

AMENDED IN ASSEMBLY AUGUST 31, 2009

AMENDED IN ASSEMBLY JUNE 11, 2009

AMENDED IN SENATE MAY 14, 2009

AMENDED IN SENATE APRIL 28, 2009

AMENDED IN SENATE APRIL 15, 2009

SENATE BILL

No. 140

Introduced by Senator Corbett

February 11, 2009

An act to add Article 3 (commencing with Section 6941) to Chapter 2 of Part 3 of Division 4 of the Food and Agricultural Code, relating to nurseries, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 140, as amended, Corbett. Citrus Nursery Stock Pest Cleanliness Program.

Existing law authorizes the Secretary of Food and Agriculture to, by regulation, provide for periodic inspections of nurseries and prescribe standards of cleanliness for nursery stock which is produced or sold within the state.

This bill would require the Department of Food and Agriculture to develop and establish the Citrus Nursery Stock Pest Cleanliness Program to protect citrus nursery source propagative trees from harmful diseases, pests, and other risks and threats. The Secretary of Food and Agriculture would be required to administer the program and to consider input from interested parties in the development of the program. The bill would specify what the program is to include, including the requirement that a person who, by any method of propagation, produces any citrus

nursery stock shall comply with all agricultural practices, application specifications and deadlines, eligibility, inspection, notification, pest control, records maintenance and availability, registration, sanitation, testing, and other lawful orders issued by the secretary. Testing for important diseases and pathogens would be required to be included in the program within 45 days after valid and reliable diagnostic protocols have been developed and proven to be efficient and effective for the testing of those diseases and pathogens. The bill would authorize the department to designate specified types of entities to perform the disease and pathogen diagnostic testing and analysis under the program, as provided. The bill would authorize the secretary to adopt and enforce regulations necessary to carry out the purposes of the program, and would require the secretary to issue orders establishing rates or prices to cover the department's costs for its administration, testing, inspection, and other services under the program, as provided.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:
- 3 (1) Citrus is a very significant part of California's agricultural
4 industry. The annual farm gate value of citrus fruit produced in
5 the state exceeds \$1 billion. The estimated annual farm gate value
6 of citrus trees produced by California's citrus nurseries is \$25
7 million. The total combined economic impact, using an economic
8 multiplier of three, is more than \$3 billion annually.
- 9 (2) Losses resulting from the establishment of new, devastating
10 diseases like citrus canker and citrus greening in California would
11 result from direct damage and mortality to citrus trees, reduced
12 yields and quality, and increased production costs. Indirect costs
13 would result from market disruptions and losses, increased costs
14 for planting materials, regulatory compliance, and other such costs.
- 15 (3) Current international plant health standards define
16 "quarantine pests" and "regulated nonquarantine pests."
- 17 (4) Serious, quarantine pests of citrus exist in other parts of the
18 world. Citrus canker and citrus greening present an imminent

1 threat, as they already exist in the State of Florida. The Asian citrus
2 psyllid, an active vector for Huanglongbing, exists in many parts
3 of the world, including Mexico. Citrus variegated chlorosis and
4 leprosis are present in South America and have devastated citrus
5 production in parts of the region. Citrus tristeza virus is a
6 quarantine pest in California. Other pathogens now present in
7 California are detrimental to the citrus industry and must be
8 officially controlled as regulated nonquarantine pests.

9 (5) The active enforcement of mandatory phytosanitary
10 regulations and the application of mandatory phytosanitary
11 procedures with the objective of eradication or containment of
12 quarantine pests or for the management of regulated nonquarantine
13 pests constitute official control.

14 (6) Official control is subject to the principles of plant quarantine
15 as related to international trade, in particular, the principles of
16 nondiscrimination, transparency, equivalence, and risk analysis.

17 (7) The presence of certain pathogens or nonpathogen disorders
18 in plants that are used as the sources of citrus propagative stock,
19 present a clear and present danger to the agricultural industry of
20 the state. Management and mitigation of these risks and potential
21 harm requires the Department of Food and Agriculture to develop,
22 establish, and administer programs that reduce the associated
23 danger and potential harm to an acceptable level.

24 (8) Participation in governmentally administered official control
25 programs for pest cleanliness must be mandatory to ensure the
26 effective management and mitigation of the risks and potential
27 harm associated with citrus pathogens, citrus disorders, and other
28 citrus pests.

29 (b) It is therefore the intent of the Legislature to create the Citrus
30 Nursery Stock Pest Cleanliness Program within the Department
31 of Food and Agriculture.

32 SEC. 2. Article 3 (commencing with Section 6941) is added
33 to Chapter 2 of Part 3 of Division 4 of the Food and Agricultural
34 Code, to read:

35
36 Article 3. Citrus Nursery Stock Pest Cleanliness Program
37

38 6941. (a) The department shall develop and establish the Citrus
39 Nursery Stock Pest Cleanliness Program to protect citrus nursery
40 source propagative trees from harmful diseases, pests, and other

1 risks and threats. This program shall be administered by the
2 secretary.

3 (b) The secretary shall consider input from interested parties as
4 to the feasibility, cost, justification, and effectiveness of the
5 program when developing components of the program.

6 (c) The program shall include all of the following:

7 (1) Require that a person who, by any method of propagation,
8 produces any citrus nursery stock shall comply with all agricultural
9 practices, application specifications and deadlines, eligibility,
10 inspection, notification, pest control, records maintenance and
11 availability, registration, sanitation, testing, and other lawful orders
12 issued by the secretary.

13 (2) Establish inspection requirements and testing standards,
14 including retesting and other measures to ensure the accuracy and
15 timeliness of test results.

16 (3) Specify phase-in periods or effective dates for the regulations
17 and for various requirements specified in the regulations.

18 (4) Define relevant terms. All relevant terms, including, but not
19 limited to, “person,” “sale,” “nursery stock,” and “plant” that are
20 listed and defined in this code shall apply to the program.

21 (5) Comply with all applicable federal and state quarantine
22 requirements, with regulations establishing pest cleanliness
23 standards for pests other than pathogens or nonpathogenic
24 disorders, and with disclaimer of warranties and financial
25 responsibility requirements specified in Section 3069 of Title 3 of
26 the California Code of Regulations.

27 (d) The secretary may also adopt and enforce regulations that
28 are necessary to carry out the purposes of this article.

29 6942. (a) There are important diseases and pathogens that
30 currently cannot be included in the program because valid and
31 reliable testing methods and practical testing protocols do not exist
32 for determining their absence from citrus trees intended for use as
33 registered sources of citrus propagative stock. Important diseases
34 and pathogens that threaten the citrus industry shall be included
35 in the program within 45 days after valid and reliable diagnostic
36 protocols have been developed and proven to be efficient and
37 effective for the purpose of ensuring that citrus trees registered as
38 sources of citrus propagative stock are tested free of the diseases
39 and pathogens.

1 (b) Criteria relative to the proven efficiency and effectiveness
2 of disease diagnostics for the pathogens described in subdivision
3 (a) shall include adequate diagnostics capacity to perform the
4 required testing and its economic feasibility and practicality.

5 6943. (a) The department may designate the following types
6 of entities to perform the required disease and pathogen diagnostic
7 testing and analysis under the program:

8 (1) Entities that have responsibilities associated with the citrus
9 industry and that derive their authority from this code.

10 (2) Entities that are associated with a California public
11 university.

12 (3) Private entities with expertise in plant disease diagnostics
13 that meet standards adopted by the secretary to ensure integrity of
14 the sampling methods and results.

15 (b) An entity authorized pursuant to subdivision (a) shall be
16 proficient in the protocols for which it is approved by the
17 department.

18 (c) An entity authorized pursuant to this section shall be subject
19 to reapproval by the department pursuant to regulations adopted
20 as authorized by this article.

21 (d) The department shall have no liability for any errors or
22 omissions of an entity authorized pursuant to this section.

23 6944. The secretary shall issue orders establishing rates or
24 prices to cover the department's costs for its administration, testing,
25 inspection, private laboratory approval and accreditation, and other
26 services under the program established pursuant to this article,
27 subject to both of the following:

28 (a) The rates or prices shall take into consideration departmental
29 cost savings associated with economy of scale factors.

30 (b) The nursery stock license fees received by the department
31 pursuant to Chapter 1 (commencing with Section 6701) and the
32 costs of the administrative functions of the program shall be
33 factored into the calculation of the rates or prices for the services
34 provided by the department under this program.

35 (c) *The industry fees for the program, including those already*
36 *collected pursuant to Chapter 1 (commencing with Section 6701),*
37 *shall be sufficient to reimburse the secretary for all expenditures*
38 *incurred by the secretary in carrying out his or her duties and*
39 *responsibilities pursuant to this article. No moneys from the*
40 *General Fund shall be used in this program.*

1 6945. This article shall be construed liberally to effectuate the
2 Legislature’s intent that an effective citrus nursery stock pest
3 cleanliness program in the department be established and
4 administered by the secretary.

5 6946. The secretary may adopt regulations and issue orders as
6 authorized by this article.

7 SEC. 3. This act is an urgency statute necessary for the
8 immediate preservation of the public peace, health, or safety within
9 the meaning of Article IV of the Constitution and shall go into
10 immediate effect. The facts constituting the necessity are:

11 In order to protect the citrus nursery stock, citrus crops, and their
12 associated industries by preventing the introduction and
13 establishment of pests and diseases, it is necessary that this act
14 take effect immediately.