

By: Hinojosa

S.B. No. 1427

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 19.005(a), Agriculture Code, is amended

1 to read as follows:

2 (a) The commissioner shall appoint the advisory council.
3 The advisory council is composed of 11 [~~seven~~] members, including:

4 (1) one member representing the department;

5 (2) one member representing The Texas A&M
6 University-Kingsville Citrus Center at Weslaco;

7 (3) two members representing the commercial citrus
8 nursery industry;

9 (4) two members representing commercial citrus
10 growers; [~~and~~]

11 (5) one member having specialized knowledge in citrus
12 diseases and pests;

13 (6) one member representing nurseries that propagate
14 citrus nursery stock for retail marketing purposes;

15 (7) one member representing Texas Citrus Mutual; and

16 (8) two members representing the citrus packing shed
17 industry.

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

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

22 (1) necessary to administer the citrus budwood
23 certification program and the citrus nursery certification
24 program; [~~and~~]

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

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

3 (A) using certified citrus budwood; and

4 (B) in an enclosed structure that:

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

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

9 SECTION 8. Sections 19.007, 19.008, 19.009, 19.010, and
10 19.011, Agriculture Code, are amended to read as follows:

11 Sec. 19.007. CERTIFICATION STANDARDS. (a) The department
12 shall establish:

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

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

18 (3) procedures for certification of citrus budwood
19 grown in foundation groves; and

20 (4) procedures for certification of citrus nurseries
21 and citrus nursery trees.

22 (b) The department shall establish standards and procedures
23 for:

24 (1) inspecting and testing for diseases, using current
25 technologies in disease diagnosis, and for desirable horticultural
26 characteristics of citrus budwood grown in designated foundation
27 groves;

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

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

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

8 (5) maintaining appropriate records required for
9 participation in the citrus budwood certification and citrus
10 nursery stock certification programs;

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

14 (A) size;

15 (B) construction;

16 (C) insect resistance;

17 (D) citrus nursery sanitation;

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

20 (F) proximity to nearby citrus groves; and

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

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

26 Sec. 19.008. APPLYING FOR FOUNDATION GROVE DESIGNATION,
27 [~~AND~~] BUDWOOD CERTIFICATION, AND CITRUS NURSERY CERTIFICATION. (a)

1 A person who desires to operate a foundation grove and produce
2 certified citrus budwood for sale to the citrus industry must
3 [~~shall~~] apply for foundation grove designation and citrus budwood
4 certification in accordance with rules adopted by the department.

5 (b) A person who desires to operate a citrus nursery to
6 propagate citrus nursery stock for sale in or into the citrus zone
7 must apply for citrus nursery certification in accordance with
8 rules adopted by the department.

9 Sec. 19.009. REVOCATION. The department shall establish
10 rules regarding the revocation of foundation grove designation,
11 [~~and~~] citrus budwood certification, and citrus nursery
12 certification.

13 Sec. 19.010. PROGRAM COST; FEES; ACCOUNT. (a) The
14 department shall set and collect fees from persons applying for
15 foundation grove designation, [~~or~~] citrus budwood certification,
16 or citrus nursery certification. The department shall set the fees
17 in an amount that recovers the department's costs in administering
18 and enforcing the citrus budwood certification program and the
19 citrus nursery certification program. The department may also
20 accept funds from the citrus industry or other interested persons
21 to cover the costs of administering the programs [~~program~~].

22 (b) All fees and funds collected or contributed under this
23 section shall be deposited to the credit of an account in the
24 general revenue fund. Money in the account may be appropriated only
25 to the department for the purpose of administering and enforcing
26 this chapter.

27 Sec. 19.011. STOP-SALE ORDER. (a) If a person offers

1 citrus budwood or a citrus nursery tree for sale falsely claiming
2 that it is certified, ~~[or]~~ that it comes from a designated
3 foundation grove, or that it comes from a certified citrus nursery,
4 or offers citrus budwood, ~~[or]~~ a citrus nursery tree, or citrus
5 nursery stock for sale in violation of rules adopted under this
6 chapter, the department may issue a written order to stop the sale
7 of that citrus budwood, ~~[or]~~ citrus nursery tree, or citrus nursery
8 stock. A person may not sell citrus budwood, ~~[or]~~ a citrus nursery
9 tree, or citrus nursery stock that is subject to a stop-sale order
10 under this section until:

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

13 (2) the department determines that the sale of the
14 citrus budwood, ~~[or]~~ citrus nursery tree, or citrus nursery stock
15 is in compliance with this chapter and rules adopted under this
16 chapter.

17 (a-1) The department may issue a written order to stop the
18 sale of citrus nursery stock from a citrus nursery or to stop the
19 operation of all or part of a citrus nursery if a person propagates
20 citrus nursery stock in a citrus nursery for sale in or into the
21 citrus zone and:

22 (1) the person falsely claims that the citrus nursery
23 is certified; or

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

26 (a-2) A person may not sell citrus nursery stock out of a
27 citrus nursery, or operate a citrus nursery or a part of a citrus

1 nursery, that is subject to a stop-sale order under this section
2 until:

3 (1) the sale is permitted by a court under Subsection
4 (b); or

5 (2) the department determines that the citrus nursery
6 is in compliance with this chapter and rules adopted under this
7 chapter.

8 (b) The person named in the order may bring suit in a court
9 in the county where the citrus budwood, ~~or~~ citrus nursery tree, or
10 citrus nursery subject to the stop-sale order is located. After a
11 hearing, the court may, as applicable, permit the citrus budwood or
12 citrus nursery tree to be sold, or permit the citrus nursery to
13 continue operations, if the court finds, as applicable, the citrus
14 budwood or citrus nursery tree is not being offered for sale or that
15 the citrus nursery is not operating in violation of this chapter.

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

18 (d) The department shall inspect each citrus nursery in the
19 citrus zone not less than once every two months in order to enforce
20 this section.

21 SECTION 9. Section 19.012(a), Agriculture Code, is amended
22 to read as follows:

23 (a) A person commits an offense if the 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;

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

4 (3) sells or offers to sell in or into the citrus zone
5 citrus nursery stock that has not been propagated in a certified
6 citrus nursery;

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

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

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

18 SECTION 10. Sections 19.013(a) and (c), Agriculture Code,
19 are amended to read as follows:

20 (a) A person who violates this chapter, a rule adopted under
21 this chapter, or an order adopted under this chapter is liable to
22 the state for a civil penalty not to exceed \$500 for each violation.
23 Each day a violation continues is a separate violation for purposes
24 of civil penalty assessment.

25 (c) A civil penalty collected under this section in a suit
26 filed by the attorney general shall be deposited to the credit of an
27 account in the general revenue fund. A civil penalty collected

1 under this section in a suit filed by a county or district attorney
2 shall be divided between the state and the county in which the
3 county or district attorney brought suit, with 50 percent of the
4 amount collected paid to the state for deposit to the credit of an
5 account in the general revenue fund and 50 percent of the amount
6 collected paid to the county. Funds credited to the account in the
7 general revenue fund may be appropriated only to the department for
8 purposes of administering and enforcing this chapter and rules
9 adopted under this chapter.

10 SECTION 11. Section 19.014, Agriculture Code, is amended to
11 read as follows:

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

15 (1) sells or offers to sell citrus budwood, ~~or~~ a
16 citrus nursery tree, or citrus nursery stock falsely claiming that
17 it is certified or that it comes from a designated foundation grove
18 or a certified citrus nursery under this chapter;

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

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

24 (4) sells or offers to sell citrus nursery stock in or
25 into the citrus zone falsely claiming that the citrus nursery stock
26 was propagated in a certified citrus nursery;

27 (5) operates, in the citrus zone for the propagation

1 of citrus nursery stock, a citrus nursery that is not a certified
2 citrus nursery or that is not in compliance with this chapter or a
3 rule adopted under this chapter;

4 (6) operates, outside of the citrus zone for the
5 propagation of citrus nursery stock for sale into the citrus zone,
6 a citrus nursery that is not a certified citrus nursery or that is
7 not in compliance with this chapter or a rule adopted under this
8 chapter; or

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

11 SECTION 12. (a) Not later than October 1, 2013, the
12 Department of Agriculture shall adopt rules to administer Chapter
13 19, Agriculture Code, as amended by this Act.

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

18 SECTION 13. The changes in law made by this Act apply only
19 to an offense committed on or after the effective date of this Act.
20 An offense committed before the effective date of this Act is
21 covered by the law in effect when the offense was committed, and the
22 former law is continued in effect for that purpose. For purposes of
23 this section, an offense was committed before the effective date of
24 this Act if any element of the offense was committed before that
25 date.

26 SECTION 14. The changes in law made by this Act apply only
27 to a violation committed on or after the effective date of this Act.

1 A violation committed before the effective date of this Act is
2 covered by the law in effect when the violation was committed, and
3 the former law is continued in effect for that purpose.

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