

By: Martinez

H.B. No. 2495

Substitute the following for H.B. No. 2495:

By: Rinaldi

C.S.H.B. No. 2495

A BILL TO BE ENTITLED

AN ACT

relating to citrus pest and disease management; amending provisions
subject to a criminal penalty.

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

SECTION 1. Sections 80.001(a) and (b), Agriculture Code,
are amended to read as follows:

(a) The legislature finds that:

(1) citrus pests and diseases, including the insect
known as the Asian citrus psyllid and the disease known as citrus
greening, are public nuisances and menaces to the citrus industry,
and their control and suppression is a public necessity;

(2) because of the natural migration patterns of
citrus pests and the contagious nature of citrus diseases [~~the~~
~~Asian citrus psyllid~~], the control and suppression of the nuisance
can best be accomplished by dividing the commercial citrus-growing
areas into separate zones so that integrated pest management
programs may be developed for each zone;

(3) there is a need for a quasi-governmental entity
acting under the supervision and control of the commissioner whose
members are actual citrus producers who would be represented on the
board of the entity by directors elected by them to manage control
and suppression programs and to furnish expertise in the field of
disease and insect control and suppression, because such an entity
would enhance the interest and participation of citrus producers in

1 the program;

2 (4) citrus producers, in partnership with the state
3 and federal governments, have made significant investments toward
4 the suppression of these pests and disease in this state; and

5 (5) it is essential to the well-being of the citrus
6 industry and the agricultural economy of this state that the
7 investments of the citrus producers and the state and federal
8 governments be protected.

9 (b) It is the intent of the legislature that the program of
10 control and suppression of citrus pests and diseases [~~the Asian~~
11 ~~citrus psyllid~~] be carried out with the best available integrated
12 pest management techniques.

13 SECTION 2. Section 80.002, Agriculture Code, is amended to
14 read as follows:

15 Sec. 80.002. DESIGNATION OF ENTITY TO CARRY OUT CITRUS PEST
16 AND DISEASE [~~ASIAN CITRUS PSYLLID AND CITRUS GREENING~~] CONTROL AND
17 SUPPRESSION. (a) The Texas Citrus Pest and Disease Management
18 Corporation, Inc., a Texas nonprofit corporation, shall be
19 recognized by the department as the entity to plan, carry out, and
20 operate suppression programs to manage and control pests and
21 diseases, including the Asian citrus psyllid and citrus greening,
22 in citrus plants in the state under the supervision of the
23 department as provided by this chapter.

24 (b) The commissioner may terminate the corporation's
25 designation as the entity recognized to carry out citrus pest and
26 disease [~~Asian citrus psyllid~~] control and management by giving 45
27 days' written notice to the corporation and by designating a

1 successor entity. If the commissioner designates a successor to
2 the corporation, the successor has all the powers and duties of the
3 corporation under this chapter. Any successor to the corporation
4 shall assume and shall be responsible for all obligations and
5 liabilities relating to any notes, security agreements,
6 assignments, loan agreements, and any other contracts or other
7 documents entered into by the corporation with or for the benefit of
8 any financial institution or its predecessor, successor, or
9 assignee.

10 SECTION 3. Section 80.003, Agriculture Code, is amended by
11 amending Subdivisions (7), (10), (11), and (13) and adding
12 Subdivisions (14) and (15) to read as follows:

13 (7) "Suppression" means control of the numbers and
14 migration of a pest [~~the Asian citrus psyllid~~] to the extent that
15 the commissioner does not consider further management of the pest
16 [~~Asian citrus psyllid~~] necessary to prevent economic loss to citrus
17 producers.

18 (10) "Host" means a plant or plant product in which a
19 pest [~~the Asian citrus psyllid~~] is capable of completing any
20 portion of its life cycle.

21 (11) "Infested" means the presence of a pest [~~the~~
22 ~~Asian citrus psyllid~~] in any life stage or the existence of
23 generally accepted [~~entomological~~] evidence from which it may be
24 concluded with reasonable certainty that a pest [~~the Asian citrus~~
25 ~~psyllid~~] is present.

26 (13) "Regulated article" means an article carrying or
27 capable of carrying a pest [~~the Asian citrus psyllid~~], including

1 citrus plants, nursery plants, citrus rootstock, or other hosts.

2 (14) "Disease" means an impairment of the normal state
3 of citrus, caused by a virus or organism, that interrupts or
4 modifies the performance of vital functions in citrus. The term
5 includes citrus greening.

6 (15) "Pest" means a virus or organism that causes
7 disease or other damage to citrus and that is designated by
8 commissioner rule for suppression under this chapter. The term
9 includes the Asian citrus psyllid.

10 SECTION 4. Section 80.006(c), Agriculture Code, is amended
11 to read as follows:

12 (c) A proposed pest management zone referendum ballot must
13 include or be accompanied by information about the proposed pest
14 management zone, including:

15 (1) a statement of the purpose of the pest [~~Asian~~
16 ~~citrus psyllid~~] suppression program;

17 (2) the geographic area included in the proposed pest
18 management zone;

19 (3) a general summary of rules adopted by the
20 commissioner under Sections 80.016, 80.020, and 80.022, including a
21 description of:

22 (A) citrus producer responsibilities; and

23 (B) penalties for noncompliance with rules
24 adopted under this chapter; and

25 (4) an address and toll-free telephone number that a
26 citrus producer may use to request more information about the
27 referendum or the pest [~~Asian citrus psyllid~~] suppression program.

1 SECTION 5. Section 80.008(b), Agriculture Code, is amended
2 to read as follows:

3 (b) In making appointments under this section, the
4 commissioner shall appoint the following board members, selected
5 from a variety of citrus-growing regions of the state, for
6 four-year terms:

7 (1) an agricultural lender;

8 (2) an independent entomologist who is an integrated
9 pest management specialist;

10 (3) a representative from an industry [~~two~~
11 ~~representatives from industries~~] allied with citrus production;
12 [~~and~~]

13 (4) a representative from the pest control industry;
14 and

15 (5) a representative of the nursery or ornamental
16 citrus sales industry.

17 SECTION 6. Sections 80.014(a) and (b), Agriculture Code,
18 are amended to read as follows:

19 (a) On the determination by the corporation that the pest
20 [~~Asian citrus psyllid~~] suppression program has been completed in
21 all pest management zones established under this chapter, the
22 corporation shall provide notice of the completion to the
23 commissioner along with a request for discontinuance of the control
24 and suppression program and collection of the assessment. Any
25 request under this subsection must include documentation
26 supporting the fact that pests are [~~the Asian citrus psyllid is~~] no
27 longer a threat to the state's citrus industry and a plan for

1 discontinuance of the program and assessment.

2 (b) The commissioner shall determine whether or not the
3 further suppression of pests [~~the Asian citrus psyllid~~] is
4 necessary in the pest management zones and approve or disapprove
5 discontinuance of the corporation and the plan for dissolution.

6 SECTION 7. Section 80.015(a), Agriculture Code, is amended
7 to read as follows:

8 (a) The commissioner shall propose the assessment needed in
9 each pest management zone to ensure the stability of the citrus
10 industry by suppressing the public nuisance caused by pests [~~the
11 Asian citrus psyllid~~].

12 SECTION 8. Section 80.016(i), Agriculture Code, is amended
13 to read as follows:

14 (i) A public hearing regarding the proposed suppression
15 program, including information regarding regulations to be
16 promulgated by the commissioner, may be held by the commissioner in
17 each of several locations in each [~~Asian citrus psyllid~~] pest
18 management zone.

19 SECTION 9. Section 80.019, Agriculture Code, is amended to
20 read as follows:

21 Sec. 80.019. ENTRY OF PREMISES; SUPPRESSION ACTIVITIES;
22 INSPECTIONS. The department, the corporation, or a designated
23 representative of either entity may enter citrus groves or other
24 premises to carry out the purposes of this chapter, which include
25 the treatment and monitoring of growing citrus or other host
26 plants. The department, the corporation, or a designated
27 representative of either entity may inspect groves or premises in

1 this state for the purpose of determining whether the property is
2 infested with pests [~~the Asian citrus psyllid or citrus~~
3 ~~greening~~]. An inspection must be conducted during reasonable
4 daylight hours. The department shall give notice by publication of
5 the planned schedule of dates for entry by the department, the
6 corporation, or a designated representative of either entity, to
7 the owner or occupant of the groves or premises to carry out the
8 purposes of this chapter, including treatment, monitoring, or
9 inspection functions. The department shall publish notice of the
10 planned schedule to enter the groves or premises in a newspaper of
11 general circulation in the pest management zone not less than once a
12 week for two weeks immediately before the scheduled dates of
13 entry. In addition to the notice published by the department, the
14 corporation shall post notice of the planned schedule to enter
15 groves or premises to carry out the purposes of this chapter at the
16 county courthouse of each county in the pest management zone not
17 later than the 15th day before the planned dates of entry.

18 SECTION 10. Section 80.020(b), Agriculture Code, is amended
19 to read as follows:

20 (b) The commissioner may adopt rules requiring all growers
21 of citrus in a pest management zone to participate in a pest [~~an~~
22 ~~Asian citrus psyllid~~] suppression program and growers of commercial
23 citrus to participate in pest and disease management programs that
24 include cost sharing as required by the rules.

25 SECTION 11. Sections 80.022(a) and (b), Agriculture Code,
26 are amended to read as follows:

27 (a) The commissioner shall adopt rules to protect

1 individuals, livestock, wildlife, and honeybee colonies on any
2 premises in a pest management zone on which citrus plants are being
3 grown that have been or are being treated to control or suppress
4 pests [~~the Asian citrus psyllid and citrus greening~~].

5 (b) Rules adopted under this section shall establish the
6 criteria by which the corporation develops its procedures and
7 methods of treatment, which shall:

8 (1) establish a methodology for determining when pest
9 [~~Asian citrus psyllid~~] population levels have reached economic
10 significance or when disease [~~citrus greening~~] is present;

11 (2) establish an effective treatment regimen that
12 seeks to provide the least possible risk to workers, the public, and
13 the environment;

14 (3) minimize the effects of the use of pesticides on
15 long-term control methods, including but not limited to the effect
16 a particular pesticide may have on biological controls;

17 (4) establish methods for monitoring [~~Asian citrus~~
18 ~~psyllids, citrus greening, and secondary~~] pests;

19 (5) establish methods for verifying pesticide use
20 reduction; and

21 (6) consider the acute and chronic toxicity of
22 particular pesticides and the quantity of particular pesticides
23 needed. Pest management zone treatment plans may take into account
24 the potential for the use of smaller quantities of more toxic
25 substances to result in fewer health and environmental risks than
26 larger quantities of less toxic substances.

27 SECTION 12. Section [80.024](#), Agriculture Code, is amended to

1 read as follows:

2 Sec. 80.024. DOCUMENTING REGULATED ARTICLES. To implement
3 this chapter, the department may issue or authorize issuance of:

4 (1) a certificate that indicates that a regulated
5 article is not infested with pests [~~the Asian citrus psyllid~~]; and

6 (2) a permit that provides for the movement of a
7 regulated article to a restricted destination for limited handling,
8 use, or processing.

9 SECTION 13. Section 80.025(a), Agriculture Code, is amended
10 to read as follows:

11 (a) The corporation may carry out programs to destroy and
12 manage pests [~~the Asian citrus psyllid and citrus greening~~] in this
13 state by cooperating through written agreements, as approved by the
14 commissioner, with:

15 (1) an agency of the federal government;

16 (2) a state agency;

17 (3) an appropriate agency of a foreign country
18 contiguous to the affected area to the extent allowed by federal
19 law;

20 (4) a person who is engaged in growing, processing,
21 marketing, or handling citrus;

22 (5) a group of persons in this state involved in
23 similar programs to carry out the purposes of this chapter; or

24 (6) an appropriate state agency of another state
25 contiguous to the affected area, to the extent allowed by federal
26 law, the law of the contiguous state, and the law of this state.

27 SECTION 14. Section 80.026(a), Agriculture Code, is amended

1 to read as follows:

2 (a) The commissioner shall develop rules and procedures to:

3 (1) protect the eligibility of organic citrus
4 producers to be certified by the commissioner;

5 (2) ensure that organic and transitional
6 certifications by the commissioner continue to meet national
7 certification standards in order for organic citrus to maintain
8 international marketability; and

9 (3) in all events maintain the effectiveness of the
10 pest [~~Asian citrus psyllid~~] suppression program and disease [~~citrus~~
11 ~~greening~~] management administered under this chapter.

12 SECTION 15. Section 80.008(b), Agriculture Code, as amended
13 by this Act, applies only to a member of the board of directors of
14 the Texas Citrus Pest and Disease Management Corporation, Inc.,
15 appointed on or after the effective date of this Act. A member
16 appointed before the effective date of this Act may continue to
17 serve until the expiration of the member's term.

18 SECTION 16. This Act takes effect September 1, 2015.