

By: King of Zavala, Martinez

H.B. No. 2995

Substitute the following for H.B. No. 2995:

By: Kacal

C.S.H.B. No. 2995

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration of the citrus budwood certification  
3 program and the creation of the citrus nursery stock certification  
4 program; providing civil, criminal, and administrative penalties  
5 and authorizing fees.

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

7 SECTION 1. The heading to Chapter 19, Agriculture Code, is  
8 amended to read as follows:

9 CHAPTER 19. CITRUS BUDWOOD AND CITRUS NURSERY STOCK CERTIFICATION  
10 PROGRAMS [~~PROGRAM~~]

11 SECTION 2. Section 19.001, Agriculture Code, is amended to  
12 read as follows:

13 Sec. 19.001. PURPOSE. The purpose of this chapter is to:

14 (1) establish a certified citrus budwood program to  
15 produce citrus trees that are horticulturally sound, are free from  
16 virus and other recognizable bud-transmissible diseases, and are of  
17 an assured type of citrus variety;

18 (2) establish a certified citrus nursery program for  
19 citrus nursery stock sold in or into the citrus zone as part of an  
20 effort to produce citrus trees that are free from pathogens,  
21 including citrus greening disease, which is spread by the Asian  
22 citrus psyllid;

23 (3) provide standards for foundation groves,  
24 certified citrus nurseries, and certified citrus nursery trees; and

1           (4) [~~(3)~~] provide for an advisory council to make  
2 recommendations on the implementation of the programs [~~program~~].

3           SECTION 3. Section 19.002, Agriculture Code, is amended by  
4 adding Subdivisions (1-a), (2-a), (2-b), and (5-a) and amending  
5 Subdivisions (4) and (5) to read as follows:

6           (1-a) "Asian citrus psyllid" has the meaning assigned  
7 by Section 80.003.

8           (2-a) "Certified citrus nursery" means a nursery that  
9 meets standards required by the department for production of citrus  
10 nursery stock free from pests of citrus.

11           (2-b) "Certified citrus nursery stock" means citrus  
12 nursery stock propagated from cuttings or by budding, grafting, or  
13 air-layering and grown from certified citrus budwood that meets  
14 standards required by the department for assurance of type of  
15 citrus variety and for freedom from dangerous pathogens.

16           (4) "Citrus grower" means a citrus producer growing  
17 and producing citrus nursery stock for commercial or retail  
18 marketing purposes.

19           (5) "Citrus nursery" means a producer of citrus  
20 trees[~~r~~] propagated through the budding or grafting of citrus trees  
21 using certified citrus budwood.

22           (5-a) "Citrus nursery stock" means citrus plants to be  
23 used in a commercial or noncommercial setting.

24           SECTION 4. Section 19.003, Agriculture Code, is amended to  
25 read as follows:

26           Sec. 19.003. SCOPE. Except as otherwise provided by this  
27 chapter, this [~~This~~] chapter applies to all citrus nurseries and

1 citrus growers.

2 SECTION 5. Chapter 19, Agriculture Code, is amended by  
3 adding Sections 19.0031 and 19.0041 to read as follows:

4 Sec. 19.0031. CITRUS ZONE. The following counties are  
5 designated as the citrus zone of this state for the purpose of this  
6 chapter: Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr,  
7 Willacy, and Zapata.

8 Sec. 19.0041. CITRUS NURSERY STOCK CERTIFICATION PROGRAM.

9 (a) The citrus nursery stock certification program is established.  
10 The department administers the program.

11 (b) The department shall accomplish the purposes of the  
12 program through the certification of nurseries growing or selling  
13 citrus nursery stock in the citrus zone.

14 (c) All citrus nursery stock grown in or sold in or into the  
15 citrus zone must be grown in a certified citrus nursery.

16 (d) The department, in consultation with the advisory  
17 council, shall set standards for certified citrus nurseries and  
18 citrus nursery stock certification, and shall inspect citrus  
19 nurseries and the records of citrus nurseries to ensure that citrus  
20 nurseries comply with the provisions of the citrus nursery stock  
21 certification program.

22 (e) The department shall provide for an annual renewal of a  
23 certificate for a certified citrus nursery, including the  
24 imposition of applicable fees. The department shall renew the  
25 certificate if the nursery maintains the standards set by the  
26 department under Subsection (d).

27 SECTION 6. Section 19.006, Agriculture Code, is amended to

1 read as follows:

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

4           (1) necessary to administer the citrus budwood  
5 certification program and the citrus nursery certification  
6 program; [and]

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

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

12                   (A) using certified citrus budwood; and

13                   (B) in an enclosed structure that:

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

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

18           SECTION 7. Sections 19.007, 19.008, 19.009, 19.010, and  
19 19.011, Agriculture Code, are amended to read as follows:

20           Sec. 19.007. CERTIFICATION STANDARDS. (a) The department  
21 shall establish:

22           (1) the certification standards for genetic purity for  
23 varieties of citrus budwood by type;

24           (2) procedures that must be followed to prevent the  
25 introduction of dangerous citrus pathogens into budwood stock from  
26 and in foundation groves;

27           (3) procedures for certification of citrus budwood

1 grown in foundation groves; and

2 (4) procedures for certification of citrus nurseries  
3 and citrus nursery trees.

4 (b) The department shall establish standards and procedures  
5 for:

6 (1) inspecting and testing for diseases, using current  
7 technologies in disease diagnosis, and for desirable horticultural  
8 characteristics of citrus budwood grown in designated foundation  
9 groves;

10 (2) certifying citrus budwood and citrus nurseries  
11 meeting requirements established under this chapter;

12 (3) maintaining a source of citrus budwood of superior  
13 tested varieties for distribution to the citrus industry;

14 (4) verifying propagation of citrus varieties and  
15 special rootstocks for growers on request, including an inspection  
16 of the citrus nursery's books and records; [and]

17 (5) maintaining appropriate records required for  
18 participation in the citrus budwood certification and citrus  
19 nursery stock certification programs;

20 (6) inspecting citrus nurseries to ensure that the  
21 structures in which citrus nursery stock is propagated meet  
22 standards set by the department, including standards for:

23 (A) size;

24 (B) construction;

25 (C) insect resistance;

26 (D) citrus nursery sanitation;

27 (E) movement of the citrus nursery stock from one

1 structure to another at the nursery;  
2 (F) proximity to nearby citrus groves; and  
3 (G) other standards for the operation of a  
4 certified nursery as may be required by the department; and  
5 (7) requiring each citrus nursery to submit source  
6 tree bud cutting reports to the department not later than the 30th  
7 day after citrus trees are budded [program].

8 Sec. 19.008. APPLYING FOR FOUNDATION GROVE DESIGNATION,  
9 ~~[AND]~~ BUDWOOD CERTIFICATION, AND CITRUS NURSERY CERTIFICATION. (a)  
10 A person who desires to operate a foundation grove and produce  
11 certified citrus budwood for sale to the citrus industry must  
12 ~~[shall]~~ apply for foundation grove designation and citrus budwood  
13 certification in accordance with rules adopted by the department.

14 (b) A person who desires to operate a citrus nursery to  
15 propagate citrus nursery stock for sale in or into the citrus zone  
16 must apply for citrus nursery certification in accordance with  
17 rules adopted by the department.

18 Sec. 19.009. REVOCATION. The department shall establish  
19 rules regarding the revocation of foundation grove designation,  
20 ~~[and]~~ citrus budwood certification, and citrus nursery  
21 certification.

22 Sec. 19.010. PROGRAM COST; FEES; ACCOUNT. (a) The  
23 department shall set and collect fees from persons applying for  
24 foundation grove designation, ~~[or]~~ citrus budwood certification,  
25 or citrus nursery certification. The department shall set the fees  
26 in an amount that recovers the department's costs in administering  
27 and enforcing the citrus budwood certification program and the

1 citrus nursery certification program. The department may also  
2 accept funds from the citrus industry or other interested persons  
3 to cover the costs of administering the programs [~~program~~].

4 (b) All fees and funds collected or contributed under this  
5 section shall be deposited to the credit of an account in the  
6 general revenue fund. Money in the account may be appropriated only  
7 to the department for the purpose of administering and enforcing  
8 this chapter.

9 Sec. 19.011. STOP-SALE ORDER. (a) If a person offers  
10 citrus budwood or a citrus nursery tree for sale falsely claiming  
11 that it is certified, [~~or~~] that it comes from a designated  
12 foundation grove, or that it comes from a certified citrus nursery,  
13 or offers citrus budwood, [~~or~~] a citrus nursery tree, or citrus  
14 nursery stock for sale in violation of rules adopted under this  
15 chapter, the department may issue a written order to stop the sale  
16 of that citrus budwood, [~~or~~] citrus nursery tree, or citrus nursery  
17 stock. A person may not sell citrus budwood, [~~or~~] a citrus nursery  
18 tree, or citrus nursery stock that is subject to a stop-sale order  
19 under this section until:

20 (1) the sale is permitted by a court under Subsection  
21 (b); or

22 (2) the department determines that the sale of the  
23 citrus budwood, [~~or~~] citrus nursery tree, or citrus nursery stock  
24 is in compliance with this chapter and rules adopted under this  
25 chapter.

26 (a-1) The department may issue a written order to stop the  
27 sale of citrus nursery stock from a citrus nursery or to stop the

1 operation of all or part of a citrus nursery if a person propagates  
2 citrus nursery stock in a citrus nursery for sale in or into the  
3 citrus zone and:

4 (1) the person falsely claims that the citrus nursery  
5 is certified; or

6 (2) if the citrus nursery is certified, the person  
7 fails to comply with the rules adopted under this chapter.

8 (a-2) A person may not sell citrus nursery stock out of a  
9 citrus nursery, or operate a citrus nursery or a part of a citrus  
10 nursery, that is subject to a stop-sale order under this section  
11 until:

12 (1) the sale is permitted by a court under Subsection  
13 (b); or

14 (2) the department determines that the citrus nursery  
15 is in compliance with this chapter and rules adopted under this  
16 chapter.

17 (b) The person named in the order may bring suit in a court  
18 in the county where the citrus budwood, ~~or~~ citrus nursery tree, or  
19 citrus nursery subject to the stop-sale order is located. After a  
20 hearing, the court may, as applicable, permit the citrus budwood or  
21 citrus nursery tree to be sold, or permit the citrus nursery to  
22 continue operations, if the court finds, as applicable, the citrus  
23 budwood or citrus nursery tree is not being offered for sale or that  
24 the citrus nursery is not operating in violation of this chapter.

25 (c) This section does not limit the department's right to  
26 act under another section of this chapter.

27 (d) The department shall inspect each citrus nursery in the



1 citrus zone not less than once every two months in order to enforce  
2 this section.

3 SECTION 8. Section 19.012(a), Agriculture Code, is amended  
4 to read as follows:

5 (a) A person commits an offense if the person:

6 (1) sells or offers to sell citrus budwood, ~~[or]~~ a  
7 citrus nursery tree, or citrus nursery stock falsely claiming that  
8 it is certified or that it comes from a designated foundation grove  
9 or a certified citrus nursery;

10 (2) uses, for commercial purposes, citrus budwood that  
11 is required by department rule to be certified and is not certified  
12 or does not come from a designated foundation grove; ~~[or]~~

13 (3) sells or offers to sell in or into the citrus zone  
14 citrus nursery stock that has not been propagated in a certified  
15 citrus nursery;

16 (4) operates, in the citrus zone for the propagation  
17 of citrus nursery stock, a citrus nursery that is not a certified  
18 citrus nursery or that is not in compliance with this chapter or a  
19 rule adopted under this chapter;

20 (5) operates, outside of the citrus zone for the  
21 propagation of citrus nursery stock for sale into the citrus zone, a  
22 citrus nursery that is not a certified citrus nursery or that is not  
23 in compliance with this chapter or a rule adopted under this  
24 chapter; or

25 (6) fails to comply with an order of the department  
26 issued under this chapter.

27 SECTION 9. Sections 19.013(a) and (c), Agriculture Code,

1 are amended to read as follows:

2 (a) A person who violates this chapter, a rule adopted under  
3 this chapter, or an order adopted under this chapter is liable to  
4 the state for a civil penalty not to exceed \$500 for each violation.  
5 Each day a violation continues is a separate violation for purposes  
6 of civil penalty assessment.

7 (c) A civil penalty collected under this section in a suit  
8 filed by the attorney general shall be deposited to the credit of an  
9 account in the general revenue fund. A civil penalty collected  
10 under this section in a suit filed by a county or district attorney  
11 shall be divided between the state and the county in which the  
12 county or district attorney brought suit, with 50 percent of the  
13 amount collected paid to the state for deposit to the credit of an  
14 account in the general revenue fund and 50 percent of the amount  
15 collected paid to the county. Funds credited to the account in the  
16 general revenue fund may be appropriated only to the department for  
17 purposes of administering and enforcing this chapter and rules  
18 adopted under this chapter.

19 SECTION 10. Section 19.014, Agriculture Code, is amended to  
20 read as follows:

21 Sec. 19.014. ADMINISTRATIVE PENALTIES. The department may  
22 assess an administrative penalty under Chapter 12 for a violation  
23 of this chapter if the department finds that a person:

24 (1) sells or offers to sell citrus budwood, ~~or~~ a  
25 citrus nursery tree, or citrus nursery stock falsely claiming that  
26 it is certified or that it comes from a designated foundation grove  
27 or a certified citrus nursery under this chapter;

1           (2) uses citrus budwood in violation of rules adopted  
2 under this chapter;

3           (3) uses, for commercial purposes, citrus budwood that  
4 is required by department rule to be certified and is not certified  
5 or does not come from a designated foundation grove; [~~or~~]

6           (4) sells or offers to sell citrus nursery stock in or  
7 into the citrus zone falsely claiming that the citrus nursery stock  
8 was propagated in a certified citrus nursery;

9           (5) operates, in the citrus zone for the propagation  
10 of citrus nursery stock, a citrus nursery that is not a certified  
11 citrus nursery or that is not in compliance with this chapter or a  
12 rule adopted under this chapter;

13           (6) operates, outside of the citrus zone for the  
14 propagation of citrus nursery stock for sale into the citrus zone,  
15 a citrus nursery that is not a certified citrus nursery or that is  
16 not in compliance with this chapter or a rule adopted under this  
17 chapter; or

18           (7) fails to comply with an order of the department  
19 issued under this chapter.

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

23           SECTION 12. The changes in law made by this Act apply only  
24 to an offense committed on or after the effective date of this Act.  
25 An offense committed before the effective date of this Act is  
26 covered by the law in effect when the offense was committed, and the  
27 former law is continued in effect for that purpose. For purposes of

1 this section, an offense was committed before the effective date of  
2 this Act if any element of the offense was committed before that  
3 date.

4 SECTION 13. The changes in law made by this Act apply only  
5 to a violation committed on or after the effective date of this Act.  
6 A violation committed before the effective date of this Act is  
7 covered by the law in effect when the violation was committed, and  
8 the former law is continued in effect for that purpose.

9 SECTION 14. This Act takes effect September 1, 2013.