

## **BILL ANALYSIS**

C.S.H.B. 2995  
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Agriculture & Livestock  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

According to interested parties, citrus greening disease is a bacterial disease spread by an insect vector known as the Asian citrus psyllid and is regarded as the most devastating citrus disease worldwide, killing citrus trees and slashing citrus production, with no applicable cure or treatment for an infected tree. The parties note that, since the disease was first discovered in Florida several years ago, it has negatively impacted that state's citrus industry and that the disease recently was discovered in Texas. The parties further note that three internationally accepted solutions for controlling the disease are vector control, removal of infected trees, and provision of clean, disease-free trees. The parties contend that, in order to avoid the fate of the Florida citrus industry, ensuring that a clean source of nursery stock is maintained in Texas is paramount. C.S.H.B. 2995 seeks to address this issue by establishing provisions relating to the administration of the citrus budwood certification program and the creation of the citrus nursery stock certification program in order to grant the Department of Agriculture the authority to regulate the propagation of citrus budwood in a manner that would minimize the threat posed by the Asian citrus psyllid.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Agriculture in SECTIONS 6, 7, and 11 of this bill.

### **ANALYSIS**

C.S.H.B. 2995 amends the Agriculture Code to designate Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr, Willacy, and Zapata Counties as the citrus zone of Texas for the purpose of the citrus budwood and citrus nursery stock certification programs. The bill establishes the citrus nursery stock certification program to be administered by the Department of Agriculture (TDA) and requires the TDA to accomplish the purposes of the program through the certification of nurseries growing or selling citrus nursery stock in the citrus zone. The bill requires all citrus nursery stock grown in or sold in or into the citrus zone to be grown in a certified citrus nursery. The bill requires the TDA, in consultation with the citrus budwood advisory council, to set standards for certified citrus nurseries and citrus nursery stock certification and to inspect citrus nurseries and the records of citrus nurseries to ensure that citrus nurseries comply with the provisions of the citrus nursery stock certification program. The bill requires the TDA to provide for an annual renewal of a certificate for a certified citrus nursery, including the imposition of applicable fees. The bill requires the TDA to renew the certificate if the nursery maintains the standards set by the TDA.

C.S.H.B. 2995 requires the TDA with the advice of the advisory council to adopt standards and rules necessary to administer the citrus nursery certification program and standards and rules requiring citrus nursery stock sold into the citrus zone to be propagated using certified citrus budwood and to be propagated in an enclosed structure that is built to specifications as determined by TDA rule and that has a top and sides that are built to exclude insects that may transmit citrus pathogens.

C.S.H.B. 2995 requires the TDA to establish procedures for certification of citrus nurseries. The bill requires the TDA to establish standards and procedures for the following: certifying citrus nurseries meeting applicable requirements; maintaining appropriate records required for participation in the citrus nursery stock certification program; inspecting citrus nurseries to ensure that the structures in which citrus nursery stock is propagated meet certain standards set by the TDA; and requiring each citrus nursery to submit source tree bud cutting reports to the TDA not later than the 30th day after citrus trees are budded. The bill specifies that the TDA's standards and procedures for verifying propagation of citrus varieties and special rootstocks for growers on request include an inspection of the citrus nursery's books and records.

C.S.H.B. 2995 requires a person who desires to operate a citrus nursery in order to propagate citrus nursery stock for sale in or into the citrus zone to apply for citrus nursery certification in accordance with rules adopted by the TDA. The bill requires the TDA to establish rules regarding the revocation of citrus nursery certification. The bill requires the TDA to set and collect fees from persons applying for citrus nursery certification. The bill requires the TDA to set the fees from foundation grove designation, citrus budwood certification, and citrus nursery certification in an amount that recovers the TDA's costs in enforcing, as well as administering, the citrus budwood certification program and the citrus nursery certification program.

C.S.H.B. 2995 authorizes the TDA to issue a written order to stop the sale of citrus budwood or a citrus nursery tree that a person offers for sale falsely claiming that it comes from a certified citrus nursery or a written order to stop the sale of citrus nursery stock that a person offers for sale in violation of applicable rules. The bill authorizes the TDA to issue a written order to stop the sale of citrus nursery stock from a citrus nursery or to stop the operation of all or part of a citrus nursery if a person propagates citrus nursery stock in a citrus nursery for sale in or into the citrus zone and the person falsely claims that the citrus nursery is certified or, if the citrus nursery is certified, the person fails to comply with applicable rules. The bill prohibits a person from selling citrus nursery stock out of a citrus nursery, or from operating a citrus nursery or a part of a citrus nursery, that is subject to a stop-sale order until the sale is permitted by a court or the TDA determines that the citrus nursery is in compliance with applicable provisions and rules. The bill requires the TDA to inspect each citrus nursery in the citrus zone not less than once every two months in order to enforce applicable provisions relating to stop-sale orders. The bill sets out related provisions regarding stop-sale orders.

C.S.H.B. 2995 makes it a Class C misdemeanor offense to sell or offer to sell citrus nursery stock falsely claiming that it is certified or that it comes from a designated foundation grove or a certified citrus nursery; to sell or offer to sell in or into the citrus zone citrus nursery stock that has not been propagated in a certified citrus nursery; to operate, in the citrus zone for the propagation of citrus nursery stock, a citrus nursery that is not a certified citrus nursery or that is not in compliance with applicable provisions or rules; or to operate, outside of the citrus zone for the propagation of citrus nursery stock for sale into the citrus zone, a citrus nursery that is not a certified citrus nursery or that is not in compliance with applicable provisions or rules. The bill authorizes the TDA to assess administrative penalties for such violations, except that an administrative penalty is assessed for the violation of selling or offering to sell citrus nursery stock in or into the citrus zone that was not propagated in a certified citrus nursery only if it was falsely claimed that the stock was so propagated.

C.S.H.B. 2995 makes a person who violates a rule adopted under provisions relating to the citrus budwood and citrus nursery stock certification programs liable to the state for a civil penalty not to exceed \$500 for each violation. The bill requires civil penalties relating to the programs to be deposited to the credit of an account in the general revenue fund and restricts appropriation of funds credited to the account to the TDA for purposes of administering and enforcing applicable provisions and rules.

C.S.H.B. 2995 requires the TDA to adopt rules to administer statutory provisions relating to the

citrus budwood and citrus nursery stock certification programs as amended by the bill not later than October 1, 2013.

**EFFECTIVE DATE**

September 1, 2013.

**COMPARISON OF ORIGINAL AND SUBSTITUTE**

While C.S.H.B. 2995 may differ from the original in minor or nonsubstantive ways, the following comparison is organized and highlighted in a manner that indicates the substantial differences between the introduced and committee substitute versions of the bill.

INTRODUCED	HOUSE COMMITTEE SUBSTITUTE
SECTION 1. The heading to Chapter 19, Agriculture Code, is amended.	SECTION 1. Same as introduced version.
SECTION 2. Section 19.001, Agriculture Code, is amended.	SECTION 2. Same as introduced version.
SECTION 3. Section 19.002, Agriculture Code, is amended.	SECTION 3. Same as introduced version.
SECTION 4. Section 19.003, Agriculture Code, is amended.	SECTION 4. Same as introduced version.
SECTION 5. Chapter 19, Agriculture Code, is amended by adding Sections 19.0031 and 19.0041.	SECTION 5. Same as introduced version.
SECTION 6. Section 19.005(a), Agriculture Code, is amended to read as follows: (a) The commissioner shall appoint the advisory council. The advisory council is composed of <u>11</u> [ <del>seven</del> ] members, including: (1) one member representing the department; (2) one member representing The Texas A&M University-Kingsville Citrus Center at Weslaco; (3) two members representing the <u>commercial citrus nursery industry</u> ; (4) two members representing <u>commercial citrus growers</u> ; [ <del>and</del> ] (5) one member having specialized knowledge in citrus diseases and pests; (6) <u>one member representing nurseries that propagate citrus nursery stock for retail marketing purposes</u> ; (7) <u>one member representing Texas Citrus Mutual</u> ; and (8) <u>two members representing the citrus packing shed industry</u> .	<b>No equivalent provision.</b>

SECTION 7. Section 19.006, Agriculture Code, is amended to read as follows:

Sec. 19.006. RULES. The department, with the advice of the advisory council, shall adopt standards and rules:

(1) necessary to administer the citrus budwood certification program and the citrus nursery certification program; ~~and~~

(2) to regulate the sale of citrus budwood and citrus nursery trees as supplies of certified citrus budwood and certified citrus nursery trees become available; and

(3) requiring citrus nursery stock grown in or sold into the citrus zone to be propagated:

(A) using certified citrus budwood; and

(B) in an enclosed structure that:

(i) is built to specifications as determined by department rule; and

(ii) has a top and sides that are built to exclude insects that may transmit citrus pathogens.

SECTION 8. Sections 19.007, 19.008, 19.009, 19.010, and 19.011, Agriculture Code, are amended.

SECTION 9. Section 19.012(a), Agriculture Code, is amended.

SECTION 10. Sections 19.013(a) and (c), Agriculture Code, are amended.

SECTION 11. Section 19.014, Agriculture Code, is amended.

SECTION 12. (a) Not later than October 1, 2013, the Department of Agriculture shall adopt rules to administer Chapter 19, Agriculture Code, as amended by this Act.

(b) Not later than October 1, 2013, the commissioner of agriculture shall appoint the members to the advisory council as provided by Section 19.005, Agriculture Code, as amended by this Act.

SECTION 13. The changes in law made by this Act apply only to an offense committed on or after the effective date of this Act. An offense committed before the effective date of this Act is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose. For purposes of this section, an offense was

SECTION 6. Section 19.006, Agriculture Code, is amended to read as follows:

Sec. 19.006. RULES. The department, with the advice of the advisory council, shall adopt standards and rules:

(1) necessary to administer the citrus budwood certification program and the citrus nursery certification program; ~~and~~

(2) to regulate the sale of citrus budwood and citrus nursery trees as supplies of certified citrus budwood and certified citrus nursery trees become available; and

(3) requiring citrus nursery stock sold into the citrus zone to be propagated:

(A) using certified citrus budwood; and

(B) in an enclosed structure that:

(i) is built to specifications as determined by department rule; and

(ii) has a top and sides that are built to exclude insects that may transmit citrus pathogens.

SECTION 7. Same as introduced version.

SECTION 8. Same as introduced version.

SECTION 9. Same as introduced version.

SECTION 10. Same as introduced version.

SECTION 11. Not later than October 1, 2013, the Department of Agriculture shall adopt rules to administer Chapter 19, Agriculture Code, as amended by this Act.

**No equivalent provision.**

SECTION 12. Same as introduced version.

committed before the effective date of this Act if any element of the offense was committed before that date.

SECTION 14. The changes in law made by this Act apply only to a violation committed on or after the effective date of this Act. A violation committed before the effective date of this Act is covered by the law in effect when the violation was committed, and the former law is continued in effect for that purpose.

SECTION 15. This Act takes effect September 1, 2013.

SECTION 13. Same as introduced version.

SECTION 14. Same as introduced version.