

1-1 By: Hinojosa S.B. No. 1427
 1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read
 1-3 first time and referred to Committee on Agriculture, Rural Affairs,
 1-4 and Homeland Security; April 25, 2013, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 5,
 1-6 Nays 0; April 25, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 1427 By: Estes

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the administration of the citrus budwood certification
 1-18 program and the creation of the citrus nursery stock certification
 1-19 program; providing civil, criminal, and administrative penalties
 1-20 and authorizing fees.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. The heading to Chapter 19, Agriculture Code, is
 1-23 amended to read as follows:

1-24 CHAPTER 19. CITRUS BUDWOOD AND CITRUS NURSERY STOCK CERTIFICATION
 1-25 PROGRAMS [PROGRAM]

1-26 SECTION 2. Section 19.001, Agriculture Code, is amended to
 1-27 read as follows:

1-28 Sec. 19.001. PURPOSE. The purpose of this chapter is to:

1-29 (1) establish a certified citrus budwood program to
 1-30 produce citrus trees that are horticulturally sound, are free from
 1-31 virus and other recognizable bud-transmissible diseases, and are of
 1-32 an assured type of citrus variety;

1-33 (2) establish a certified citrus nursery program for
 1-34 citrus nursery stock sold in or into the citrus zone as part of an
 1-35 effort to produce citrus trees that are free from pathogens,
 1-36 including citrus greening disease, which is spread by the Asian
 1-37 citrus psyllid;

1-38 (3) provide standards for foundation groves,
 1-39 certified citrus nurseries, and certified citrus nursery trees; and
 1-40 (4) [~~3~~] provide for an advisory council to make
 1-41 recommendations on the implementation of the programs [program].

1-42 SECTION 3. Section 19.002, Agriculture Code, is amended by
 1-43 adding Subdivisions (1-a), (2-a), (2-b), and (5-a) and amending
 1-44 Subdivisions (4) and (5) to read as follows:

1-45 (1-a) "Asian citrus psyllid" has the meaning assigned
 1-46 by Section 80.003.

1-47 (2-a) "Certified citrus nursery" means a nursery that
 1-48 meets standards required by the department for production of citrus
 1-49 nursery stock free from pests of citrus.

1-50 (2-b) "Certified citrus nursery stock" means citrus
 1-51 nursery stock propagated from cuttings or by budding, grafting, or
 1-52 air-layering and grown from certified citrus budwood that meets
 1-53 standards required by the department for assurance of type of
 1-54 citrus variety and for freedom from dangerous pathogens.

1-55 (4) "Citrus grower" means a citrus producer growing
 1-56 and producing citrus nursery stock for commercial or retail
 1-57 marketing purposes.

1-58 (5) "Citrus nursery" means a producer of citrus
 1-59 trees [r] propagated through the budding or grafting of citrus trees
 1-60 using certified citrus budwood.

2-1 (5-a) "Citrus nursery stock" means citrus plants to be
2-2 used in a commercial or noncommercial setting.

2-3 SECTION 4. Section 19.003, Agriculture Code, is amended to
2-4 read as follows:

2-5 Sec. 19.003. SCOPE. Except as otherwise provided by this
2-6 chapter, this [This] chapter applies to all citrus nurseries and
2-7 citrus growers.

2-8 SECTION 5. Chapter 19, Agriculture Code, is amended by
2-9 adding Sections 19.0031 and 19.0041 to read as follows:

2-10 Sec. 19.0031. CITRUS ZONE. The following counties are
2-11 designated as the citrus zone of this state for the purpose of this
2-12 chapter: Brooks, Cameron, Hidalgo, Jim Hogg, Kenedy, Starr,
2-13 Willacy, and Zapata.

2-14 Sec. 19.0041. CITRUS NURSERY STOCK CERTIFICATION PROGRAM.
2-15 (a) The citrus nursery stock certification program is
2-16 established. The department administers the program.

2-17 (b) The department shall accomplish the purposes of the
2-18 program through the certification of nurseries growing or selling
2-19 citrus nursery stock in the citrus zone.

2-20 (c) All citrus nursery stock grown in or sold in or into the
2-21 citrus zone must be grown in a certified citrus nursery.

2-22 (d) The department, in consultation with the advisory
2-23 council, shall set standards for certified citrus nurseries and
2-24 citrus nursery stock certification, and shall inspect citrus
2-25 nurseries and the records of citrus nurseries to ensure that citrus
2-26 nurseries comply with the provisions of the citrus nursery stock
2-27 certification program.

2-28 (e) The department shall provide for an annual renewal of a
2-29 certificate for a certified citrus nursery, including the
2-30 imposition of applicable fees. The department shall renew the
2-31 certificate if the nursery maintains the standards set by the
2-32 department under Subsection (d).

2-33 SECTION 6. Section 19.006, Agriculture Code, is amended to
2-34 read as follows:

2-35 Sec. 19.006. RULES. The department, with the advice of the
2-36 advisory council, shall adopt standards and rules:

2-37 (1) necessary to administer the citrus budwood
2-38 certification program and the citrus nursery certification
2-39 program; ~~and~~

2-40 (2) to regulate the sale of citrus budwood and citrus
2-41 nursery trees as supplies of certified citrus budwood and certified
2-42 citrus nursery trees become available; and

2-43 (3) requiring citrus nursery stock sold into the
2-44 citrus zone to be propagated:

2-45 (A) using certified citrus budwood; and

2-46 (B) in an enclosed structure that:

2-47 (i) is built to specifications as
2-48 determined by department rule; and

2-49 (ii) has a top and sides that are built to
2-50 exclude insects that may transmit citrus pathogens.

2-51 SECTION 7. Sections 19.007, 19.008, 19.009, 19.010, and
2-52 19.011, Agriculture Code, are amended to read as follows:

2-53 Sec. 19.007. CERTIFICATION STANDARDS. (a) The department
2-54 shall establish:

2-55 (1) the certification standards for genetic purity for
2-56 varieties of citrus budwood by type;

2-57 (2) procedures that must be followed to prevent the
2-58 introduction of dangerous citrus pathogens into budwood stock from
2-59 and in foundation groves;

2-60 (3) procedures for certification of citrus budwood
2-61 grown in foundation groves; and

2-62 (4) procedures for certification of citrus nurseries
2-63 and citrus nursery trees.

2-64 (b) The department shall establish standards and procedures
2-65 for:

2-66 (1) inspecting and testing for diseases, using current
2-67 technologies in disease diagnosis, and for desirable horticultural
2-68 characteristics of citrus budwood grown in designated foundation
2-69 groves;

3-1 (2) certifying citrus budwood and citrus nurseries
3-2 meeting requirements established under this chapter;
3-3 (3) maintaining a source of citrus budwood of superior
3-4 tested varieties for distribution to the citrus industry;
3-5 (4) verifying propagation of citrus varieties and
3-6 special rootstocks for growers on request, including an inspection
3-7 of the citrus nursery's books and records; [and]
3-8 (5) maintaining appropriate records required for
3-9 participation in the citrus budwood certification and citrus
3-10 nursery stock certification programs;
3-11 (6) inspecting citrus nurseries to ensure that the
3-12 structures in which citrus nursery stock is propagated meet
3-13 standards set by the department, including standards for:
3-14 (A) size;
3-15 (B) construction;
3-16 (C) insect resistance;
3-17 (D) citrus nursery sanitation;
3-18 (E) movement of the citrus nursery stock from one
3-19 structure to another at the nursery;
3-20 (F) proximity to nearby citrus groves; and
3-21 (G) other standards for the operation of a
3-22 certified nursery as may be required by the department; and
3-23 (7) requiring each citrus nursery to submit source
3-24 tree bud cutting reports to the department not later than the 30th
3-25 day after citrus trees are budded [program].
3-26 Sec. 19.008. APPLYING FOR FOUNDATION GROVE DESIGNATION,
3-27 ~~[AND]~~ BUDWOOD CERTIFICATION, AND CITRUS NURSERY CERTIFICATION.
3-28 (a) A person who desires to operate a foundation grove and produce
3-29 certified citrus budwood for sale to the citrus industry must
3-30 ~~[shall]~~ apply for foundation grove designation and citrus budwood
3-31 certification in accordance with rules adopted by the department.
3-32 (b) A person who desires to operate a citrus nursery to
3-33 propagate citrus nursery stock for sale in or into the citrus zone
3-34 must apply for citrus nursery certification in accordance with
3-35 rules adopted by the department.
3-36 Sec. 19.009. REVOCATION. The department shall establish
3-37 rules regarding the revocation of foundation grove designation,
3-38 ~~[and]~~ citrus budwood certification, and citrus nursery
3-39 certification.
3-40 Sec. 19.010. PROGRAM COST; FEES; ACCOUNT. (a) The
3-41 department shall set and collect fees from persons applying for
3-42 foundation grove designation, ~~[or]~~ citrus budwood certification,
3-43 or citrus nursery certification. The department shall set the fees
3-44 in an amount that recovers the department's costs in administering
3-45 and enforcing the citrus budwood certification program and the
3-46 citrus nursery certification program. The department may also
3-47 accept funds from the citrus industry or other interested persons
3-48 to cover the costs of administering the programs [program].
3-49 (b) All fees and funds collected or contributed under this
3-50 section shall be deposited to the credit of an account in the
3-51 general revenue fund. Money in the account may be appropriated only
3-52 to the department for the purpose of administering and enforcing
3-53 this chapter.
3-54 Sec. 19.011. STOP-SALE ORDER. (a) If a person offers
3-55 citrus budwood or a citrus nursery tree for sale falsely claiming
3-56 that it is certified, ~~[or]~~ that it comes from a designated
3-57 foundation grove, or that it comes from a certified citrus nursery,
3-58 or offers citrus budwood, [or] a citrus nursery tree, or citrus
3-59 nursery stock for sale in violation of rules adopted under this
3-60 chapter, the department may issue a written order to stop the sale
3-61 of that citrus budwood, [or] citrus nursery tree, or citrus nursery
3-62 stock. A person may not sell citrus budwood, ~~[or]~~ a citrus nursery
3-63 tree, or citrus nursery stock that is subject to a stop-sale order
3-64 under this section until:
3-65 (1) the sale is permitted by a court under Subsection
3-66 (b); or
3-67 (2) the department determines that the sale of the
3-68 citrus budwood, ~~[or]~~ citrus nursery tree, or citrus nursery stock
3-69 is in compliance with this chapter and rules adopted under this

4-1 chapter.

4-2 (a-1) The department may issue a written order to stop the
 4-3 sale of citrus nursery stock from a citrus nursery or to stop the
 4-4 operation of all or part of a citrus nursery if a person propagates
 4-5 citrus nursery stock in a citrus nursery for sale in or into the
 4-6 citrus zone and:

4-7 (1) the person falsely claims that the citrus nursery
 4-8 is certified; or

4-9 (2) if the citrus nursery is certified, the person
 4-10 fails to comply with the rules adopted under this chapter.

4-11 (a-2) A person may not sell citrus nursery stock out of a
 4-12 citrus nursery, or operate a citrus nursery or a part of a citrus
 4-13 nursery, that is subject to a stop-sale order under this section
 4-14 until:

4-15 (1) the sale is permitted by a court under Subsection
 4-16 (b); or

4-17 (2) the department determines that the citrus nursery
 4-18 is in compliance with this chapter and rules adopted under this
 4-19 chapter.

4-20 (b) The person named in the order may bring suit in a court
 4-21 in the county where the citrus budwood, ~~or~~ citrus nursery tree, or
 4-22 citrus nursery subject to the stop-sale order is located. After a
 4-23 hearing, the court may, as applicable, permit the citrus budwood or
 4-24 citrus nursery tree to be sold, or permit the citrus nursery to
 4-25 continue operations, if the court finds, as applicable, the citrus
 4-26 budwood or citrus nursery tree is not being offered for sale or that
 4-27 the citrus nursery is not operating in violation of this chapter.

4-28 (c) This section does not limit the department's right to
 4-29 act under another section of this chapter.

4-30 (d) The department shall inspect each citrus nursery in the
 4-31 citrus zone not less than once every two months in order to enforce
 4-32 this section.

4-33 SECTION 8. Subsection (a), Section 19.012, Agriculture
 4-34 Code, is amended to read as follows:

4-35 (a) A person commits an offense if the person:

4-36 (1) sells or offers to sell citrus budwood, ~~or~~ a
 4-37 citrus nursery tree, or citrus nursery stock falsely claiming that
 4-38 it is certified or that it comes from a designated foundation grove
 4-39 or a certified citrus nursery;

4-40 (2) uses, for commercial purposes, citrus budwood that
 4-41 is required by department rule to be certified and is not certified
 4-42 or does not come from a designated foundation grove; ~~or~~

4-43 (3) sells or offers to sell in or into the citrus zone
 4-44 citrus nursery stock that has not been propagated in a certified
 4-45 citrus nursery;

4-46 (4) operates, in the citrus zone for the propagation
 4-47 of citrus nursery stock, a citrus nursery that is not a certified
 4-48 citrus nursery or that is not in compliance with this chapter or a
 4-49 rule adopted under this chapter;

4-50 (5) operates, outside of the citrus zone for the
 4-51 propagation of citrus nursery stock for sale into the citrus zone, a
 4-52 citrus nursery that is not a certified citrus nursery or that is not
 4-53 in compliance with this chapter or a rule adopted under this
 4-54 chapter; or

4-55 (6) fails to comply with an order of the department
 4-56 issued under this chapter.

4-57 SECTION 9. Subsections (a) and (c), Section 19.013,
 4-58 Agriculture Code, are amended to read as follows:

4-59 (a) A person who violates this chapter, a rule adopted under
 4-60 this chapter, or an order adopted under this chapter is liable to
 4-61 the state for a civil penalty not to exceed \$500 for each violation.
 4-62 Each day a violation continues is a separate violation for purposes
 4-63 of civil penalty assessment.

4-64 (c) A civil penalty collected under this section in a suit
 4-65 filed by the attorney general shall be deposited to the credit of an
 4-66 account in the general revenue fund. A civil penalty collected
 4-67 under this section in a suit filed by a county or district attorney
 4-68 shall be divided between the state and the county in which the
 4-69 county or district attorney brought suit, with 50 percent of the

5-1 amount collected paid to the state for deposit to the credit of an
5-2 account in the general revenue fund and 50 percent of the amount
5-3 collected paid to the county. Funds credited to the account in the
5-4 general revenue fund may be appropriated only to the department for
5-5 purposes of administering and enforcing this chapter and rules
5-6 adopted under this chapter.

5-7 SECTION 10. Section 19.014, Agriculture Code, is amended to
5-8 read as follows:

5-9 Sec. 19.014. ADMINISTRATIVE PENALTIES. The department may
5-10 assess an administrative penalty under Chapter 12 for a violation
5-11 of this chapter if the department finds that a person:

5-12 (1) sells or offers to sell citrus budwood, [~~or~~] a
5-13 citrus nursery tree, or citrus nursery stock falsely claiming that
5-14 it is certified or that it comes from a designated foundation grove
5-15 or a certified citrus nursery under this chapter;

5-16 (2) uses citrus budwood in violation of rules adopted
5-17 under this chapter;

5-18 (3) uses, for commercial purposes, citrus budwood that
5-19 is required by department rule to be certified and is not certified
5-20 or does not come from a designated foundation grove; [~~or~~]

5-21 (4) sells or offers to sell citrus nursery stock in or
5-22 into the citrus zone falsely claiming that the citrus nursery stock
5-23 was propagated in a certified citrus nursery;

5-24 (5) operates, in the citrus zone for the propagation
5-25 of citrus nursery stock, a citrus nursery that is not a certified
5-26 citrus nursery or that is not in compliance with this chapter or a
5-27 rule adopted under this chapter;

5-28 (6) operates, outside of the citrus zone for the
5-29 propagation of citrus nursery stock for sale into the citrus zone, a
5-30 citrus nursery that is not a certified citrus nursery or that is not
5-31 in compliance with this chapter or a rule adopted under this
5-32 chapter; or

5-33 (7) fails to comply with an order of the department
5-34 issued under this chapter.

5-35 SECTION 11. Not later than October 1, 2013, the Department
5-36 of Agriculture shall adopt rules to administer Chapter 19,
5-37 Agriculture Code, as amended by this Act.

5-38 SECTION 12. The changes in law made by this Act apply only
5-39 to an offense committed on or after the effective date of this Act.
5-40 An offense committed before the effective date of this Act is
5-41 covered by the law in effect when the offense was committed, and the
5-42 former law is continued in effect for that purpose. For purposes of
5-43 this section, an offense was committed before the effective date of
5-44 this Act if any element of the offense was committed before that
5-45 date.

5-46 SECTION 13. The changes in law made by this Act apply only
5-47 to a violation committed on or after the effective date of this Act.
5-48 A violation committed before the effective date of this Act is
5-49 covered by the law in effect when the violation was committed, and
5-50 the former law is continued in effect for that purpose.

5-51 SECTION 14. This Act takes effect September 1, 2013.

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