

STORAGE NAME: h2209s1z.ag
DATE: June 16, 2000

****FAILED TO PASS THE LEGISLATURE****

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
AGRICULTURE
FINAL ANALYSIS**

BILL #: CS/HB 2209 (PCB AG 00-03)(Passed as CS/CS/SB 1114, Chapter 2000-308, Laws of Florida)

RELATING TO: Protection of agriculture and horticulture

SPONSOR(S): Committees on General Government Appropriations, Agriculture, Representative Putnam, and others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE YEAS 8 NAYS 0
- (2) GOVERNMENTAL RULES & REGULATIONS YEAS 7 NAYS 0
- (3) GENERAL GOVERNMENT APPROPRIATIONS YEAS 8 NAYS 0
- (4)
- (5)

I. SUMMARY:

CS/HB 2209 amends chapter 581, F.S., clarifying the Department of Agriculture and Consumer Services' (department) authority to implement regulatory activities necessary for citrus canker eradication.

Citrus canker is a highly contagious bacterial disease that damages fruit and weakens, eventually killing, citrus trees. Its presence causes quarantines to be imposed on shipments of fresh citrus fruit and movement of fruit or trees out of an infested area.

The bill clarifies that persons knowingly receiving or possessing any noxious weed, plant, plant product or regulated item infested or infected with any plant pest declared to be a threat to the state's agricultural or horticultural industry, must report such receipt or possession to the department. Failure to disclose is unlawful. Definitions for the terms "infested," "infected," and "exposed to infection" are included.

The bill requires the department to develop a statewide decontamination program to prevent and limit the spread of citrus canker disease. Upon request of the department, county sheriffs are required to provide assistance to personnel in accessing private property for canker eradication program purposes. Provision is also made for the department to reimburse the sheriffs for expenses.

The bill allows water control districts (chapter 298, F.S.) to construct and operate agricultural pest prevention wash-down facilities, and clarifies property ownership requirements for participation in district decision-making.

Finally, the bill directs that, where citrus trees are to be cut, posting of an order on the property meets statutory noticing requirements.

See Section III. D. Fiscal Comments related to the total cost of the citrus canker eradication program.

The act takes effect upon becoming a law.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

B. PRESENT SITUATION:

In Florida, citrus is an 8 billion dollar industry, providing nearly 100,000 jobs and producing 79 percent of the nation's citrus.

Citrus canker is a highly contagious bacterial disease which infects citrus plants causing spots or blemish on leaves and fruit, and resulting in fruit dropping prematurely. Due to the devastating nature of the disease, the United States Department of Agriculture (USDA) has specific protocols for dealing with the disease, and eradication programs are joint efforts between the USDA and the Florida Department of Agriculture and Consumer Services (department). Since there is no known cure for any strain of citrus canker, infected trees are cut, or pushed in a grove situation, and burned.

In November, 1995, when citrus canker was discovered on residential properties in Broward, Dade, and Manatee counties, emergency eradication procedures were initiated by the department. Currently, public announcements are made, informing residents of scheduled surveys in their areas. Upon determination by a plant pathologist that a tree is infected, the owner is issued an "immediate final order" to explain the tree removal process and the owner's appeal rights. Infected trees are cut, chipped at the site, and hauled away to be burned. Residents losing citrus trees due to the canker eradication program are eligible for a \$100 voucher (one per property) to buy non-citrus replacement trees or shrubs as canopy or shade replacement.

Citrus canker can be spread by wind-driven rain, birds and other animals, movement of contaminated trees or fruit from an infested area, and by contaminated equipment and clothing. Wind and rain from recent tropical storms, as well as movement of contaminated equipment and plant material has continued the spread of the disease. Due to this movement, the department has initiated an accelerated eradication program with a goal of completing the program within 12 months. The accelerated program includes increased appropriations (both state and federal), establishing a command center in Broward County, creating compliance agreements with the citrus industry to ensure that all equipment and workers are properly decontaminated and creation of host-free buffer areas.

Existing eradication policy requires burning infected trees and all other citrus trees within a 125-foot radius. Scientific evidence, however, indicates that 95 percent of citrus trees which become infected occur within 1,900 feet of infected trees.

C. EFFECT OF PROPOSED CHANGES:

CS/HB 2209 amends chapter 581, F.S., clarifying the Department of Agriculture and Consumer Services' (department) authority to implement regulatory activities necessary for eradication of citrus canker.

Existing law requires persons receiving or possessing noxious weeds, plants, plant products or regulated items infested or infected with any plant pest declared to threaten the state's agricultural or horticultural industry, to report such receipt or possession to the department. Failure to disclose is unlawful. Specific definitions for the terms "infested," "infected," and "exposed to infection" are added to clarify categories of citrus trees subject to removal during the canker eradication program.

To prevent and limit the spread of citrus canker disease, the department is required to develop a statewide decontamination program. To aid in prevention of soil and water contamination, the bill requires decontamination rules to be developed in consultation with the Department of Environmental Protection. CS/HB 2209 also provides a waiver of liability for costs or damages associated with soil and water contamination resulting from citrus canker decontamination activities.

Upon request of the department, county sheriffs are required to provide assistance to personnel in accessing private property for canker eradication program purposes. During recent tree survey and removal activities, personnel have encountered situations where property owners and dogs inhibit access to properties. Provision is also made for the department to reimburse the sheriffs for reasonable costs.

The bill directs that, where citrus trees are to be cut, posting of an order on the property meets the notice requirements of s. 120.569(1), F.S. This practice reduces the time between notification that an infected or exposed tree is found and the time a cutting crew enters the property, thereby expediting the removal process.

Finally, the bill allows water control districts to construct and operate agricultural pest prevention wash-down facilities. Also relating to water control districts, the bills clarifies that voting by landowners at district landowner meetings is authorized based upon assessable acreage. This excludes government-owned land. As relates to revision of water control plans, "minor insubstantial amendment" is defined.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 581.091, F.S., clarifying that a person must notify the department if they have knowingly received or are in possession of a noxious weed or any plant, plant product, or regulated article infected or infested with any plant pest declared to be a threat to the state's agricultural and horticultural interests.

Section 2: Amends s. 581.184, F.S., to:

- Define "infected or infested" to mean citrus trees harboring the citrus canker bacteria and exhibiting visible symptoms of the disease; define "exposed to infection" as citrus trees harboring the citrus canker bacteria due to their proximity to infected citrus trees. (Such trees do not yet exhibit visible symptoms of the disease but will develop symptoms over time.)

- Require the department to develop a statewide program of decontamination to prevent and limit the spread of citrus canker disease; require the program to address the application of decontamination procedures and practices; authorize development of compliance and other agreements to aid in carrying out a decontamination program; require decontamination rules be developed in consultation with the Department of Environmental Protection; to provide a waiver of liability for costs or damages associated with soil and water contamination resulting from citrus canker decontamination activities.
- Require county sheriffs, upon request of the department, to provide assistance in accessing private property for the purpose of enforcing citrus canker eradication efforts, maintaining public order during the eradication process, and protecting the safety of department employees, representatives, and agents charged with implementing the eradication program.
- Require that posting of an order on property where citrus trees are to be cut meets the notice requirement of s. 120.569(1), F.S.

Section 3: Amends s. 298.22, F.S., allows water control districts to construct and operate wash-down facilities to control and prevent agricultural pests and diseases and clarifies property ownership requirements for participation in district decision-making.

Section 4: Amends s. 298.005(2), F.S., to clarify the definition of “owner” as used in chapter 298.

Section 5: Amends s. 298.11(2), F.S., to specify that acreage referred to is “assessable” acreage.

Section 6: Amends s. 298.12(1), F.S., to provide that owners with unpaid assessments for the previous year are not entitled to vote in election of supervisors.

Section 7: Amends s. 298.225(8), F.S., to define “minor insubstantial amendments” regarding water control plans.

Section 8: Provides that the bill shall take effect upon becoming a law.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

None. County sheriffs' assistance costs will be paid by the department.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The department estimates an annual, industry-wide cost of \$33,566,487 for citrus canker decontamination. This figure is based on the cost of decontamination equipment at packing houses and processors and for personnel working in groves.

If citrus canker is not eradicated, estimated losses to the citrus industry are approximately \$500 million annually.

D. FISCAL COMMENTS:

The Department has recommended an aggressive 12-month eradication plan at an estimated cost of \$155.7 million. Major cost categories include temporary personnel, tree removal, motor vehicles, and data processing services. The Conference Committee on the General Appropriations Act is currently considering an appropriation of \$23.5 in General Revenue, \$6.2 Agricultural Emergency Eradication Trust Fund, and \$109.8 million in Federal funding.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

The bill provides rule-making authority for the department to develop a statewide decontamination program to prevent and limit the spread of citrus canker. Items to be addressed by the program are specified.

C. OTHER COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 12, 2000, the Committee on Governmental Rules & Regulations adopted an amendment clarifying property ownership requirements for participation in district decision-making, and reported the bill favorably as amended.

On April 18, 2000, the General Government Appropriations Committee adopted 6 amendments and moved to make the bill a committee substitute.

Amendment 1 corrects a court case cite in the WHEREAS language of the bill.

Amendment 2 inserts the word "knowingly" regarding possession or receipt of infected or infested plant material.

Amendment 3 removes references to a 1,900 foot radius around citrus trees infested with canker.

Amendment 4 removes a requirement for the department to develop a risk assessment program in conjunction with the citrus canker eradication program.

Amendment 5 provides that, to prevent soil and water contamination, decontamination rules be developed in consultation with the Department of Environmental Protection.

Amendment 6 provides waiver of liability for costs or damages association with soil and water contamination resulting from canker decontamination efforts.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:

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Staff Director:

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AS REVISED BY THE COMMITTEE ON GOVERNMENTAL RULES & REGULATIONS:

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