- 3 (b) In connection with gambling, gambling implements
- 4 and appliances;~~i;~~ or
- 5 (c) In violation of s. 847.011 or other laws in
- 6 reference to obscene prints and literature;
- 7 (3) When any property constitutes evidence relevant to
- 8 proving that a felony has been committed;
- 9 (4) When any property is being held or possessed:
- 10 (a) In violation of any of the laws prohibiting the
- 11 manufacture, sale, and transportation of intoxicating
- 12 liquors;~~i, or~~
- 13 (b) In violation of the fish and game laws;~~i, or~~
- 14 (c) In violation of the laws relative to food and
- 15 drug;~~i;~~ or
- 16 (d) In violation of the laws relative to citrus
- 17 disease ~~a quarantine for citrus canker pursuant to ss. s.~~
- 18 ~~581.184 and 581.1845, or~~
- 19 ~~(e) which may be inspected, treated, seized, or~~
- 20 ~~destroyed pursuant to s. 581.184; or~~
- 21 (5) When the laws in relation to cruelty to animals,
- 22 as provided in chapter 828, have been or are violated in any
- 23 particular building or place.

24

25 This section also applies to any papers or documents used as a

26 means of or in aid of the commission of any offense against

27 the laws of the state.

28 Section 7. Paragraph (f) of subsection (1) and

29 paragraph (b) of subsection (3) of section 933.40, Florida

30 Statutes, are amended to read:

31 933.40 Agriculture warrants.--

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1 (1) As used in this section:

2 (f) "Plant pest" means any plant pest, noxious weed,  
3 or arthropod declared a nuisance by the department pursuant to  
4 s. 581.031(6), ~~or any plant infected or exposed to infection~~  
5 ~~as defined in s. 581.184(1).~~

6 (3) An agriculture warrant shall be issued only upon  
7 probable cause. In determining the existence of probable cause  
8 for the issuance of one or more agriculture warrants, one or  
9 more of the following findings may be sufficient to support a  
10 determination of probable cause:

11 (b) Under all of the circumstances set forth in the  
12 affidavit, there is a fair probability the property subject to  
13 the agriculture warrant:

14 1. Contains a plant pest;

15 2. Is located in an area that ~~which~~ may reasonably be  
16 suspected of being infested or infected with a plant pest due  
17 to its proximity to a known infestation, or if it is  
18 reasonably exposed to infestation;

19 ~~3. Is located in a Section in which the department has~~  
20 ~~diagnosed the presence of one or more plants infected with~~  
21 ~~citrus canker as defined in s. 581.184(1)(a) or is located in~~  
22 ~~a Section adjacent thereto;~~

23 ~~3.4.~~ Contains animals affected with any animal pest or  
24 which have been exposed to and are liable to spread the animal  
25 pest; or

26 ~~4.5.~~ Contains any other property that is liable to  
27 convey an animal pest.

28 Section 8. The sum of \$10,197,063 is appropriated from  
29 the Agricultural Emergency Eradication Trust Fund to the  
30 Department of Agriculture and Consumer Services, and the sum  
31 of \$16,706,310 is appropriated from the Contracts and Grants

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1 Trust Fund to the Department of Agriculture and Consumer  
 2 Services, for the 2006-2007 fiscal year to implement the  
 3 provisions of ss. 581.184, 581.1843, and 581.1845, Florida  
 4 Statutes, as amended by this act.

5           Section 9. This act shall take effect upon becoming a  
 6 law.

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

10 And the title is amended as follows:

11           Delete everything before the enacting clause

12

13 and insert:

14                           A bill to be entitled

15           An act relating to citrus disease management;

16           amending s. 581.184, F.S; requiring the

17           Department of Agriculture and Consumer Services

18           to implement a citrus health plan for certain

19           purposes; eliminating the authority of the

20           department to remove and destroy certain citrus

21           trees; deleting definitions and provisions

22           relating to immediate final orders, notice to

23           property owners, rulemaking authority, and the

24           posting of certain orders, to conform;

25           requiring certain law enforcement officers to

26           maintain order under certain circumstances

27           involving the citrus canker disease management

28           process; creating s. 581.1843, F.S.; making it

29           unlawful to propagate certain citrus nursery

30           stock on or after January 1, 2007, at sites and

31           under certain conditions not approved by the

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1 department; providing exceptions; providing  
2 rulemaking authority; specifying regulation of  
3 certain varieties of citrus plants; providing  
4 exceptions; requiring the department to  
5 establish certain regulated areas around  
6 commercial citrus nurseries; providing  
7 exceptions; providing for notice to property  
8 owners by immediate final order prior to  
9 removal of certain citrus trees; providing an  
10 appeal process for an immediate final order;  
11 providing for preemption to the state to  
12 regulate the removal and destruction of certain  
13 citrus plants; requiring the department to  
14 relocate certain trees to certain locations;  
15 amending s. 581.1845, F.S., relating to  
16 compensation to homeowners whose trees have  
17 been removed; clarifying that such compensation  
18 is subject to appropriation; requiring that  
19 certain compensation claims be filed by  
20 December 31, 2007; providing for the expiration  
21 of compensation claims not filed prior to  
22 January 1, 2008; amending ss. 120.80, 348.0008,  
23 933.02, and 933.40, F.S.; deleting provisions  
24 and cross-references, to conform; providing  
25 appropriations; providing an effective date.

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