

- SUBJECT:** State program to manage or eradicate citrus diseases
- COMMITTEE:** Agriculture and Livestock — favorable, without amendment
- VOTE:** 4 ayes — Miller, Anderson, Aycock, Heflin
0 nays
3 absent — B. Brown, Gallego, Garcia
- SENATE VOTE:** On final passage, April 26 — 30-0
- WITNESSES:** For — Ray Prewett, Texas Citrus Mutual (*Registered, but did not testify*: Jim Reaves, Texas Nursery and Landscape Association)
Against — None
On — (*Registered, but did not testify*: David Kostroun, Texas Department of Agriculture)
- BACKGROUND:** Citrus canker affects citrus species and results in lesions on citrus trees' leaves, stems, and fruit. This disease damages the health of citrus trees, causing leaves and fruit to drop prematurely. A fruit infected with citrus canker is edible but too unattractive for sale. The eradication of this persistent disease requires entire citrus orchards to be destroyed. Texas eradicated the citrus canker in 1943. However, an outbreak occurred in Florida in 1995. This outbreak remains uncontained and raises concern that the disease may spread to Texas, resulting in devastation to the state's citrus industry.
- Citrus greening disease begins with the yellowing of tree leaves and ends in the death of the entire tree. Affected trees exhibit stunted growth and produce small, irregularly-shaped fruit with a bitter taste. Citrus greening disease is spread by the Asian citrus psyllid, found in certain areas of Texas. Although the disease exists in Florida, it has not yet affected the Texas citrus industry.

Under current law, the Texas Department of Agriculture (TDA) may seize a citrus plant, product, or substance that is transported or carried from a quarantined area or infected with a dangerous disease or insect pest.

DIGEST:

SB 1561 would authorize TDA to adopt rules to establish a program to manage or eradicate exotic citrus diseases, including citrus canker and citrus greening. The rules would stipulate a scientifically based timeframe for the destruction of suspect citrus plants and could allow for compensation of the owner of a destroyed citrus plant.

The bill would authorize TDA to seek an agricultural warrant in regard to a plant pest or plant disease from a magistrate authorized to issue a search warrant. The warrant would permit the department to:

- conduct an inspection;
- set a trap;
- examine records; and
- test, treat, identify, quarantine, take samples of, seize, or destroy infected or exposed plants.

The warrant would have to describe the exact location of each place or premises subject to the warrant and each type of suspected plant pest or disease. In determining the existence of probable cause to issue the agriculture warrant, an affidavit would be provided to show that:

- the place described in the warrant application was located in an area subject to a TDA quarantine with respect to the plant pest or disease in question; or
- it was reasonably probable that the place or premises under suspicion contained a plant pest or disease due to its proximity to a known infestation.

One application and affidavit would be sufficient to issue multiple agricultural warrants if the application described the location of each place or premises and all were located in the same county. The department would be entitled to an ex parte hearing for a warrant application.

After the warrant's issuance, a copy would be delivered to an adult at the specified location or attached to the place or premises in a conspicuous manner. The warrant would be valid for 61 days after its issuance and would authorize multiple executions before its expiration. The warrant

could be extended if probable cause existed. A person would commit an offense punishable as a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) for intentionally interfering with the warrant's execution.

An agricultural warrant could not:

- be executed between 7 p.m. and 7 a.m. of the following day or on a state holiday;
- authorize entry into or inspection of the interior of an occupied building; or
- be issued in blank.

The bill would not restrict the authority of the state or one of its political subdivisions to otherwise conduct an inspection with or without a warrant as authorized by other law.

SB 1561 would allow TDA to seize a citrus plant, product, or substance located near a plant infected with a dangerous agricultural or horticultural disease. The seized plant would not have to exhibit symptoms of the disease. Upon the plant's seizure, the department would notify the owner and require that the citrus plant, product, or substance be destroyed or treated. The owner of a seized plant would be entitled to appropriate compensation from TDA.

The bill would take effect September 1, 2007.