

Bill No. SB 994

Barcode 412074

CHAMBER ACTION

Senate

House

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The Committee on Agriculture (Haridopolos) 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 disease management ~~radication; voluntary destruction agreements.--~~

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

~~(2)(a) The department shall remove and destroy all infected citrus trees and all citrus trees exposed to infection. The department may destroy, by chipping, trees removed pursuant to this section. Notice of the removal of~~

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

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

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

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

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

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

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1 ~~(a) The physical location of the infected tree which~~
 2 ~~has necessitated removal and destruction of the property~~
 3 ~~owner's tree.~~

4 ~~(b) The diagnostic report that resulted in the~~
 5 ~~determination that the infected tree is infected with the~~
 6 ~~citrus canker.~~

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

28 ~~(2)(6) The department shall develop by rule, pursuant~~
 29 ~~to ss. 120.536(1) and 120.54, a statewide program of~~
 30 ~~decontamination to prevent and limit the spread of citrus~~
 31 ~~canker disease. Such program shall address the application of~~

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

11 ~~(3)(7)~~ Owners or ~~and/or~~ operators of nonproduction
 12 vehicles and equipment shall follow the department guidelines
 13 for citrus canker decontamination effective June 15, 2000. ~~The~~
 14 ~~department shall publish the guidelines in the Florida~~
 15 ~~Administrative Weekly and on the department Internet website.~~
 16 ~~The guidelines shall be posted no later than May 15, 2000.~~

17 ~~(4)(8)~~ Notwithstanding any provision of law, the
 18 Department of Environmental Protection is not authorized to
 19 institute proceedings against any person under the provisions
 20 of s. 376.307(5) to recover any costs or damages associated
 21 with contamination of soil or water, or the evaluation,
 22 assessment, or remediation of contamination of soil or water,
 23 including sampling, analysis, and restoration of soil or
 24 potable water supplies, where the contamination of soil or
 25 water is determined to be the result of a program of
 26 decontamination to prevent and limit the spread of citrus
 27 canker disease pursuant to rules developed under this section.
 28 This subsection does not limit regulatory authority under a
 29 federally delegated or approved program.

30 ~~(5)(9)~~ Upon request of the department, the sheriff or
 31 chief law enforcement officer of each county in the state

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

11 ~~(10) 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 Section 2. This act shall take effect July 1, 2006.

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

19 And the title is amended as follows:

20 Delete everything before the enacting clause

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22 and insert:

23 A bill to be entitled
 24 An act relating to citrus canker; amending s.
 25 581.184, F.S.; revising provisions relating to
 26 rulemaking required of the Department of
 27 Agriculture; replacing goals relating to
 28 eradication of citrus canker with goals
 29 relating to disease management; deleting
 30 definitions of terms; deleting requirements
 31 that citrus trees be removed and destroyed in

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1 specified circumstances; deleting procedures
2 relating to such removal and destruction;
3 requiring that the department adopt rules
4 regarding the conditions under which citrus
5 plants can be grown, moved, and planted as
6 necessary to control or prevent the
7 dissemination of citrus canker; deleting
8 obsolete provisions relating to the publication
9 of guidelines for citrus canker
10 decontamination; providing an effective date.

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