

By: Hinojosa, et al.
(King of Zavala)

S.B. No. 1427

A BILL TO BE ENTITLED

AN ACT

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

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

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

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

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

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

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

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

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

(4) [~~(3)~~] provide for an advisory council to make

1 recommendations on the implementation of the programs [~~program~~].

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

5 (1-a) "Asian citrus psyllid" has the meaning assigned
6 by Section 80.003.

7 (2-a) "Certified citrus nursery" means a nursery that
8 meets standards required by the department for production of citrus
9 nursery stock free from pests of citrus.

10 (2-b) "Certified citrus nursery stock" means citrus
11 nursery stock propagated from cuttings or by budding, grafting, or
12 air-layering and grown from certified citrus budwood that meets
13 standards required by the department for assurance of type of
14 citrus variety and for freedom from dangerous pathogens.

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

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

21 (5-a) "Citrus nursery stock" means citrus plants to be
22 used in a commercial or noncommercial setting.

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

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

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

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

7 Sec. 19.0041. CITRUS NURSERY STOCK CERTIFICATION PROGRAM.

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

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

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

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

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

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

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

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

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

9 (3) requiring citrus nursery stock sold in the citrus
10 zone to be propagated:

11 (A) using certified citrus budwood; and

12 (B) in an enclosed structure that:

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

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

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

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

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

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

26 (3) procedures for certification of citrus budwood
27 grown in foundation groves; and

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

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

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

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

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

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

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

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

22 (A) size;

23 (B) construction;

24 (C) insect resistance;

25 (D) citrus nursery sanitation;

26 (E) movement of the citrus nursery stock from one
27 structure to another at the nursery;

1 (F) proximity to nearby citrus groves; and

2 (G) other standards for the operation of a
3 certified nursery as may be required by the department; and

4 (7) requiring each citrus nursery to submit source
5 tree bud cutting reports to the department not later than the 30th
6 day after citrus trees are budded [~~program~~].

7 Sec. 19.008. APPLYING FOR FOUNDATION GROVE DESIGNATION,
8 [~~AND~~] BUDWOOD CERTIFICATION, AND CITRUS NURSERY CERTIFICATION.

9 (a) A person who desires to operate a foundation grove and produce
10 certified citrus budwood for sale to the citrus industry must
11 [~~shall~~] apply for foundation grove designation and citrus budwood
12 certification in accordance with rules adopted by the department.

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

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

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

1 accept funds from the citrus industry or other interested persons
2 to cover the costs of administering the programs [~~program~~].

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

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

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

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

25 (a-1) The department may issue a written order to stop the
26 sale of citrus nursery stock from a citrus nursery or to stop the
27 operation of all or part of a citrus nursery if a person propagates

1 citrus nursery stock in a citrus nursery for sale in the citrus zone
2 and:

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

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

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

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

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

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

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

26 (d) The department shall inspect each citrus nursery in the
27 citrus zone not less than once every two months in order to enforce

1 this section.

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

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

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

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

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

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

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

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

26 SECTION 9. Subsections (a) and (c), Section 19.013,
27 Agriculture Code, are amended to read as follows:

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

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

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

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

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

27 (2) uses citrus budwood in violation of rules adopted

1 under this chapter;

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

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

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

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

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

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

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

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

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

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