

1  
2 An act relating to citrus; amending s. 193.461,  
3 F.S.; providing that certain lands are  
4 classified as agricultural lands for the  
5 duration of certain successor programs;  
6 amending s. 581.184, F.S.; requiring the  
7 Department of Agriculture and Consumer Services  
8 to implement a citrus health plan for certain  
9 purposes; eliminating the authority of the  
10 department to remove and destroy certain citrus  
11 trees; deleting definitions and provisions  
12 relating to immediate final orders, notice to  
13 property owners, rulemaking authority, and the  
14 posting of certain orders, to conform;  
15 requiring certain law enforcement officers to  
16 maintain order under certain circumstances  
17 involving the citrus canker disease management  
18 process; creating s. 581.1843, F.S.; making it  
19 unlawful to propagate certain citrus nursery  
20 stock on or after January 1, 2007, at sites and  
21 under certain conditions not approved by the  
22 department; providing exceptions; providing  
23 rulemaking authority; specifying regulation of  
24 certain varieties of citrus plants; providing  
25 exceptions; requiring the department to  
26 establish certain regulated areas around  
27 commercial citrus nurseries; providing  
28 exceptions; providing for notice to property  
29 owners by immediate final order prior to  
30 removal of certain citrus trees; providing an  
31 appeal process for an immediate final order;

1 providing for preemption to the state to  
2 regulate the removal and destruction of certain  
3 citrus plants; requiring the department to  
4 relocate certain trees to certain locations;  
5 amending s. 581.1845, F.S., relating to  
6 compensation to homeowners whose trees have  
7 been removed; clarifying that such compensation  
8 is subject to appropriation; requiring that  
9 certain compensation claims be filed by  
10 December 31, 2007; providing for the expiration  
11 of compensation claims not filed prior to  
12 January 1, 2008; amending ss. 120.80, 348.0008,  
13 933.02, and 933.40, F.S.; deleting provisions  
14 and cross-references, to conform; providing  
15 appropriations; authorizing the department to  
16 submit a budget amendment and providing  
17 requirements therefor; amending s. 601.15,  
18 F.S.; clarifying provisions relating to the  
19 excise tax on citrus; establishing maximum  
20 rates and providing procedures by which the  
21 Florida Citrus Commission may set rates lower  
22 than the maximums; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26 Section 1. Subsection (7) of section 193.461, Florida  
27 Statutes, is amended to read:

28 193.461 Agricultural lands; classification and  
29 assessment; mandated eradication or quarantine program.--

30 (7) Lands classified for assessment purposes as  
31 agricultural lands which are taken out of production by any

1 state or federal eradication or quarantine program shall  
2 continue to be classified as agricultural lands for the  
3 duration of such program or successor programs. Lands under  
4 these programs which are converted to fallow, or otherwise  
5 nonincome-producing uses shall continue to be classified as  
6 agricultural lands and shall be assessed at a de minimis value  
7 of no more than \$50 per acre, on a single year assessment  
8 methodology; however, lands converted to other  
9 income-producing agricultural uses permissible under such  
10 programs shall be assessed pursuant to this section. Land  
11 under a mandated eradication or quarantine program which is  
12 diverted from an agricultural to a nonagricultural use shall  
13 be assessed under ~~the provisions of~~ s. 193.011.

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

16 581.184 Adoption of rules; citrus disease management  
17 ~~canker eradication; voluntary destruction agreements~~.--

18 (1) The department shall adopt by rule, pursuant to  
19 ss. 120.536(1) and 120.54, and implement a comprehensive  
20 citrus health plan to minimize the impact of exotic citrus  
21 pests and diseases to citrus production and to allow for the  
22 orderly marketing of citrus fruit in other states and  
23 countries. As used in this section, the term:

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

27 (b) ~~"Exposed to infection" means citrus trees located~~  
28 ~~within 1,900 feet of an infected tree.~~

29 (2)(a) ~~The department shall remove and destroy all~~  
30 ~~infected citrus trees and all citrus trees exposed to~~  
31 ~~infection. The department may destroy, by chipping, trees~~

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

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

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

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

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

30  
31

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

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

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

10           ~~(3)(5)~~ The department shall ~~is directed to~~ adopt  
11 rules, pursuant to ss. 120.536(1) and 120.54, regarding the  
12 conditions under which citrus plants, ~~other than those that~~  
13 ~~are infected or exposed to infection~~, can be grown, moved, and  
14 planted in this state as may be necessary for the ~~eradication,~~  
15 control, or prevention of the dissemination of citrus diseases  
16 ~~canker~~. Such rules shall be in effect for any period during  
17 which, in the judgment of the Commissioner of Agriculture,  
18 there is the threat of the spread of citrus diseases ~~canker~~  
19 ~~disease~~ in the state. ~~Such rules may provide for the conduct~~  
20 ~~of any activity regulated by such rules subject to an~~  
21 ~~agreement by persons wishing to engage in such activity to~~  
22 ~~voluntarily destroy, at their own expense, citrus plants~~  
23 ~~declared by the department to be imminently dangerous by~~  
24 ~~reason of being infected or infested with citrus canker or~~  
25 ~~exposed to infection and likely to communicate same. The terms~~  
26 ~~of such agreement may also require the destruction of healthy~~  
27 ~~plants under specified conditions. Any such destruction shall~~  
28 ~~be done after reasonable notice in a manner pursuant to and~~  
29 ~~under conditions set forth in the agreement. Such agreements~~  
30 ~~may include releases and waivers of liability and may require~~  
31 ~~the agreement of other persons.~~

1            ~~(4)(6)~~ The department shall develop by rule, pursuant  
2 to ss. 120.536(1) and 120.54, 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. In order to prevent  
9 contamination of soil and water, such rules shall be developed  
10 in consultation with the Department of Environmental  
11 Protection. The department may develop compliance and other  
12 agreements which it determines can aid in the carrying out of  
13 the purposes of this section, and enter into such agreements  
14 with any person or entity.

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

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

1 This subsection does not limit regulatory authority under a  
2 federally delegated or approved program.

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

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

19 Section 3. Section 581.1843, Florida Statutes, is  
20 created to read:

21 581.1843 Citrus nursery stock propagation and  
22 production and the establishment of regulated areas around  
23 citrus nurseries.--

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

27 (2) Effective January 1, 2007, it is unlawful for any  
28 person to propagate for sale or movement any citrus nursery  
29 stock that was not propagated or grown on a site and within a  
30 protective structure approved by the department and that is  
31 not at least 1 mile away from commercial citrus groves. A

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

10 (3) The department shall adopt rules pursuant to ss.  
11 120.536(1) and 120.54 which set forth the conditions under  
12 which citrus nursery stock can be propagated, grown, sold, or  
13 moved and the specifications for the approved site and  
14 protective structure.

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

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



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

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

28 (7) The department shall relocate foundation source  
29 trees maintained by the Division of Plant Industry from  
30 various locations, including those in Dundee and Winter Haven,  
31 to protective structures at the Division of Forestry nursery

1 in Chiefland or to other protective sites located a minimum of  
2 10 miles from any commercial citrus grove.

3 Section 4. Subsection (1) of section 581.1845, Florida  
4 Statutes, is amended, and subsection (6) is added to that  
5 section, to read:

6 581.1845 Citrus canker eradication; compensation to  
7 homeowners whose trees have been removed.--

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

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

21 Section 5. Paragraph (c) of subsection (2) of section  
22 120.80, Florida Statutes, is amended to read:

23 120.80 Exceptions and special requirements;  
24 agencies.--

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

26 ~~(c) The provisions of ss. 120.54 and 120.56 shall not~~  
27 ~~apply to any statement or action by the department in~~  
28 ~~furtherance of its duties pursuant to s. 581.184(2).~~

29 Section 6. Subsection (2) of section 348.0008, Florida  
30 Statutes, is amended to read:

31 348.0008 Acquisition of lands and property.--

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

20           Section 7. Section 933.02, Florida Statutes, is  
21 amended to read:

22           933.02 Grounds for issuance of search warrant.--Upon  
23 proper affidavits being made, a search warrant may be issued  
24 under the provisions of this chapter upon any of the following  
25 grounds:

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

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

29           (a) As a means to commit any crime;7

30           (b) In connection with gambling, gambling implements  
31 and appliances;7 or

1 (c) In violation of s. 847.011 or other laws in  
2 reference to obscene prints and literature;  
3 (3) When any property constitutes evidence relevant to  
4 proving that a felony has been committed;  
5 (4) When any property is being held or possessed:  
6 (a) In violation of any of the laws prohibiting the  
7 manufacture, sale, and transportation of intoxicating  
8 liquors;~~i, or~~  
9 (b) In violation of the fish and game laws;~~i, or~~  
10 (c) In violation of the laws relative to food and  
11 drug;~~i, or~~  
12 (d) In violation of the laws relative to citrus  
13 disease a quarantine for citrus canker pursuant to ~~ss. s.~~  
14 ~~581.184 and 581.1845, or~~  
15 ~~(e) Which may be inspected, treated, seized, or~~  
16 ~~destroyed pursuant to s. 581.184; or~~  
17 (5) When the laws in relation to cruelty to animals,  
18 as provided in chapter 828, have been or are violated in any  
19 particular building or place.  
20  
21 This section also applies to any papers or documents used as a  
22 means of or in aid of the commission of any offense against  
23 the laws of the state.  
24 Section 8. Paragraph (f) of subsection (1) and  
25 paragraph (b) of subsection (3) of section 933.40, Florida  
26 Statutes, are amended to read:  
27 933.40 Agriculture warrants.--  
28 (1) As used in this section:  
29 (f) "Plant pest" means any plant pest, noxious weed,  
30 or arthropod declared a nuisance by the department pursuant to  
31

1 s. 581.031(6), ~~or any plant infected or exposed to infection~~  
2 ~~as defined in s. 581.184(1).~~

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

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

11 1. Contains a plant pest;

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

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

20 ~~3.4.~~ Contains animals affected with any animal pest or  
21 which have been exposed to and are liable to spread the animal  
22 pest; or

23 ~~4.5.~~ Contains any other property that is liable to  
24 convey an animal pest.

25 Section 9. The sum of \$10,021,986 is appropriated from  
26 the Agricultural Emergency Eradication Trust Fund and the sum  
27 of \$16,706,310 is appropriated from the Contracts and Grants  
28 Trust Fund to the Department of Agriculture and Consumer  
29 Services for the 2006-2007 fiscal year for the purpose of  
30 implementing the provisions of s. 581.184, Florida Statutes.  
31 These funds are appropriated in a qualified expenditure

1 category. After adopting the citrus health plan, as specified  
 2 in s. 581.184, Florida Statutes, the department may submit a  
 3 budget amendment pursuant to s. 216.181, Florida Statutes, to  
 4 transfer budget authority to the appropriate operating  
 5 categories. The department's justification must include, but  
 6 need not be limited to, a 3-year revenue and expenditure  
 7 outlook of the levels of participation and commitment  
 8 anticipated by federal, state, and local governments and by  
 9 the citrus industry. Expenditure forecast data must include  
 10 categories of, and justification for, each proposed  
 11 expenditure.

12 Section 10. Subsections (3) and (7) of section 601.15,  
 13 Florida Statutes, are amended to read:

14 601.15 Advertising campaign; methods of conducting;  
 15 excise tax; emergency reserve fund; citrus research.--

16 (3)(a) There is hereby levied and imposed upon each  
 17 standard-packed box of citrus fruit grown and placed into the  
 18 primary channel of trade in this state an excise tax at  
 19 maximum annual rates for each citrus season as determined from  
 20 the tables in this paragraph and based upon the previous  
 21 season's actual statewide production as reported in the United  
 22 States Department of Agriculture Citrus Crop Production  
 23 Forecast as of June 1. The rates may be set at any lower rate  
 24 in any year pursuant to paragraph (e).

25 1. The following maximum tax rates, expressed in cents  
 26 per box, shall apply to grapefruit which enters the primary  
 27 channel of trade for use in fresh form:

28						
29	Previous season	1995-	1996-	1997-	1998-	1999-
30	crop size	1996	1997	1998	1999	2000 and
31	(millions of boxes)					thereafter

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1	80 and	33	34	35	36	37
2	greater					
3	75-79.99	35	36	37	38	39
4	70-74.99	37	38	39	41	42
5	65-69.99	40	41	42	44	45
6	60-64.99	43	44	46	47	49
7	55-59.99	47	48	50	51	53
8	50-54.99	51	53	55	56	58
9	45-49.99	57	59	60	62	64
10	40-44.99	63	65	67	69	71
11	Less than 40	72	74	76	79	81

12  
 13           2. The following maximum tax rates, expressed in cents  
 14 per box, shall apply to grapefruit which enters the primary  
 15 channel of trade for use in processed forms:

17	Previous season	1995-	1996-	1997-	1998-	1999-
18	crop size	1996	1997	1998	1999	2000 and
19	(millions of boxes)					thereafter
20	80 and	23	24	25	25	26
21	greater					
22	75-79.99	25	25	26	27	28
23	70-74.99	26	27	28	29	30
24	65-69.99	28	29	30	31	32
25	60-64.99	31	32	32	33	34
26	55-59.99	33	34	35	36	37
27	50-54.99	36	38	39	40	41
28	45-49.99	40	41	43	44	45
29	40-44.99	45	46	48	49	51
30	Less than 40	51	53	54	56	57

1           3. The following maximum tax rates, expressed in cents  
 2 per box, shall apply to oranges which enter the primary  
 3 channel of trade for use in fresh form:

4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
Previous season	1995-	1996-	1997-	1998-	1999-	
crop size	1996	1997	1998	1999	2000 and	
(millions of boxes)					thereafter	
255 and	23	24	25	26	26	
greater						
245-254.9	24	25	26	27	27	
235-244.9	25	26	27	28	28	
225-234.9	26	27	28	29	30	
215-224.9	28	28	29	30	31	
205-214.9	29	30	31	32	33	
195-204.9	30	31	32	33	34	
185-194.9	32	33	34	35	36	
175-184.9	34	35	36	37	38	
165-174.9	36	37	38	39	40	
155-164.9	38	39	40	41	43	
Less than 155	41	42	43	44	46	

22           4. The following maximum tax rates, expressed in cents  
 23 per box, shall apply to oranges which enter the primary  
 24 channel of trade for use in processed form:

25	26	27	28	29	30	31
32	33	34	35	36	37	38
39	40	41	42	43	44	45
Previous season	1995-	1996-	1997-	1998-	1999-	
crop size	1996	1997	1998	1999	2000 and	
(millions of boxes)					thereafter	
255 and	15	16	16	17	17	
greater						
245-254.9	16	16	17	17	18	



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1	235-244.9	17	17	18	18	19
2	225-234.9	17	18	18	19	19
3	215-224.9	18	19	19	20	20
4	205-214.9	19	20	20	21	21
5	195-204.9	20	21	21	22	22
6	185-194.9	21	22	22	23	24
7	175-184.9	22	23	23	24	25
8	165-174.9	23	24	25	26	26
9	155-164.9	25	26	26	27	28
10	Less than 155	27	27	28	29	30

11

12           5. The actual tax rate levied each year upon oranges  
 13 which enter the primary channel of trade for use in processed  
 14 form, pursuant to this paragraph, paragraph (e), and  
 15 subsection (4), shall also apply in that year to tangerines  
 16 and citrus hybrids regulated by the Department of Citrus which  
 17 enter the primary channel of trade for use in processed form.

18           6. The following maximum tax rates, expressed in cents  
 19 per box, shall apply to tangerines and citrus hybrids  
 20 regulated by the Department of Citrus which enter the primary  
 21 channel of trade for use in fresh form:

22

23	Previous season	1995-	1996-	1997-	1998-	1999-
24	crop size	1996	1997	1998	1999	2000 and
25	(millions of boxes)					thereafter
26	13 and	24	24	25	26	27
27	greater					
28	12 - 12.99	26	26	27	28	29
29	11 - 11.99	28	29	30	30	31
30	10 - 10.99	31	31	32	33	34
31	9 - 9.99	34	35	36	37	38

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1	8 - 8.99	38	39	40	41	42
2	7 - 7.99	43	44	45	47	48
3	Less than 7	49	51	52	54	56

4

5 (b) Whenever citrus fruit is purchased, acquired, or  
6 handled on a weight basis, the following weights shall be  
7 deemed the equivalent of one standard-packed box for tax  
8 purposes under this section:

- 9 1. Grapefruit, 85 pounds.  
10 2. Oranges, 90 pounds.  
11 3. Tangerines, 95 pounds.  
12 4. Citrus hybrids, 90 pounds.

13 (c) The excise taxes imposed by this section do not  
14 apply to citrus fruit used for noncommercial domestic  
15 consumption on the premises where produced.

16 (d) For purposes of this subsection, a citrus season  
17 begins on August 1 of a year and ends on July 31 of the  
18 following year.

19 (e) The commission, upon an affirmative vote of a  
20 majority ~~nine~~ of its members and by an order entered by it  
21 prior to August 1 of any year, may set ~~reduce~~ the tax rates up  
22 to the maximum rates specified in this subsection if the  
23 commission determines that the specified tax rate will result  
24 in collection of funds, during the ensuing citrus season,  
25 which exceed projected needs, including all legal obligations.  
26 The tax rate reduction shall apply only to the citrus season  
27 which immediately follows entry of the order setting the rate  
28 ~~providing for reduction~~. Such tax rate reduction may be  
29 applied by variety and on the basis of whether the fruit  
30 enters the primary channel of trade for use in fresh or  
31 processed form. If the commission cannot agree on a box tax

1 rate, the tax rate for the previous year shall remain in  
2 effect until the commission approves a new rate.

3 (7) All excise taxes levied and collected under the  
4 provisions of this chapter shall be paid into the State  
5 Treasury on or before the 15th day of each month; such moneys  
6 shall be accounted for in a special fund to be designated as  
7 the Florida Citrus Advertising Trust Fund, and all moneys in  
8 such fund are hereby appropriated to the Department of Citrus  
9 for the following purposes:

10 (a) Three percent of all income of a revenue nature  
11 deposited in this fund, including transfers from any  
12 subsidiary accounts thereof and any interest income, shall be  
13 deposited in the General Revenue Fund pursuant to chapter 215.

14 (b) Moneys in the Florida Citrus Advertising Trust  
15 Fund ~~Not more than 24 percent of such trust fund~~ shall be  
16 expended for the activities authorized by s. 601.13 and for  
17 the cost of those general overhead, research and development,  
18 maintenance, salaries, professional fees, enforcement costs,  
19 and other such expenses which are not related to advertising,  
20 merchandising, public relations, trade luncheons, publicity,  
21 and other associated activities. The cost of general  
22 overhead, maintenance, salaries, professional fees,  
23 enforcement costs, and other such expenses which are related  
24 to advertising, merchandising, public relations, trade  
25 luncheons, publicity, and associated activities shall be paid  
26 from the balance of the Florida Citrus Advertising Trust Fund  
27 ~~and shall not be included in the 24 percent limitation.~~

28 (c) ~~The balance of the~~ Moneys in the Florida Citrus  
29 Advertising Trust Fund shall also be used by the Department of  
30 Citrus for defraying those expenses not included ~~in within the~~  
31 ~~24 percent limitation established by~~ paragraph (b). After

1 | payment of such expenses, the money levied and collected under  
2 | the provisions of subsection (3) shall be used exclusively for  
3 | commodity and noncommodity advertising, merchandising,  
4 | publicity, or sales promotion of citrus products in both fresh  
5 | form and processed form, including citrus cattle feed and all  
6 | other products of citrus fruits, produced in the state, in  
7 | such equitable manner and proration as the Department of  
8 | Citrus may determine, but funds expended for commodity  
9 | advertising thereunder shall be expended through an  
10 | established advertising agency. A proration of moneys between  
11 | commodity programs and noncommodity programs, and among types  
12 | of citrus products, shall be made on or before November 1 of  
13 | each shipping season and may not thereafter be modified for  
14 | that shipping season unless the department finds such action  
15 | necessary to preserve the economic welfare of the citrus  
16 | industry.

17 |         (d) The pro rata portion of moneys allocated to each  
18 | type of citrus product in noncommodity programs shall be used  
19 | by the department to encourage substantial increases in the  
20 | effectiveness, frequency, and volume of noncommodity  
21 | advertising, merchandising, publicity, and sales promotion of  
22 | such citrus products through rebates and incentive payments to  
23 | handlers and trade customers for these activities. The  
24 | Department of Citrus is authorized and directed to adopt rules  
25 | providing for the use of such moneys. The rules shall  
26 | establish alternate incentive programs, including at least one  
27 | incentive program for product sold under advertised brands,  
28 | one incentive program for product sold under private label  
29 | brands, and one incentive program for product sold in bulk.  
30 | For each incentive program, the rules shall establish  
31 | eligibility and performance requirements and shall provide

1 appropriate limitations on amounts payable to a handler or  
2 trade customer for a particular season. Such limitations may  
3 relate to the amount of citrus excise taxes levied and  
4 collected on the citrus product handled by such handler or  
5 trade customer during a 12-month representative period. The  
6 department may require from participants in noncommodity  
7 advertising and promotional programs commercial information  
8 necessary to determine eligibility for and performance in such  
9 programs. Any information so required which constitutes a  
10 "trade secret" as defined in s. 812.081 is confidential and  
11 exempt from the provisions of s. 119.07(1).

12 Section 11. This act shall take effect July 1, 2006.

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