

By: Martinez

H.B. No. 4577

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the seizure and destruction of certain plants.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

4 SECTION 1. Section 71.007, Agriculture Code, is amended to
5 read as follows:

6 Sec. 71.007. RULES. (a) In addition to other rules
7 necessary for the protection of agricultural and horticultural
8 interests, the department may adopt rules that:

9 (1) prevent the selling, moving, or transporting of
10 any plant, plant product, or substance that is found to be infested
11 or found to be from a quarantined area;

12 (2) provide for the destruction of trees or fruits;

13 (3) provide for the cleaning or treatment of orchards;

14 (4) provide for methods of storage;

15 (5) prevent entry into a pest-free zone of any plant,
16 plant product, or substance found to be dangerous to the
17 agricultural and horticultural interests of the zone;

18 (6) provide for the maintenance of a host-free period
19 in which certain fruits are not allowed to ripen; ~~or~~

20 (7) provide for specific treatment of a grove or
21 orchard or of infested or infected plants, plant products, or
22 substances; or

23 (8) provide for a program to manage or eradicate
24 exotic citrus diseases, including citrus canker and citrus

1 greening.

2 (b) Rules adopted under Subsection (a)(8) shall establish,
3 based on scientific evidence, when a healthy but suspect citrus
4 plant must be destroyed, and may provide for compensation to an
5 owner of a plant destroyed under this subsection.

6 SECTION 2. Section 71.0091, Agriculture Code, is amended by
7 amending Subsections (a), (b), (c), and (e) and adding Subsection
8 (e-1) to read as follows:

9 (a) The department may seize a citrus plant, citrus plant
10 product, or citrus substance that the department determines:

11 (1) is transported or carried from a quarantined area
12 in violation of a quarantine order; ~~[or]~~

13 (2) is infected with a disease or insect pest
14 dangerous to a citrus plant, citrus plant product, or citrus
15 substance, without regard to whether the citrus plant, citrus plant
16 product, or citrus substance comes from an area known to be
17 infested; or

18 (3) is located within proximity to a plant infected by
19 a disease dangerous to any agricultural or horticultural product
20 and is determined by the department to likely be infected by that
21 disease, regardless of whether the plant currently exhibits
22 symptoms of the disease.

23 (b) If a citrus plant, citrus plant product, or citrus
24 substance is seized under Subsection (a)(1) ~~[of this section]~~, the
25 department immediately shall notify the owner that the citrus
26 plant, citrus plant product, or citrus substance is a public
27 nuisance and that it must be destroyed, treated, or, if feasible,

1 returned to its point of origin. If a citrus plant, citrus plant
2 product, or citrus substance is seized under Subsection (a)(2) or
3 (3) [~~of this section~~], the department immediately shall notify the
4 owner that the citrus plant, citrus plant product, or citrus
5 substance is a public nuisance and must be destroyed or treated.

6 (c) If the owner of a citrus plant, citrus plant product, or
7 citrus substance seized under Subsection (a)(1) or (2) [~~(a) of this~~
8 ~~section~~] is unknown to the department, the department shall publish
9 or post notice that, not earlier than the fifth day after the first
10 day on which notice is published or posted, the department may
11 destroy the citrus plant, citrus plant product, or citrus
12 substance. The department shall publish the notice for three
13 consecutive days in a newspaper of general circulation in the
14 county in which the citrus plant, citrus plant product, or citrus
15 substance is located or post the notice in the immediate vicinity of
16 the area in which the citrus plant, citrus plant product, or citrus
17 substance is located. The notice must describe the citrus plant,
18 citrus plant product, or citrus substance seized. If the owner
19 claims the citrus plant, citrus plant product, or citrus substance
20 before the date for destruction set by the notice, the department
21 shall deliver the citrus plant, citrus plant product, or citrus
22 substance to the owner at the owner's expense. If the owner does
23 not claim the citrus plant, citrus plant product, or citrus
24 substance before the date the notice specifies that destruction is
25 permitted, the department may destroy or arrange for the
26 destruction of the citrus plant, citrus plant product, or citrus
27 substance.

1 (e) The owner of a citrus plant, citrus plant product, or
2 citrus substance treated or destroyed under Subsection (a)(1) or
3 (2) by the department under this section is liable to the department
4 for the costs of treatment or destruction, and the department may
5 sue to collect those costs.

6 (e-1) The owner of a citrus plant, citrus plant product, or
7 citrus substance destroyed under Subsection (a)(3) is entitled to
8 compensation from the department for the destruction of the plant,
9 product, or substance.

10 SECTION 3. This Act takes effect September 1, 2009.