

CHAPTER 166

S.B. No. 1427

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

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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.

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

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

Sec. 19.0041. CITRUS NURSERY STOCK CERTIFICATION PROGRAM.

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

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

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

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

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

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

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

(1) necessary to administer the citrus budwood certification program and the citrus nursery certification program; ~~and~~

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

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

(A) using certified citrus budwood; and

(B) in an enclosed structure that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) size;

(B) construction;

(C) insect resistance;

(D) citrus nursery sanitation;

(E) movement of the citrus nursery stock from one
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

this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) uses citrus budwood in violation of rules adopted

under this chapter;

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

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

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

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

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

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

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

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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. _____

David Dewhurst
President of the Senate

Joe Straus
Speaker of the House

I hereby certify that S.B. No. 1427 passed the Senate on
May 1, 2013, by the following vote: Yeas 30, Nays 1. _____

Letsy Spaw
Secretary of the Senate

I hereby certify that S.B. No. 1427 passed the House on
May 8, 2013, by the following vote: Yeas 142, Nays 5, two present
not voting. _____

Robert Haney
Chief Clerk of the House

Approved:

24 MAY '13
Date

Rick Perry
Governor

FILED IN THE OFFICE OF THE
SECRETARY OF STATE
6:00PM O'CLOCK

MAY 24 2013

[Signature]
Secretary of State