

## Senate Bill No. 140

### CHAPTER 639

An act to add Article 3 (commencing with Section 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.

[Approved by Governor November 2, 2009. Filed with  
Secretary of State November 2, 2009.]

#### LEGISLATIVE COUNSEL'S DIGEST

SB 140, 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 parties interested in the development of the program. The bill would specify that the program shall include, among other things, a requirement that a person who, by any method of propagation, produces any citrus nursery stock shall comply with all 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.

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

SECTION 1. (a) The Legislature finds and declares all of the following:

(1) Citrus is a very significant part of California's agricultural industry. The annual farm gate value of citrus fruit produced in the state exceeds \$1 billion. The estimated annual farm gate value of citrus trees produced by California's citrus nurseries is \$25 million. The total combined economic impact, using an economic multiplier of three, is more than \$3 billion annually.

(2) Losses resulting from the establishment of new, devastating diseases like citrus canker and citrus greening in California would result from direct damage and mortality to citrus trees, reduced yields and quality, and increased production costs. Indirect costs would result from market disruptions and losses, increased costs for planting materials, regulatory compliance, and other such costs.

(3) Current international plant health standards define "quarantine pests" and "regulated nonquarantine pests."

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

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

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

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

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

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

SEC. 2. Article 3 (commencing with Section 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 eligibility requirements and testing protocols issued by the secretary.

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

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

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

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

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

6942. (a) There are important diseases and pathogens that currently cannot be included in the program because valid and reliable testing methods and practical testing protocols do not exist for determining their absence from citrus trees intended for use as registered sources of citrus propagative stock. Important diseases and pathogens that threaten the citrus industry

shall 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 purpose of ensuring that citrus trees registered as sources of citrus propagative stock are tested and determined to be free of the diseases and pathogens.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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