

Committee Substitute for Senate Bill No. 1926

An act relating to citrus canker; amending s. 581.184, F.S.; revising the definition of citrus trees that are exposed to infection from the citrus canker bacteria; providing for the removal and destruction of infected citrus trees and citrus trees exposed to infection; providing for notice of removal by immediate final order; providing requirements for an immediate final order; requiring certain information to be provided to a property owner; deleting certain duties of the Department of Agriculture and Consumer Services; authorizing chief law enforcement officers to perform certain duties; amending s. 933.02, F.S.; providing grounds for issuance of search warrants relating to the spread of citrus canker; amending s. 933.07, F.S.; authorizing the department to obtain a search warrant and requiring a court proceeding prior to the issuance of such search warrant; providing for repeal and review of s. 581.184(1)(b), F.S., relating to definition of the term “exposed to infection”; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 581.184, Florida Statutes, is amended to read:

581.184 Adoption of rules; citrus canker eradication; voluntary destruction agreements; ~~buffer zone.~~—

(1) As used in this section, the term:

(a) “Infected or infested” means citrus trees harboring the citrus canker bacteria and exhibiting visible symptoms of the disease.

(b) “Exposed to infection” means citrus trees located within 1,900 feet of an infected tree harboring the citrus canker bacteria due to their proximity to infected citrus trees, and which do not yet exhibit visible symptoms of the disease but which will develop symptoms over time, at which point such trees will have infected other citrus trees.

(2) The department shall remove and destroy all infected citrus trees and all citrus trees exposed to infection. Notice of the removal of such trees, by immediate final order, may be provided to the owner of the property on which such trees are located. An immediate final order issued by the department pursuant to this section shall notify the property owner that the citrus trees that are the subject of the immediate final order will be removed and destroyed unless the property owner, no later than 10 days after delivery of the immediate final order pursuant to subsection (3), requests and obtains a stay of the immediate final order from the district court of appeal with jurisdiction to review such requests. The property owner shall not be required to seek a stay of the immediate final order by the department prior to seeking the stay from the district court of appeal.

(3) Any immediate final order issued by the department pursuant to this section:

(a) May be delivered in person, by certified mail, or by attaching the order to a conspicuous place on the property on which a citrus tree to be removed is located.

(b) Is not required to be adopted by the department as a rule.

(4) Simultaneously with the delivery of an immediate final order, the department shall also provide the following information to a property owner:

(a) The physical location of the infected tree which has necessitated removal and destruction of the property owner's tree.

(b) The diagnostic report that resulted in the determination that the infected tree is infected with the citrus canker.

(c) The distance between the infected citrus tree and a property owner's exposed citrus trees.

~~(5)(2) In addition to the powers and duties set forth under this chapter, the department is directed to adopt rules specifying facts and circumstances that, if present, would require the destruction of plants for purposes of eradicating, controlling, or preventing the dissemination of citrus canker disease in the state. In addition, The department is directed to adopt rules regarding the conditions under which citrus plants, other than those that are infected or exposed to infection, can be grown, moved, and planted in this state as may be necessary for the eradication, control, or prevention of the dissemination of citrus canker. Such rules shall be in effect for any period during which, in the judgment of the Commissioner of Agriculture, there is the threat of the spread of citrus canker disease in the state. Such rules may provide for the conduct of any activity regulated by such rules subject to an agreement by persons wishing to engage in such activity to voluntarily destroy, at their own expense, citrus plants declared by the department to be imminently dangerous by reason of being infected or infested with citrus canker or exposed to infection and likely to communicate same. The terms of such agreement may also require the destruction of healthy plants under specified conditions. Any such destruction shall be done after reasonable notice in a manner pursuant to and under conditions set forth in the agreement. Such agreements may include releases and waivers of liability and may require the agreement of other persons.~~

~~(3) The department, pursuant to s. 581.031(15) and (17), may create a citrus canker host-free buffer area, delineated by department rule, to retard the spread of citrus canker from known infected areas. In addition, the department shall develop a compensation plan for the trees removed from the buffer area. Compensation for the trees removed from the buffer area is subject to annual legislative appropriation.~~

~~(6)(4) The department shall develop by rule, pursuant to ss. 120.536(1) and 120.54, a statewide program of decontamination to prevent and limit the spread of citrus canker disease. Such program shall address the application of decontamination procedures and practices to all citrus plants and~~

plant products, vehicles, equipment, machinery, tools, objects, and persons who could in any way spread or aid in the spreading of citrus canker in this state. In order to prevent contamination of soil and water, such rules shall be developed in consultation with the Department of Environmental Protection. The department may develop compliance and other agreements which it determines can aid in the carrying out of the purposes of this section, and enter into such agreements with any person or entity.

(7)(5) Owners and/or operators of nonproduction vehicles and equipment shall follow the department guidelines for citrus canker decontamination effective June 15, 2000. The department shall publish the guidelines in the Florida Administrative Weekly and on the department Internet website. The guidelines shall be posted no later than May 15, 2000.

(8)(6) Notwithstanding any provision of law, the Department of Environmental Protection is not authorized to institute proceedings against any person under the provisions of s. 376.307(5) to recover any costs or damages associated with contamination of soil or water, or the evaluation, assessment, or remediation of contamination of soil or water, including sampling, analysis, and restoration of soil or potable water supplies, where the contamination of soil or water is determined to be the result of a program of decontamination to prevent and limit the spread of citrus canker disease pursuant to rules developed under this section. This subsection does not limit regulatory authority under a federally delegated or approved program.

(9)(7) Upon request of the department, the sheriff or chief law enforcement officer of each county in the state shall provide assistance in obtaining access to private property for the purpose of enforcing the provisions of this section. The sheriff or chief law enforcement officer shall be responsible for maintaining public order during the eradication process and protecting the safety of department employees, representatives, and agents charged with implementing and enforcing the provisions of this section. The department may reimburse the sheriff or chief law enforcement officer for the reasonable costs of implementing the provisions of this subsection.

(10)(8) Posting of an order on the property on which citrus trees are to be cut pursuant to the citrus canker eradication program shall meet the notice requirement of s. 120.569(1).

Section 2. Section 933.02, Florida Statutes, is amended to read:

933.02 Grounds for issuance of search warrant.—Upon proper affidavits being made, a search warrant may be issued under the provisions of this chapter upon any of the following grounds:

(1) When the property shall have been stolen or embezzled in violation of law;

(2) When any property shall have been used:

(a) As a means to commit any crime,

(b) In connection with gambling, gambling implements and appliances,
or

(c) In violation of s. 847.011 or other laws in reference to obscene prints and literature;

(3) When any property constitutes evidence relevant to proving that a felony has been committed;

(4) When any property is being held or possessed:

(a) In violation of any of the laws prohibiting the manufacture, sale, and transportation of intoxicating liquors, or

(b) In violation of the fish and game laws, or

(c) In violation of the laws relative to food and drug, or;

(d) In violation of a quarantine for citrus canker pursuant to s. 581.184, or

(e) Which may be inspected, treated, seized, or destroyed pursuant to s. 581.184; or

(5) When the laws in relation to cruelty to animals have been or are violated in any particular building or place, but no search shall be made in such building or place after sunset, unless specially authorized by the officer issuing the warrant upon satisfactory cause shown; in which case such property may be taken on the warrant so issued from any house or place in which it is concealed, or from any vehicle, aircraft, or watercraft in which it may be found, or from the possession of any person by whom it shall have been used in the commission of any offense or from any person in whose possession it may be.

The provisions of this section shall apply also to any papers or documents used as a means of or in aid of the commission of any offense against the laws of the state.

Section 3. Section 933.07, Florida Statutes, is amended to read:

933.07 Issuance of search warrants.—

(1) The judge, upon examination of the application and proofs submitted, if satisfied that probable cause exists for the issuing of the search warrant, shall thereupon issue a search warrant signed by him or her with his or her name of office, to any sheriff and the sheriff's deputies or any police officer or other person authorized by law to execute process, commanding the officer or person forthwith to search the property described in the warrant or the person named, for the property specified, and to bring the property and any person arrested in connection therewith before the magistrate or some other court having jurisdiction of the offense.

(2) Notwithstanding any other provisions of this chapter, the Department of Agriculture and Consumer Services, based on grounds specified in s. 933.02(4)(d) or (e), may obtain a search warrant authorized by this chapter for an area in size up to and including the full extent of the county in which

the search warrant is issued. The judge issuing such search warrant shall conduct a court proceeding prior to the issuance of such search warrant upon reasonable notice and shall receive, hear, and determine any objections by property owners to the issuance of such search warrant. Such search warrant may be served by employees or authorized contractors of the Department of Agriculture and Consumer Services. Such search warrant may be made returnable at any time up to 6 months from the date of issuance.

Section 4. Effective July 1, 2005, section 581.184(1)(b), Florida Statutes, is repealed and shall be reviewed by the Legislature prior to that date.

Section 5. Except as otherwise provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor March 18, 2002.

Filed in Office Secretary of State March 18, 2002.