

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Mayfield offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5 Section 1. Subsection (5) is added to section 581.091,
6 Florida Statutes, to read:

7 581.091 Noxious weeds and infected plants or regulated
8 articles; sale or distribution; receipt; information to
9 department; withholding information.--

10 (5) (a) Notwithstanding any other provision of state law or
11 rule, a person may obtain a special permit from the department
12 to plant *Casuarina cunninghamiana* as a windbreak for a
13 commercial citrus grove provided the plants are produced in an
14 authorized registered nursery and certified by the department as
15 being vegetatively propagated from male plants. A "commercial

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16 citrus grove" means a contiguous planting of 100 or more citrus
17 trees where citrus fruit is produced for sale.

18 (b) For a 5-year period, special permits authorizing a
19 person to plant *Casuarina cunninghamiana* shall be issued only as
20 part of a pilot program for fresh fruit groves in areas of
21 Indian River, St. Lucie, and Martin Counties where citrus canker
22 is determined by the department to be widespread. The pilot
23 program shall be reevaluated annually and a comprehensive review
24 shall be conducted in 2013. The purpose of the annual and 5-year
25 reviews is to determine if the use of *Casuarina cunninghamiana*
26 as an agricultural pest and disease windbreak poses any adverse
27 environmental consequences. At the end of the 5-year pilot
28 program, if the Noxious Weed and Invasive Plant Review
29 Committee, created by the department, and the Department of
30 Environmental Protection, in consultation with a representative
31 of the citrus industry who has a *Casuarina cunninghamiana*
32 windbreak, determine that the potential is low for adverse
33 environmental impacts from planting *Casuarina cunninghamiana* as
34 windbreaks, the department may, by rule, allow the use of
35 *Casuarina cunninghamiana* windbreaks for commercial citrus groves
36 in other areas of the state. If it is determined at the end of
37 the 5-year pilot program that additional time is needed to
38 further evaluate *Casuarina cunninghamiana*, the department will
39 remain the lead agency.

40 (c) Each application for a special permit shall be
41 accompanied by a fee in an amount determined by the department,
42 by rule, not to exceed \$500. A special permit shall be required
43 for each noncontiguous commercial citrus grove and shall be

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44 renewed every 5 years. The property owner is responsible for
45 maintaining and producing for inspection the original nursery
46 invoice with certification documentation. If ownership of the
47 property is transferred, the seller must notify the department
48 and provide the buyer with a copy of the special permit and
49 copies of all invoices and certification documentation prior to
50 the closing of the sale.

51 (d) Each application shall include a baseline survey of
52 all lands within 500 feet of the proposed *Casuarina*
53 *cunninghamiana* windbreak showing the location and identification
54 to species of all existing *Casuarina spp.*

55 (e) Nurseries authorized to produce *Casuarina*
56 *cunninghamiana* must obtain a special permit from the department
57 certifying that the plants have been vegetatively propagated
58 from sexually mature male source trees currently grown in the
59 state. The importation of *Casuarina cunninghamiana* from any area
60 outside the state to be used as a propagation source tree is
61 prohibited. Each male source tree must be registered by the
62 department as being a horticulturally true to type male plant
63 and be labeled with a source tree registration number. Each
64 nursery application for a special permit shall be accompanied by
65 a fee in an amount determined by the department, by rule, not to
66 exceed \$200. Special permits shall be renewed annually. The
67 department shall, by rule, set the amount of an annual fee, not
68 to exceed \$50, for each *Casuarina cunninghamiana* registered as a
69 source tree. Nurseries may only sell *Casuarina cunninghamiana* to
70 a person with a special permit as specified in paragraphs (a)
71 and (b). The source tree registration numbers of the parent

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72 plants must be documented on each invoice or other certification
73 documentation provided to the buyer.

74 (f) All *Casuarina cunninghamiana* must be destroyed by the
75 property owner within 6 months after:

76 1. The property owner takes permanent action to no longer
77 use the site for commercial citrus production;

78 2. The site has not been used for commercial citrus
79 production for a period of 5 years; or

80 3. The department determines that the *Casuarina*
81 *cunninghamiana* on the site has become invasive. This
82 determination shall be based on, but not limited to, the
83 recommendation of the Noxious Weed and Invasive Plant Review
84 Committee and the Department of Environmental Protection and in
85 consultation with a representative of the citrus industry who
86 has a *Casuarina cunninghamiana* windbreak.

87
88 If the owner or person in charge refuses or neglects to comply,
89 the director or her or his authorized representative may, under
90 authority of the department, proceed to destroy the plants. The
91 expense of the destruction shall be assessed, collected, and
92 enforced against the owner by the department. If the owner does
93 not pay the assessed cost, the department may record a lien
94 against the property.

95 (g) The use of *Casuarina cunninghamiana* for windbreaks
96 shall not preclude the department from issuing permits for the
97 research or release of biological control agents to control
98 *Casuarina spp.* in accordance with s. 581.083.

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99 (h) The use of *Casuarina cunninghamiana* for windbreaks
100 shall not restrict or interfere with any other agency or local
101 government effort to manage or control noxious weeds or invasive
102 plants, including *Casuarina cunninghamiana*, nor shall any other
103 agency or local government remove any *Casuarina cunninghamiana*
104 planted as a windbreak under special permit issued by the
105 department.

106 (i) The department shall develop and implement a
107 monitoring protocol to determine invasiveness of *Casuarina*
108 *cunninghamiana*. The monitoring protocol shall at a minimum,
109 require:

110 1. Inspection of the planting site by department
111 inspectors within 30 days following initial planting or any
112 subsequent planting of *Casuarina cunninghamiana* to ensure the
113 criteria of the special permit have been met.

114 2. Annual site inspections of planting sites and all lands
115 within 500 feet of the planted windbreak by department
116 inspectors who have been trained to identify *Casuarina spp.* and
117 to make determinations of whether *Casuarina cunninghamiana* has
118 spread beyond the permitted windbreak location.

119 3. Any new seedlings found within 500 feet of the planted
120 windbreak to be removed, identified to the species level, and
121 evaluated to determine if hybridization has occurred.

122 4. The department to submit an annual report and a final
123 5-year evaluation identifying any adverse effects resulting from
124 the planting of *Casuarina cunninghamiana* for windbreaks and
125 documenting all inspections and the results of those inspections
126 to the Noxious Weed and Invasive Plant Review Committee, the

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127 Department of Environmental Protection, and a designated
128 representative of the citrus industry who has a *Casuarina*
129 *cunninghamiana* windbreak.

130 (j) If the department determines that female flowers or
131 cones have been produced on any *Casuarina cunninghamiana* that
132 have been planted under a special permit issued by the
133 department, the property owner shall be responsible for
134 destroying the trees. The department shall notify the property
135 owner of the timeframe and method of destruction.

136 (k) If at any time the department determines that
137 hybridization has occurred during the pilot program between
138 *Casuarina cunninghamiana* planted as a windbreak and other
139 *Casuarina spp.*, the department shall expeditiously initiate
140 research to determine the invasiveness of the hybrid. The
141 information obtained from this research shall be evaluated by
142 the Noxious Weed and Invasive Plant Review Committee, the
143 Department of Environmental Protection, and a designated
144 representative of the citrus industry who has a *Casuarina*
145 *cunninghamiana* windbreak. If the department determines that the
146 hybrids have a high potential to become invasive, based on, but
147 not limited to, the recommendation of the Noxious Weed and
148 Invasive Plant Review Committee, the Department of Environmental
149 Protection, and a designated representative of the citrus
150 industry who has a *Casuarina cunninghamiana* windbreak, this
151 pilot program shall be permanently suspended.

152 (l) Each application for a special permit must be
153 accompanied by a fee as described in paragraph (c) and an
154 agreement that the property owner will abide by all permit

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155 conditions including the removal of *Casuarina cunninghamiana* if
156 invasive populations or other adverse environmental factors are
157 determined to be present by the department as a result of the
158 use of *Casuarina cunninghamiana* as windbreaks. The application
159 must include, on a form provided by the department, the name of
160 the applicant and the applicant's address or the address of the
161 applicant's principal place of business; a statement of the
162 estimated cost of removing and destroying the *Casuarina*
163 *cunninghamiana* that is the subject of the special permit; and
164 the basis for calculating or determining that estimate. If the
165 applicant is a corporation, partnership, or other business
166 entity, the applicant must also provide in the application the
167 name and address of each officer, partner, or managing agent.
168 The applicant shall notify the department within 30 business
169 days of any change of address or change in the principal place
170 of business. The department shall mail all notices to the
171 applicant's last known address.

172 1. Upon obtaining a permit, the permit holder must annually
173 maintain the *Casuarina cunninghamiana* authorized by a special
174 permit as required in the permit. If the permit holder ceases to
175 maintain the *Casuarina cunninghamiana* as required by the special
176 permit, if the permit expires, or if the permit holder ceases to
177 abide by the conditions of the special permit, the permit holder
178 shall remove and destroy the *Casuarina cunninghamiana* in a
179 timely manner as specified in the permit.

180 2. If the department:

181 a. Determines that the permit holder is no longer
182 maintaining the *Casuarina cunninghamiana* subject to the special

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183 permit and has not removed and destroyed the *Casuarina*

184 *cunninghamiana* authorized by the special permit;

185 b. Determines that the continued use of *Casuarina*
186 *cunninghamiana* as windbreaks presents an imminent danger to
187 public health, safety, or welfare; or

188 c. Determines that the permitholder has exceeded the
189 conditions of the authorized special permit;

190
191 The department may issue an immediate final order, which shall
192 be immediately appealable or enjoicable as provided by chapter
193 120, directing the permitholder to immediately remove and
194 destroy the *Casuarina cunninghamiana* authorized to be planted
195 under the special permit. A copy of the immediate final order
196 shall be mailed to the permitholder.

197 3. If, upon issuance by the department of an immediate
198 final order to the permitholder, the permitholder fails to
199 remove and destroy the *Casuarina cunninghamiana* subject to the
200 special permit within 60 days after issuance of the order, or
201 such shorter period as is designated in the order as public
202 health, safety, or welfare requires, the department may remove
203 and destroy the *Casuarina cunninghamiana* that are the subject of
204 the special permit. If the permitholder makes a written request
205 to the department for an extension of time to remove and destroy
206 the *Casuarina cunninghamiana* that demonstrates specific facts
207 showing why the *Casuarina cunninghamiana* could not reasonably be
208 removed and destroyed in the applicable timeframe, the
209 department may extend the time for removing and destroying
210 *Casuarina cunninghamiana* subject to a special permit. The

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211 reasonable costs and expenses incurred by the department for
 212 removing and destroying *Casuarina cunninghamiana* subject to a
 213 special permit shall be paid out of the Citrus Inspection Trust
 214 Fund and shall be reimbursed by the party to which the immediate
 215 final order is issued. If the party to which the immediate final
 216 order has been issued fails to reimburse the state within 60
 217 days, the department may record a lien on the property. The lien
 218 shall be enforced by the department.

219 4. In order to carry out the purposes of this paragraph,
 220 the department or its agents may require a permit holder to
 221 provide verified statements of the planted acreage subject to
 222 the special permit and may review the permit holder's business or
 223 planting records at her or his place of business during normal
 224 business hours in order to determine the acreage planted. The
 225 failure of a permit holder to furnish such statement or to make
 226 such records available is cause for suspension of the special
 227 permit. If the department finds such failure to be willful, the
 228 special permit may be revoked.

229 Section 2. This act shall take effect July 1, 2008.

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

234 Remove the entire title and insert:

235 A bill to be entitled

236 An act relating to citrus; amending s. 581.091, F.S.; providing
 237 conditions for use of *Casuarina cunninghamiana* as a windbreak
 238 for commercial citrus groves; defining the term "commercial

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239 citrus grove"; providing for permitting and permit fees;
240 providing for destruction of *Casuarina cunninghamiana*;
241 specifying responsibility and liability for removal and
242 destruction of such trees; providing that use as a windbreak
243 does not preclude research or release of agents to control
244 *Casuarina spp.*; providing that the use of *Casuarina*
245 *cunninghamiana* for windbreaks does not interfere with or
246 restrict efforts to manage or control noxious weeds or invasive
247 plants; prohibiting any other agency or local government from
248 removing *Casuarina cunninghamiana* planted as a windbreak under
249 special permit; providing an effective date.