

AMENDED IN ASSEMBLY SEPTEMBER 3, 2009

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~~ 6940) 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, *as defined*, 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 that~~ the program ~~is to~~ shall include, ~~including the among other things,~~ a 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~~ *eligibility requirements and testing protocols* 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

1 would result from market disruptions and losses, increased costs
2 for planting materials, regulatory compliance, and other such costs.

3 (3) Current international plant health standards define
4 “quarantine pests” and “regulated nonquarantine pests.”

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

15 (5) The active enforcement of mandatory phytosanitary
16 regulations and the application of mandatory phytosanitary
17 procedures with the objective of eradication or containment of
18 quarantine pests or for the management of regulated nonquarantine
19 pests constitute official control.

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

23 (7) The presence of certain pathogens or nonpathogen disorders
24 in plants that are used as the sources of citrus propagative stock;
25 ~~present~~ *presents* a clear and present danger to the agricultural
26 industry of the state. Management and mitigation of these risks
27 and potential harm requires the Department of Food and
28 Agriculture to develop, establish, and administer programs that
29 reduce the associated danger and potential harm to an acceptable
30 level.

31 (8) Participation in governmentally administered official ~~control~~
32 *prevention* programs for pest cleanliness must be mandatory to
33 ensure the effective management and mitigation of the risks and
34 potential harm associated with citrus pathogens, citrus disorders,
35 and other citrus pests.

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

SEC. 2. Article 3 (commencing with Section ~~6941~~ 6940) is added to Chapter 2 of Part 3 of Division 4 of the Food and Agricultural Code, to read:

Article 3. Citrus Nursery Stock Pest Cleanliness Program

6940. This article shall apply only to citrus nursery source propagative trees. For purposes of this article, a “citrus nursery source propagative tree” means a citrus tree registered by the department that meets the following criteria:

(a) Is not planted, grown, or maintained under the auspices of the California Citrus Clonal Protection Program.

(b) Is planted, grown, or maintained to serve as a source of material for the propagation of citrus trees, including seeds, cuttings, buds, budsticks, tissue-cultured materials, or graft sticks.

(c) Was tested in accordance with prescribed testing protocols of the department and determined to be negative for specific pathogens.

(d) Is in compliance with all provisions of Section 3060.2 of Title 3 of the California Code of Regulations.

(e) Falls within the department’s prescribed registration timeframes.

6941. (a) The department shall 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. This program shall be administered by the secretary.

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

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

(1) Require 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~~ *eligibility requirements and testing protocols* issued by the secretary.

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

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

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

9 (5) Comply with all applicable federal and state quarantine
10 requirements, with regulations establishing pest cleanliness
11 standards for pests other than pathogens or nonpathogenic
12 disorders, and with disclaimer of warranties and financial
13 responsibility requirements specified in Section 3069 of Title 3 of
14 the California Code of Regulations.

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

17 6942. (a) There are important diseases and pathogens that
18 currently cannot be included in the program because valid and
19 reliable testing methods and practical testing protocols do not exist
20 for determining their absence from citrus trees intended for use as
21 registered sources of citrus propagative stock. Important diseases
22 and pathogens that threaten the citrus industry shall be included
23 in the program within 45 days after valid and reliable diagnostic
24 protocols have been developed and proven to be efficient and
25 effective for the purpose of ensuring that citrus trees registered as
26 sources of citrus propagative stock are tested *and determined to*
27 *be free of the diseases and pathogens.*

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

32 6943. (a) The department may designate the following types
33 of entities to perform the required disease and pathogen diagnostic
34 testing and analysis under the program:

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

37 (2) Entities that are associated with a California public
38 university.

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

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

7 (c) An entity authorized pursuant to this section shall be subject
8 to reapproval by the department pursuant to regulations adopted
9 as authorized by this article.

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

12 6944. The secretary shall issue orders establishing rates or
13 prices to cover the department's costs for its administration, testing,
14 inspection, private laboratory approval and accreditation, and other
15 services under the program established pursuant to this article,
16 subject to the following:

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

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

24 (c) The industry fees for the program, including those already
25 collected pursuant to Chapter 1 (commencing with Section 6701),
26 shall be sufficient to reimburse the secretary for all expenditures
27 incurred by the secretary in carrying out his or her duties and
28 responsibilities pursuant to this article. No moneys from the
29 General Fund shall be used in this program.

30 6945. This article shall be construed liberally to effectuate the
31 Legislature's intent that an effective citrus nursery stock pest
32 cleanliness program in the department be established and
33 administered by the secretary.

34 6946. The secretary may adopt regulations and issue orders as
35 authorized by this article.

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

1 In order to protect the citrus nursery stock, citrus crops, and their
2 associated industries by preventing the introduction and
3 establishment of pests and diseases, it is necessary that this act
4 take effect immediately.

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