

1-1 By: Hinojosa S.B. No. 1131
1-2 (In the Senate - Filed February 25, 2009; March 13, 2009,
1-3 read first time and referred to Committee on Agriculture and Rural
1-4 Affairs; April 20, 2009, reported favorably by the following vote:
1-5 Yeas 5, Nays 0; April 20, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the seizure and destruction of certain plants.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 71.007, Agriculture Code, is amended to
1-11 read as follows:

1-12 Sec. 71.007. RULES. (a) In addition to other rules
1-13 necessary for the protection of agricultural and horticultural
1-14 interests, the department may adopt rules that:

1-15 (1) prevent the selling, moving, or transporting of
1-16 any plant, plant product, or substance that is found to be infested
1-17 or found to be from a quarantined area;

1-18 (2) provide for the destruction of trees or fruits;

1-19 (3) provide for the cleaning or treatment of orchards;

1-20 (4) provide for methods of storage;

1-21 (5) prevent entry into a pest-free zone of any plant,
1-22 plant product, or substance found to be dangerous to the
1-23 agricultural and horticultural interests of the zone;

1-24 (6) provide for the maintenance of a host-free period
1-25 in which certain fruits are not allowed to ripen; ~~or~~

1-26 (7) provide for specific treatment of a grove or
1-27 orchard or of infested or infected plants, plant products, or
1-28 substances; or

1-29 (8) provide for a program to manage or eradicate
1-30 exotic citrus diseases, including citrus canker and citrus
1-31 greening.

1-32 (b) Rules adopted under Subsection (a)(8) shall establish,
1-33 based on scientific evidence, when a healthy but suspect citrus
1-34 plant must be destroyed, and may provide for compensation to an
1-35 owner of a plant destroyed under this subsection.

1-36 SECTION 2. Section 71.0091, Agriculture Code, is amended by
1-37 amending Subsections (a), (b), (c), and (e) and adding Subsection
1-38 (e-1) to read as follows:

1-39 (a) The department may seize a citrus plant, citrus plant
1-40 product, or citrus substance that the department determines:

1-41 (1) is transported or carried from a quarantined area
1-42 in violation of a quarantine order; ~~or~~

1-43 (2) is infected with a disease or insect pest
1-44 dangerous to a citrus plant, citrus plant product, or citrus
1-45 substance, without regard to whether the citrus plant, citrus plant
1-46 product, or citrus substance comes from an area known to be
1-47 infested; or

1-48 (3) is located within proximity to a plant infected by
1-49 a disease dangerous to any agricultural or horticultural product
1-50 and is determined by the department to likely be infected by that
1-51 disease, regardless of whether the plant currently exhibits
1-52 symptoms of the disease.

1-53 (b) If a citrus plant, citrus plant product, or citrus
1-54 substance is seized under Subsection (a)(1) ~~[of this section]~~, the
1-55 department immediately shall notify the owner that the citrus
1-56 plant, citrus plant product, or citrus substance is a public
1-57 nuisance and that it must be destroyed, treated, or, if feasible,
1-58 returned to its point of origin. If a citrus plant, citrus plant
1-59 product, or citrus substance is seized under Subsection (a)(2) or
1-60 (3) [of this section], the department immediately shall notify the
1-61 owner that the citrus plant, citrus plant product, or citrus
1-62 substance is a public nuisance and must be destroyed or treated.

1-63 (c) If the owner of a citrus plant, citrus plant product, or
1-64 citrus substance seized under Subsection (a)(1) or (2) ~~[(a) of this~~

2-1 ~~section~~] is unknown to the department, the department shall publish
 2-2 or post notice that, not earlier than the fifth day after the first
 2-3 day on which notice is published or posted, the department may
 2-4 destroy the citrus plant, citrus plant product, or citrus
 2-5 substance. The department shall publish the notice for three
 2-6 consecutive days in a newspaper of general circulation in the
 2-7 county in which the citrus plant, citrus plant product, or citrus
 2-8 substance is located or post the notice in the immediate vicinity of
 2-9 the area in which the citrus plant, citrus plant product, or citrus
 2-10 substance is located. The notice must describe the citrus plant,
 2-11 citrus plant product, or citrus substance seized. If the owner
 2-12 claims the citrus plant, citrus plant product, or citrus substance
 2-13 before the date for destruction set by the notice, the department
 2-14 shall deliver the citrus plant, citrus plant product, or citrus
 2-15 substance to the owner at the owner's expense. If the owner does
 2-16 not claim the citrus plant, citrus plant product, or citrus
 2-17 substance before the date the notice specifies that destruction is
 2-18 permitted, the department may destroy or arrange for the
 2-19 destruction of the citrus plant, citrus plant product, or citrus
 2-20 substance.

2-21 (e) The owner of a citrus plant, citrus plant product, or
 2-22 citrus substance treated or destroyed under Subsection (a)(1) or
 2-23 (2) by the department under this section is liable to the department
 2-24 for the costs of treatment or destruction, and the department may
 2-25 sue to collect those costs.

2-26 (e-1) The owner of a citrus plant, citrus plant product, or
 2-27 citrus substance destroyed under Subsection (a)(3) is entitled to
 2-28 compensation from the department for the destruction of the plant,
 2-29 product, or substance.

2-30 SECTION 3. This Act takes effect September 1, 2009.

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