CHAPTER 581
PLANT INDUSTRY

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581.011 Definitions.—As used in this chapter:
(1) “Agent” means any person selling or distributing nursery stock under the partial or full control of a nurseryman.
(2) “Aquatic plant” means any plant, including a floating, immersed, submersed, or ditch bank species, growing in or closely associated with an aquatic environment, and includes any part or seed of such plant.

(3) “Arthropod” means any segmented invertebrate animal having jointed appendages and an exoskeleton, including insects, spiders, ticks, mites, and scorpions, but excluding crustaceans for the purpose of this chapter.

(4) “Authorized representative” means any designated employee, inspector, or collaborator of the division or the United States Department of Agriculture.

(5) “Certificate of inspection” means an official document stipulating compliance with the requirements of this chapter. The term “certificate” includes label, rubber stamp imprint, tag, permit, written statement, or any form of inspection and certification document which accompanies the movement of inspected and certified plant material and plant products.

(6) “Certificate of registration” means an official document issued by the division to nurseries, stock dealers, agents, and plant brokers as evidence of being properly registered with the division in compliance with the requirements of this chapter and of any of the rules promulgated hereunder.

(7) “Citrus” means all plants, plant parts, and plant products, including seed and fruit, of all genera, species, and varieties of the Rutaceous subfamilies Aurantioidae, Rutoidae, and Toddalioideae, unless specifically excluded by the rules of the department.

(8) “Collaborator” means a person cooperating with the division in some capacity, who has been officially designated to perform certain duties for the division.

(9) “Compliance agreement” means a written agreement between the department and any person engaged in growing, handling, or moving articles, plants, or plant products regulated under this chapter, wherein the person agrees to comply with stipulated requirements.

(10) “Department” means the Department of Agriculture and Consumer Services of the state or its authorized representative.

(11) “Director” means the director of the Division of Plant Industry.

(12) “Distribution” means the movement of nursery stock from the property where it is grown or kept to any other noncontiguous property, regardless of the ownership of the properties concerned.

(13) “Division” means the Division of Plant Industry of the Department of Agriculture and Consumer Services.

(14) “Genetically engineered organism” means an organism altered or produced through genetic modification from a donor, vector, or recipient organism using recombinant DNA techniques.

(15) “Invasive plant” means a naturalized plant that disrupts naturally occurring native plant communities.

(16) “Move” means to ship, offer for shipment, receive for transportation, carry, or otherwise transport.

(17) “Museum” means the Florida State Collection of Arthropods.

(18) “Noxious aquatic plant” means any part, including, but not limited to, seeds or reproductive parts, of an aquatic plant that has the potential to hinder the growth of beneficial plants, interfere with irrigation or navigation, or adversely affect the public welfare or the natural resources of this state.

(19) “Noxious weed” means any living stage, including, but not limited to, seeds and productive parts, of a parasitic or other plant of a kind, or subdivision of a kind, which may be a serious agricultural threat in Florida or have a negative impact on the plant species protected under s. 581.185.

(20) “Nursery” means any grounds or premises on or in which nursery stock is grown, propagated, or held for sale or distribution, except where aquatic plant species are tended for harvest in the natural environment.

(21) “Nurseryman” means any person engaged in the production of nursery stock for sale or distribution.

(22) “Nursery stock” means all plants, trees, shrubs, vines, bulbs, cuttings, grafts, scions, or buds grown or kept for or capable of propagation or distribution, unless specifically excluded by the rules of the department.

(23) “Official organ” means a printed document published by the division for notification to the public and industries in matters relating to division activities and in which official announcements may be made.

(24) “Places” means vessels, railroad cars, automobiles, aircraft, and other vehicles; buildings; docks; nurseries; orchards; and other premises where plants or plant products are grown, kept, or handled.

(25) “Plant broker” means a person who transacts the transfer of plants from a seller to a buyer and who may or may not be in actual physical possession of the plants.
“Plant pest” means any living stage of any insects, mites, nematodes, slugs, snails, protozoa, or other invertebrate animals, bacteria, fungi, other parasitic plants or their reproductive parts, or viruses, or any organisms similar to or allied with any of the foregoing, including any genetically engineered organisms, or any infectious substances which can directly or indirectly injure or cause disease or damage in any plants or plant parts or any processed, manufactured, or other plant products.

“Plants and plant products” means trees, shrubs, vines, forage and cereal plants, and all other plants and plant parts, including cuttings, grafts, scions, buds, fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all products made from them, unless specifically excluded by the rules of the department.

“Quarantine” means an official order issued by the department that regulates the movement of articles, plants, or plant products to prevent the spread of disease or pests.

“Stock dealer” means any person not a grower of nursery stock in this state who buys or otherwise acquires nursery stock for the purpose of reselling independently of any control of a nurseryman, agent, or plant broker, and who at any time maintains physical possession of such nursery stock.

581.021 Continuance of powers, duties, and jurisdiction in department; privileges.—

(1) This chapter shall be enforced by and under the control of the Department of Agriculture and Consumer Services as provided in chapter 570.

(2) The department, through the Division of Plant Industry, shall have and exercise all the powers, jurisdiction, duties, and authority exercised by, or required of, the State Plant Board, and the provisions of this chapter shall be applicable to the division within the department.

(3) The division and its employees shall be provided the same suitable quarters and faculty privileges, including but not limited to library facilities, by the University of Florida as the State Plant Board and its employees now enjoy.

581.031 Department; powers and duties.—The department has the following powers and duties:

(1) To make all rules governing nurseries and the movement of nursery stock as may be necessary for the eradication, control, or prevention of the dissemination of plant pests or noxious weeds.

(2) To make and publish standard grades for nursery stock.

(3) To make rules governing the grading, marking, sale, and distribution of nursery stock by nurserymen, stock dealers, agents, and plant brokers.

(4) To make rules under which plants and plant products, including nursery stock, may be brought into this state from other states, territories, and foreign countries.

(5) To make such rules with reference to plants and plant products in transit through this state as necessary to prevent the introduction into and dissemination within this state of plant pests and noxious weeds.

(6) To declare a plant pest, noxious weed, or arthropod a nuisance as well as any plant or other thing infested or infected therewith or that has been exposed to infestation or infection and is therefore likely to contaminate other plants or things.

(7) To declare a quarantine against all or part of any area, place, nursery, grove, orchard, county, or counties within this state, or against all or part of other states, territories, or foreign countries, because of plant pests or noxious weeds or genetically engineered plant or plant pests, or arthropods, which are determined after due investigation to pose a potential threat to the agricultural, horticultural, or public interest of this state, and to prohibit their movement into or within this state. The quarantine may be made absolute or rules may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold, or otherwise disposed of in this state.

(8) To make and publish reasonable rules governing the application for, and issuance, suspension, and revocation of, certificates of registration and of inspection.
To enter into cooperative arrangements with any person, municipality, county, and other department of this state and with boards, officers, and authorities of other states and the United States, including the United States Department of Agriculture, for the inspection of plants, plant parts, and plant products and the control or eradication of plant pests or noxious weeds and to contribute a just proportionate share of the expenses incurred under these arrangements.

To publish at regular intervals an official organ of the department and other publications.

To suspend or revoke certificates of inspection and of registration of nurserymen, stock dealers, agents, and plant brokers in the state.

To purchase all necessary materials, supplies, office and field equipment, and other things and make other expenditures as necessary to carry out the provisions of this chapter within the limits of the funds appropriated by law.

To enforce the provisions of this chapter by writ of injunction in the proper court as well as by criminal proceedings.

(a) To test nursery stock or any other articles to determine freedom from specific plant pests and to certify or register the stock or such articles.

(b) To propagate and distribute to qualified persons for further propagation, if approved by the owner, nursery stock that is free of the plant pest for which it was tested.

(c) To prescribe standards and procedures for the propagation and distribution of such stock and of new or superior strains of plants when not provided for by other agencies and upon recommendation of the industry concerned.

(d) To prescribe a fee for these services, provided the fee does not exceed the cost of the services rendered. Annual citrus source tree registration fees shall not exceed $5 per tree. If the fee has not been paid within 30 days of billing, a penalty of $10 or 20 percent of the unpaid balance, whichever is greater, shall be assessed.

(e) To sell at a reasonable price any plant or plant part resulting from the propagation of tested plants as sources of propagating material for distribution to the industry, and to sell in the best interest of the state any fruit produced incidental to such propagation.

(a) To inspect plants, plant products, or other things and substances that may be capable of disseminating or carrying plant pests, noxious weeds, or arthropods, and for this purpose shall have power to enter into or upon any place and to open any bundle, package, or other container containing, or thought to contain, such material, and to take possession of such material if determined by the department to pose a threat to the agricultural or public interests of this state.

(b) To obtain, through a subpoena duces tecum, if necessary, and examine any records pertaining to these or other plant materials to facilitate determination of the origin of plant pests, noxious weeds, or arthropods.

To investigate methods of control, eradication, and prevention of dissemination of plant pests, noxious weeds, or arthropods.

To supervise, or cause to be supervised, the treatment, cutting, and destruction of plants, plant parts, fruit, soil, containers, equipment, and other articles capable of harboring plant pests, noxious weeds, or arthropods, if they are infested or located in an area which may be suspected of being infested or infected due to its proximity to a known infestation, or if they were reasonably exposed to infestation, to prevent or control the dissemination of or to eradicate plant pests, noxious weeds, or arthropods, and to make rules governing these procedures.

To inspect, or cause to be inspected, all nurseries and nursery stock in the state as necessary and to keep a complete, accurate, and current list of all certified nurseries, which includes:

(a) The name of the nursery and its owner.

(b) The mailing address of the nursery.

(c) The location of the nursery.

(d) The type of crop grown.

(e) The acreage of the nursery.

(f) The type of stock dealer or plant broker.
(19) To demand of any person full information as to the origin and source of plants or plant products or other things likely to carry plant pests, noxious weeds, or arthropods, which the person has in her or his possession or under her or his control.

(20) To intercept and hold for inspection, or cause to be inspected while in transit or after arrival at their destination, all plants, plant products, or other things likely to carry plant pests, noxious weeds, or arthropods being moved into this state from another state, a territory, or a foreign country; and, if, upon inspection, such material is found to be infested or infected with a plant pest, noxious weed, or arthropod or if the material is believed to be likely to transmit the pest, weed, or arthropod or is being or has been transported in violation of any of the rules of the department, the plants, plant products, or other things may be treated when necessary and released, returned to the sender, or destroyed.

(21) To make and issue certificates of registration and of inspection to nurserymen, stock dealers, agents, and plant brokers, after proper certification of their nursery stock, authorizing them to do business as nurserymen, stock dealers, agents, or plant brokers within the state.

(22) To collect or accept from other agencies or individuals specimens of arthropods, nematodes, fungi, bacteria, parasitic plants, or other organisms for positive identification and to provide suitable space for their storage and maintenance.

(23)(a) To provide, when requested by farmers, growers, or other interested parties, special inspections, identifications, diagnostic services, treatments, publications, certifications, investigations, and special regulatory activities not otherwise specifically provided for in these statutes.

(b) To prescribe a fee for such services. However, the fee may not exceed the cost, including the salaries and expenses of the personnel involved, of the service rendered. If the fee has not been paid within 30 days of billing, a penalty of $10 or 20 percent of the unpaid balance, whichever is greater, shall be assessed.

(c) To waive such fees by rule of the department for governmental agencies, based upon the amount of service requested and the department's ability to handle the request.

(24) To provide, when requested by farmers, growers, or other interested parties, special inspections, identifications, diagnostic services, treatments, publications, certifications, investigations, and special regulatory activities not otherwise specifically provided for in these statutes.

(25) To enter into cooperative arrangements with any person, firm, agency, company, or other entity for the production and distribution of organisms, pesticides, chemical compounds, or other methods of control investigated, discovered, or developed by, or with the assistance of, the department through the Division of Plant Industry and to accept a royalty or other remuneration for its services or contributions, any proceeds from which shall be deposited in the Plant Industry Trust Fund.

(26) To enter into compliance agreements with any person engaged in growing, handling, or moving articles, plants, or plant products regulated under this chapter.

(27) To make rules governing the importation, transportation, cultivation, collection, and possession of aquatic plants necessary for the eradication, control, or prevention of the dissemination of noxious aquatic plants from nurseries or nursery stock dealer establishments.

(28) To declare a quarantine against aquatic plants, including the vats, pools, or other containers or bodies of water in which such plants are growing in a nursery or nursery stock dealer establishment, to prevent the dissemination of any noxious aquatic plant.

(29) To enter upon and inspect any aquatic plant nursery or other facility or place where aquatic plants are cultivated, held, packaged, shipped, stored, or sold, or any vehicle of conveyance of aquatic plants, to determine whether the provisions of this section and department rules are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department rules.

(30) To issue and enforce a stop-sale notice or hold order to the owner or custodian of any plants, plant products, arthropods, or other regulated articles that the department finds or has good reason to believe are in violation of any provision of this chapter or any rule promulgated under this chapter, which notice or order shall prohibit further sale, barter, exchange, or distribution of such plants, plant products, arthropods, or other regulated articles until the

(31)
department is satisfied that the law has been complied with and has issued a written release or notice to the owner or custodian of the plants or plant products.

31) To conduct, assist, or cooperate with others in conducting a commercial citrus inventory and to expend funds therefor as may be deposited in the Plant Industry Trust Fund for such purposes.

32) To conduct or cause to be conducted research projects, including, but not limited to, citrus canker and citrus greening, which are recommended by the Citrus Research and Development Foundation, Inc., within the limits of appropriations made specifically for such purpose.

**581.035 Preemption of regulatory authority over nurseries.**—It is the intent of the Legislature to eliminate duplication of regulatory authority over nurseries. Notwithstanding any other law to the contrary, the authority to regulate, inspect, and permit:

1. Nursery owners, plant brokers, and stock dealers; and
2. Nurseries, nursery stock, plants, and plant products, including any aquatic plant as defined in s. 369.22 which is grown in a nursery,

is preempted to the department.

**History.**—s. 3, ch. 59-261; s. 1, ch. 61-409; ss. 1, 2, ch. 65-202; ss. 14, 35, ch. 69-106; s. 1, ch. 70-38; s. 1, ch. 70-49; s. 1, ch. 70-439; s. 598, ch. 71-136; s. 1, ch. 75-165; s. 1, ch. 76-95; s. 1, ch. 77-174; s. 3, ch. 77-386; s. 6, ch. 78-95; s. 2, ch. 79-158; s. 2, ch. 80-41; s. 1, ch. 84-60; s. 2, ch. 84-355; s. 2, ch. 85-283; s. 2, ch. 87-32; s. 2, ch. 88-31; s. 2, ch. 90-155; s. 3, ch. 92-147; s. 45, ch. 93-169; s. 6, ch. 95-317; s. 916, ch. 97-103; s. 9, ch. 98-396; s. 14, ch. 2007-67; ss. 24, 54, ch. 2007-73; ss. 8, 11, ch. 2010-277; HJR 5-A, 2010 Special Session A.

**581.041 Director of Division of Plant Industry; powers and duties.**—The director shall have authority to carry out any of the powers and duties of the department as authorized in s. 581.031, or as directed by the department.

**History.**—s. 4, ch. 59-261; s. 2, ch. 61-409; ss. 14, 35, ch. 69-106.

**581.071 Principal responsible for actions of employees.**—In construing and enforcing the provisions of this chapter, the act, omission, or failure of any official or other person acting for or employed by any association, partnership, corporation, or other principal within the scope of her or his employment or office shall in every case be deemed the act, omission, or failure of such association, partnership, corporation, or other principal as well as that of the individual.

**History.**—s. 12, ch. 12291, 1927; CGL 3840; s. 7, ch. 59-261; s. 3, ch. 84-355; s. 917, ch. 97-103.

**Note.**—Former s. 581.10.

**581.083 Introduction or release of plant pests, noxious weeds, or organisms affecting plant life; cultivation of nonnative plants; special permit and security required.**—

1. The introduction into or release within this state of any plant pest, noxious weed, genetically engineered plant or plant pest, or any other organism which may directly or indirectly affect the plant life of this state as an injurious pest, parasite, or predator of other organisms, or any arthropod, is prohibited, except under special permit issued by the department through the division, which shall be the sole issuing agency for such special permits.

2. Each application for a special permit shall be accompanied by a fee in an amount determined by the department, through its rulemaking authority, not to exceed $50. The department may waive this fee by rule for governmental agencies.

3. Except for research projects approved by the department, no permit for any organism shall be issued unless the department has determined that the parasite, predator, or biological control agent is specific to a target organism or plant and not likely to become a pest of plants or other beneficial organisms. The department may rely on findings of the Department of Environmental Protection, the United States Department of Agriculture, and other agencies in making any determination about organisms used for biological control.

4. A person may not cultivate a nonnative plant, algae, or blue-green algae, including a genetically engineered plant, algae, or blue-green algae in plantings greater in size than 2 contiguous acres, except under a special permit
issued by the department through the division, which is the sole agency responsible for issuing such special permits. A permit is not required to cultivate any plant or group of plants that, based on experience or research data, does not pose a threat of becoming an invasive species and is commonly grown in this state for the purpose of human food consumption, commercial feed, feedstuff, forage for livestock, nursery stock, or silviculture. The department is authorized to adopt additional exemptions to the permitting requirements of this section if the department determines, after consulting with the Institute of Food and Agricultural Sciences at the University of Florida, that based on experience or research data, the nonnative plant, algae, or blue-green algae does not pose a threat of becoming an invasive species or a pest of plants or native fauna under conditions in this state and subsequently exempts the plant or group of plants by rule.

(a) Each application for a special permit must be accompanied by a fee as described in subsection (2) and proof that the applicant has obtained, on a form approved by the department, a bond issued by a surety company admitted to do business in this state or a certificate of deposit, or other type of security adopted by rule of the department, which provides a financial assurance of cost recovery for the removal of a planting. The application must include, on a form provided by the department, the name of the applicant and the applicant’s address or the address of the applicant’s principal place of business; a statement completely identifying the nonnative plant to be cultivated; and a statement of the estimated cost of removing and destroying the plant that is the subject of the special permit and the basis for calculating or determining that estimate. If the applicant is a corporation, partnership, or other business entity, the applicant must also provide in the application the name and address of each officer, partner, or managing agent. The applicant shall notify the department within 10 business days of any change of address or change in the principal place of business. The department shall mail all notices to the applicant’s last known address.

(b) Upon obtaining a permit, the permitholder may annually cultivate and maintain the nonnative plants as authorized by the special permit. If the permitholder ceases to maintain or cultivate the plants authorized by the special permit, if the permit expires, or if the permitholder ceases to abide by the conditions of the special permit, the permitholder shall immediately remove and destroy the plants that are subject to the permit, if any remain. The permitholder shall notify the department of the removal and destruction of the plants within 10 days after such event.

(c) If the department:
1. Determines that the permitholder is no longer maintaining or cultivating the plants subject to the special permit and has not removed and destroyed the plants authorized by the special permit;
2. Determines that the continued maintenance or cultivation of the plants presents an imminent danger to public health, safety, or welfare;
3. Determines that the permitholder has exceeded the conditions of the authorized special permit; or
4. Receives a notice of cancellation of the surety bond,
the department may issue an immediate final order, which shall be immediately appealable or enjoinable as provided by chapter 120, directing the permitholder to immediately remove and destroy the plants authorized to be cultivated under the special permit. A copy of the immediate final order must be mailed to the permitholder and to the surety company or financial institution that has provided security for the special permit, if applicable.

(d) If, upon issuance by the department of an immediate final order to the permitholder, the permitholder fails to remove and destroy the plants subject to the special permit within 60 days after issuance of the order, or such shorter period as is designated in the order as public health, safety, or welfare requires, the department may enter the cultivated acreage and remove and destroy the plants that are the subject of the special permit. If the permitholder makes a written request to the department for an extension of time to remove and destroy the plants that demonstrates specific facts showing why the plants could not reasonably be removed and destroyed in the applicable timeframe, the department may extend the time for removing and destroying plants subject to a special permit. The reasonable costs
and expenses incurred by the department for removing and destroying plants subject to a special permit shall be reimbursed to the department by the permitholder within 21 days after the date the permitholder and the surety company or financial institution are served a copy of the department’s invoice for the costs and expenses incurred by the department to remove and destroy the cultivated plants, along with a notice of administrative rights, unless the permitholder or the surety company or financial institution object to the reasonableness of the invoice. In the event of an objection, the permitholder or surety company or financial institution is entitled to an administrative proceeding as provided by chapter 120. Upon entry of a final order determining the reasonableness of the incurred costs and expenses, the permitholder has 15 days after service of the final order to reimburse the department. Failure of the permitholder to timely reimburse the department for the incurred costs and expenses entitles the department to reimbursement from the applicable bond or certificate of deposit.

(e) Each permitholder shall maintain for each separate growing location a bond or a certificate of deposit in an amount determined by the department, but not more than 150 percent of the estimated cost of removing and destroying the cultivated plants. The bond or certificate of deposit may not exceed $5,000 per acre, unless a higher amount is determined by the department to be necessary to protect the public health, safety, and welfare or unless an exemption is granted by the department based on conditions specified in the application which would preclude the department from incurring the cost of removing and destroying the cultivated plants and would prevent injury to the public health, safety, and welfare. The aggregate liability of the surety company or financial institution to all persons for all breaches of the conditions of the bond or certificate of deposit may not exceed the amount of the bond or certificate of deposit. The original bond or certificate of deposit required by this subsection shall be filed with the department. A surety company shall give the department 30 days’ written notice of cancellation, by certified mail, in order to cancel a bond. Cancellation of a bond does not relieve a surety company of liability for paying to the department all costs and expenses incurred or to be incurred for removing and destroying the permitted plants covered by an immediate final order authorized under paragraph (c). A bond or certificate of deposit must be provided or assigned in the exact name in which an applicant applies for a special permit. The penal sum of the bond or certificate of deposit to be furnished to the department by a permitholder in the amount specified in this paragraph must guarantee payment of the costs and expenses incurred or to be incurred by the department for removing and destroying the plants cultivated under the issued special permit. The bond or certificate of deposit assignment or agreement must be upon a form prescribed or approved by the department and must be conditioned to secure the faithful accounting for and payment of all costs and expenses incurred by the department for removing and destroying all plants cultivated under the special permit. The bond or certificate of deposit assignment or agreement must include terms binding the instrument to the Commissioner of Agriculture. Such certificate of deposit shall be presented with an assignment of the permitholder’s rights in the certificate in favor of the Commissioner of Agriculture on a form prescribed by the department and with a letter from the issuing institution acknowledging that the assignment has been properly recorded on the books of the issuing institution and will be honored by the issuing institution. Such assignment is irrevocable while a special permit is in effect and for an additional period of 6 months after termination of the special permit if operations to remove and destroy the permitted plants are not continuing and if the department’s invoice remains unpaid by the permitholder under the issued immediate final order. If operations to remove and destroy the plants are pending, the assignment remains in effect until all plants are removed and destroyed and the department’s invoice has been paid. The bond or certificate of deposit may be released by the assignee of the surety company or financial institution to the permitholder, or to the permitholder’s successors, assignee, or heirs, if operations to remove and destroy the permitted plants are not pending and no invoice remains unpaid at the conclusion of 6 months after the last effective date of the special permit. The department may not accept a certificate of deposit that contains any provision that would give to any person any prior rights or claim on the proceeds or principal of such certificate of deposit. The department shall determine by rule whether an annual bond or certificate of deposit will be required. The amount of such bond or certificate of deposit shall be increased, upon order of the department, at any time if the department finds such increase to be warranted by the cultivating operations of the permitholder. In the same manner, the amount of such bond or certificate of deposit may be adjusted downward or removed when a decrease in the cultivating operations of the permitholder occurs or when research or practical field knowledge and observations indicate a low risk of invasiveness by the nonnative species. Factors that may be
considered for change include multiple years or cycles of successful large-scale contained cultivation; no observation of plant, algae, or blue-green algae escape from managed areas; or science-based evidence that established or approved adjusted cultivation practices provide a similar level of containment of the nonnative plant, algae, or blue-green algae. This paragraph applies to any bond or certificate of deposit, regardless of the anniversary date of its issuance, expiration, or renewal.

(f) In order to carry out the purposes of this subsection, the department or its agents may require from any permitholder verified statements of the cultivated acreage subject to the special permit and may review the permitholder’s business or cultivation records at her or his place of business during normal business hours in order to determine the acreage cultivated. The failure of a permitholder to furnish such statement, to make such records available, or to make and deliver a new or additional bond or certificate of deposit is cause for suspension of the special permit. If the department finds such failure to be willful, the special permit may be revoked.

History. — s. 7, ch. 12291, 1927; CGL 3836; s. 8, ch. 59-261; s. 1, ch. 73-82; s. 1, ch. 77-174; s. 3, ch. 79-158; s. 1, ch. 82-34; s. 3, ch. 88-31; s. 3, ch. 90-155; s. 46, ch. 93-169; s. 463, ch. 94-356; s. 7, ch. 95-317; s. 19, ch. 2005-210; s. 14, ch. 2012-117.

Note. — Former s. 581.05.

581.091 Noxious weeds and infected plants or regulated articles; sale or distribution; receipt; information to department; withholding information. —

(1) It is unlawful for any person to knowingly sell, offer for sale, or distribute any noxious weed, or any plant or plant product or regulated article infested or infected with any plant pest declared, by rule of the department, to be a public nuisance or a threat to the state’s agricultural and horticultural interests.

(2) Any person who knows or reasonably should know that such person possesses or has knowingly received any noxious weed or any plant, plant product, or regulated article sold, given away, carried, shipped, or delivered for carriage or shipment in violation of the provisions of this chapter or the rules adopted thereunder shall immediately inform the department and isolate and hold the weed, plant, plant product, or other thing unopened or unused subject to inspection or other disposition as may be provided by the department.

(3) It is unlawful for any person to fail to disclose or withhold available information regarding any infected or infested plant, plant product, regulated article, or noxious weed.

(4) The department, in conjunction with the Institute of Food and Agricultural Sciences at the University of Florida, shall biennially review the official state lists of noxious weeds and invasive plants as provided for under this chapter and department rules. The plants listed in s. 369.251 shall be incorporated into the department lists as provided for under this chapter. A water management district when identifying by rule pursuant to s. 373.185, or a local government when identifying by ordinance or regulation adopted on or after March 1, 2002, a list of noxious weeds, invasive plants, or plants deemed to be a public nuisance or threat, shall only adopt the lists developed under this chapter or rules adopted thereunder. All local government ordinances or regulations, adopted prior to March 1, 2002, that list noxious weeds or invasive plants shall remain in effect. All local ordinances or regulations requiring the removal of invasive plants or noxious weeds from publicly or privately owned conservation areas or preserves shall be exempt from the limitations in this subsection.

(5)(a) Notwithstanding any other law or rule, a person may obtain a special permit from the department to plant Casuarina cunninghamiana as a windbreak for a commercial citrus grove if the plants are produced in an authorized registered nursery and certified by the department as being vegetatively propagated from male plants.

(b) Each application for a special permit shall be accompanied by a fee in an amount determined by the department, by rule, not to exceed $500. A special permit shall be required for each noncontiguous commercial citrus grove and shall be renewed every 5 years. The property owner is responsible for maintaining and producing for inspection the original nursery invoice with certification documentation. If ownership of the property is transferred, the seller must notify the department and provide the buyer with a copy of the special permit and copies of all invoices and certification documentation before the closing of the sale.

(c) Each application shall include a baseline survey of all lands within 500 feet of the proposed Casuarina cunninghamiana windbreak showing the location and identification to species of all existing Casuarina spp.
Nurseries authorized to produce Casuarina cunninghamiana must obtain a special permit from the department certifying that the plants have been vegetatively propagated from sexually mature male source trees currently grown in the state. The importation of Casuarina cunninghamiana from any area outside the state to be used as a propagation source tree is prohibited. Each male source tree must be registered by the department as being a horticulturally true-to-type male plant and be labeled with a source tree registration number. Each nursery application for a special permit shall be accompanied by a fee in an amount determined by the department, by rule, not to exceed $200. Special permits shall be renewed annually. The department shall, by rule, set the amount of an annual fee, not to exceed $50, for each Casuarina cunninghamiana registered as a source tree. The source tree registration numbers of the parent plants must be documented on each invoice or other certification documentation provided to the buyer.

All Casuarina cunninghamiana must be destroyed by the property owner within 6 months after:
1. The property owner takes permanent action to no longer use the site for commercial citrus production;
2. The site has not been used for commercial citrus production for a period of 5 years; or
3. The department determines that the Casuarina cunninghamiana on the site has become invasive. This determination shall be based on, but not limited to, the recommendation of the Noxious Weed and Invasive Plant Review Committee and the Department of Environmental Protection and in consultation with a representative of the citrus industry who has a Casuarina cunninghamiana windbreak.

If the owner or person in charge refuses or neglects to comply, the director or her or his authorized representative may, under authority of the department, proceed to destroy the plants. The expense of the destruction shall be assessed, collected, and enforced against the owner by the department. If the owner does not pay the assessed cost, the department may record a lien against the property.

The use of Casuarina cunninghamiana for windbreaks does not preclude the department from issuing permits for the research or release of biological control agents to control Casuarina spp. pursuant to s. 581.083.

The use of Casuarina cunninghamiana for windbreaks may not restrict or interfere with any other agency or local government effort to manage or control noxious weeds or invasive plants, including Casuarina cunninghamiana. An agency or local government may not remove any Casuarina cunninghamiana planted as a windbreak under special permit issued by the department.

1. Upon obtaining a permit, the permitholder must annually maintain the Casuarina cunninghamiana authorized by a special permit as required in the permit. If the permitholder ceases to maintain the Casuarina cunninghamiana as required by the special permit, if the permit expires, or if the permitholder ceases to abide by the conditions of the special permit, the permitholder must remove and destroy the Casuarina cunninghamiana in a timely manner as specified in the permit.
2. If the department:
   a. Determines that the permitholder is no longer maintaining the Casuarina cunninghamiana subject to the special permit and has not removed and destroyed the Casuarina cunninghamiana authorized by the special permit;
   b. Determines that the continued use of Casuarina cunninghamiana as windbreaks presents an imminent danger to public health, safety, or welfare; or
   c. Determines that the permitholder has exceeded the conditions of the authorized special permit,

the department may issue an immediate final order, which shall be immediately appealable or enjoinable pursuant to chapter 120, directing the permitholder to immediately remove and destroy the Casuarina cunninghamiana authorized to be planted under the special permit. A copy of the immediate final order shall be mailed to the permitholder.

3. If, upon issuance by the department of an immediate final order to the permitholder, the permitholder fails to remove and destroy the Casuarina cunninghamiana subject to the special permit within 60 days after issuance of the order, or such shorter period as is designated in the order as public health, safety, or welfare requires, the department may remove and destroy the Casuarina cunninghamiana that are the subject of the special permit. If the permitholder makes a written request to the department for an extension of time to remove and destroy the Casuarina cunninghamiana that demonstrates specific facts showing why the Casuarina cunninghamiana could not reasonably be
removed and destroyed in the applicable timeframe, the department may extend the time for removing and destroying *Casuarina cunninghamiana* subject to a special permit. The reasonable costs and expenses incurred by the department for removing and destroying *Casuarina cunninghamiana* subject to a special permit shall be paid out of the Citrus Inspection Trust Fund and shall be reimbursed by the party to which the immediate final order is issued. If the party to which the immediate final order has been issued fails to reimburse the state within 60 days, the department may record a lien on the property. The lien shall be enforced by the department.

4. In order to carry out the purposes of this paragraph, the department or its agents may require a permitholder to provide verified statements of the planted acreage subject to the special permit and may review the permitholder’s business or planting records at her or his place of business during normal business hours in order to determine the acreage planted. The failure of a permitholder to furnish such statement or to make such records available is cause for suspension of the special permit. If the department finds such failure to be willful, the special permit may be revoked.

History. — s. 8, ch. 12291, 1927; CGL 3837; s. 9, ch. 79-158; s. 1, ch. 2000-308; s. 1, ch. 2008-221; s. 134, ch. 2014-150.

Note. — Former s. 581.06.

581.101 Quarantines; declaration; confiscation of contraband; removal or tampering with tag or certificate. —

1. When the department under the provisions of this chapter declares a quarantine against any place, nursery, grove, orchard, or county of this state, another state, a territory, or a foreign country as to a plant pest or noxious weed or genetically engineered plant or plant pest organism, or an arthropod, it is unlawful, until the quarantine is removed, for any person to introduce into this state, or to move or dispose of within this state, any plant, plant product, or other thing included in the quarantine, except as allowed by rules of the department.

2. Any plant, plant product, or other thing included under a quarantine which is moved or disposed of within the state in violation of this section, and any plant propagated from such plant, plant product, or other thing, is contraband and shall be confiscated and destroyed by the department without compensation.

3. It is unlawful for any person to remove from any plant or plant product any official quarantine tag or certificate of the department, or to destroy or disguise any such tag or certificate, without prior authorization from an authorized representative of the department.

History. — s. 9, ch. 12291, 1927; CGL 3838; s. 10, ch. 70-49; s. 1, ch. 70-439; s. 244, ch. 71-377; s. 1, ch. 77-98; s. 1, ch. 79-158; s. 4, ch. 84-355; s. 4, ch. 88-31; s. 4, ch. 90-155; s. 47, ch. 93-169.

Note. — Former s. 581.07.

581.111 Emergency. — An emergency is any situation in which the department has declared a plant pest or noxious weed to be a public nuisance or when in the opinion of the department a plant pest or noxious weed endangers or threatens the horticultural and agricultural interest of the state.

History. — s. 11, ch. 59-261; ss. 14, 35, ch. 69-106; s. 6, ch. 78-95; s. 6, ch. 79-158; s. 48, ch. 93-169.

581.121 Nursery stock; prohibited conduct. — It is unlawful for any nurseryman, stock dealer, agent, or plant broker to sell, give away, transfer, move or cause to be moved, carry, ship, or deliver for carriage or shipment any nursery stock except in compliance with the provisions of this chapter and the rules made pursuant to law.

History. — s. 10, ch. 12291, 1927; CGL 3839; s. 12, ch. 59-261; s. 3, ch. 80-41.

Note. — Former s. 581.08.

581.122 Nursery stock; thefts and trespass. —

1. It is unlawful for any person, with intent to injure or defraud, to take, carry away, or damage any plant, plant product, or nursery stock contained in any nursery without the consent of the owner of the nursery or her or his agent.

2. It is unlawful for any person to enter the premises of any nursery whenever the nursery is not open for business, without the written or oral consent of the owner of the nursery or her or his agent.

History. — s. 2, ch. 76-95; s. 918, ch. 97-103.

581.131 Certificate of registration. —
Before any nurseryman shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, she or he shall apply to the director of the division, on forms supplied by the division, for a certificate of registration.

Before any stock dealer, agent, or plant broker shall sell or distribute, or offer for sale or for distribution, any nursery stock in this state, she or he shall apply to the director of the division, on forms supplied by the division, for a certificate of registration for each outlet.

Before any nurseryman, stock dealer, agent, or plant broker advertises nursery stock for sale, a copy of the certificate of registration must be provided to the publisher of the advertisement. The registration number issued by the department and printed on the certificate of registration must be included in the advertisement. Registration numbers printed in the advertisements must be legible.

Each application for a certificate of registration shall be accompanied by a certificate fee in an amount determined by the department.

The certificate shall be renewed annually on its anniversary date upon a satisfactory showing that the provisions of this law and the rules of the department have been complied with and upon payment of an annual renewal fee in an amount determined by the department.

Neither the certificate of registration fee nor the annual renewal fee shall exceed $460. The department may exempt from the payment of a certificate fee those governmental agency nurseries whose nursery stock is used exclusively for planting on their own property.

All applications and applicable fees for annual renewal of certificates of registration required by this section shall be made not later than the anniversary date of the certificate being renewed.

The department shall provide to each person subject to this section written notice and renewal forms 30 days before the annual renewal date informing the person of the certificate of registration renewal date and the applicable fee.

If the registration has not been renewed or the fee has not been paid by the renewal date, a penalty of $10 or 20 percent of the renewal fee, whichever is greater, shall be assessed.

If the registration has not been renewed or the fee has not been paid within 31 days of the renewal date, the department shall stop sale or stop movement on all nursery stock until the person has renewed the certificate of registration.

Upon application prior to the renewal date, the department may, for good cause supported by written documentation, extend the renewal date without penalty for up to 90 days.

Commercial citrus fruit producers producing citrus plants for their own use and for movement only within a contiguous citrus grove shall be required to obtain a certificate of registration from the department. However, no certificate of registration fee or annual renewal fee shall be required.

History.—s. 4, ch. 29767, 1955; s. 13, ch. 59-261; s. 2, ch. 61-119; s. 1, ch. 63-115; s. 1, ch. 65-539; ss. 14, 35, ch. 69-106; s. 1, ch. 74-10; s. 7, ch. 79-158; s. 4, ch. 80-41; s. 415, ch. 81-259; s. 3, ch. 85-283; s. 1, ch. 91-294; s. 5, ch. 92-147; s. 49, ch. 93-169; s. 8, ch. 95-317; s. 919, ch. 97-103; s. 114, ch. 2005-2; s. 135, ch. 2014-150.

Note.—Former s. 581.081.

581.141 Certificate of registration or of inspection; revocation and suspension; fines.—

(1) REVOCATION AND SUSPENSION.—If it is determined by the department that any nurseryman, stock dealer, agent, or plant broker is selling or offering for sale, or is distributing or offering to distribute, nursery stock in violation of the provisions of this chapter and the rules adopted under this chapter, or has aided or abetted in such violation, the department may revoke or suspend his or her certificate of registration or the use of any certificates, permits, or agreements issued by the division. Further, the department may refuse or suspend the certification of any nursery stock or plant product when it is determined that plant pests exist on the stock or product or that the nursery or site is in such condition with regard to growth and cultivation that an efficient inspection for plant pests cannot be made.

(2) FINES; PROBATION.—

(a)1. The department may, after notice and hearing, impose an administrative fine in the Class II category pursuant to s. 570.971 or probation not exceeding 12 months, or both, for a violation of this chapter or the rules
adopted under this chapter upon a person, nurseryman, stock dealer, agent, or plant broker. The fine, when paid, shall be deposited in the Plant Industry Trust Fund.

2. The imposition of a fine or probation pursuant to this subsection may be in addition to or in lieu of the suspension or revocation of a certificate of registration or certificate of inspection.

(b) Whenever any administrative order has been made and entered by the department imposing a fine upon any person pursuant to this subsection, the order shall specify the amount of the fine and the time limit for payment, which shall not exceed 15 days. Upon failure to pay the fine within such time, the certificate of registration or certificate of inspection of the person may be suspended or revoked without further hearing; and a fine of $100 per day may be imposed for each day the violation continues.

History.—s. 5, ch. 29767, 1955; s. 14, ch. 59-261; ss. 14, 35, ch. 69-106; s. 1, ch. 70-39; s. 1, ch. 70-439; s. 6, ch. 78-95; s. 5, ch. 80-41; s. 2, ch. 84-60; s. 5, ch. 84-355; s. 4, ch. 85-283; s. 50, ch. 93-169; s. 920, ch. 97-103; s. 136, ch. 2014-150.

Note.—Former s. 581.082.

581.142 Viable nursery stock; requirements for sale.—

(1) It shall be unlawful to sell or offer for sale any plant or nursery stock unless the plant or nursery stock is viable and meets the basic requirements of a viable plant or viable nursery stock, at the time and place of sale.

(2) The basic requirements of viable nursery stock or a viable plant are as follows:

(a) It must be capable of living and accomplishing the purpose for which it is grown, whether foliage, flowers, fruit, or special use.

(b) It must be free of physiological and pathological defects to the extent that all essential parts function normally.

(c) The root system must have adequate roots or the ability to produce them to support normal performance of the plant. The root system must be adequately protected to prevent excessive loss of moisture while in storage and transit.

(d) Trunk and branches must be capable of transporting fluids throughout the plant and be free from any infirmity of a permanent nature which would interfere with this function. Any damaged branches must be capable of being pruned without seriously deterring growth of the plant.

(e) Leaves must be capable of performing essential manufacturing functions, such as photosynthesis. Deciduous plants, when void of leaves, must have the ability to put out new leaves capable of functioning normally.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 63-260; ss. 14, 35, ch. 69-106; s. 599, ch. 71-136; s. 6, ch. 78-95; s. 11, ch. 79-158; s. 51, ch. 93-169.

581.145 Aquatic plant nursery registration; special permit requirements.—

(1) A nursery or nursery stock dealer shall not engage in any business involving the importation, transportation, cultivation, collection, sale, or possession of any aquatic plant species unless a certification of registration has been issued by the department.

(2) It shall be unlawful for any nursery or nursery stock dealer to import, transport, cultivate, collect, sell, or possess any noxious aquatic plant listed on the prohibited aquatic plant list established by the Department of Environmental Protection in s. 369.25(3)(b) without a special permit issued by the department.

(a) No special permit shall be issued until the department determines that the proposed activity poses no threat or danger to the waters, wildlife, natural resources, agriculture, or environment of the state.

(b) The department may not issue a special permit with respect to a prohibited aquatic plant species if the Department of Environmental Protection prohibits the importation, transportation, cultivation, collection, sale, or possession of the species.

(3) Notwithstanding any other provision of state or federal law, the Department of Agriculture and Consumer Services shall issue, by request, a permit to the aquaculture producer to engage in the business of transporting and selling water hyacinths (Eichhornia spp.) only to other states or countries that permit such transportation and sale when such aquaculture activities have been certified by the Department of Agriculture and Consumer Services. In accordance with any appropriate state or federal law or United States treaty, a Florida aquaculture producer may not ship water hyacinths to other states or countries under such a permit for the purpose of importing water hyacinths back into Florida. This subsection does not restrict or interfere with the efforts of the Fish and Wildlife Conservation Commission, or the efforts of any other agency or local government with responsibilities for the management of
noxious aquatic plants, to control or eradicate noxious nonnursery aquatic plants, including water hyacinths. This subsection may not be considered in the approval or the release of biological control agents for water hyacinths or any other noxious aquatic plants.

History.—s. 6, ch. 92-147; s. 52, ch. 93-169; s. 464, ch. 94-356; s. 73, ch. 95-144; s. 22, ch. 96-247; s. 9, ch. 99-390; s. 34, ch. 2012-190.

581.151 Control of spreading decline.—The department is empowered to join with the United States Department of Agriculture or to proceed independently in a program to control and eradicate, wherever possible, spreading decline resulting from a burrowing nematode (*Radopholus similis* (Cobb) Thorne) in the state.

History.—s. 15, ch. 59-261.

581.161 Fumigation or treatment of plants and plant products.—The division is authorized to supervise or cause the fumigation or treatment of plants and plant products infested or infected by plant pests or so exposed to infestation or infection that it is reasonably believed that infestation or infection could exist. Fumigation or treatment may be performed by employees of the division or other persons supervised by an authorized representative of the division.

History.—s. 1, ch. 31392, 1956; s. 16, ch. 59-261; ss. 14, 35, ch. 69-106; s. 8, ch. 79-158; s. 5, ch. 85-283.

Note.—Former s. 581.16.

581.181 Notice of infection of plants; destruction.—

1) If the director or her or his authorized representative finds, on examination, any plant or plant product infested or infected with plant pests or noxious weeds, she or he shall notify in writing the owner or person having charge of the premises, and the owner or person in charge shall, within 10 days after the notice, cause the removal and destruction of the infested and infected plant or plant product if it cannot be successfully treated; otherwise, the owner or person in charge shall cause it to be treated as directed in the notice by the director or an authorized representative of the division. No damage shall be awarded to the owner for the destruction of the infested or infected plant or plant product under the provisions of this chapter.

2) If the owner or person in charge refuses or neglects to comply with the terms of the notice within 10 days after receiving it, the director or her or his authorized representative may, under authority of the department, proceed to treat or destroy the infested or infected plant or plant product. The expense of the treatment or destruction shall be assessed, collected, and enforced against the owner by the department.

3) This section does not apply to plants or plant products infested with pests or noxious weeds that are determined to be widely established within the state and are not specifically regulated under rules adopted by the department or under any other provision of law.

History.—s. 18, ch. 59-261; s. 6, ch. 61-409; ss. 14, 35, ch. 69-106; s. 4, ch. 70-49; s. 9, ch. 79-158; s. 54, ch. 93-169; s. 921, ch. 97-103; s. 21, ch. 2016-61.

581.182 Citrus plants and citrus plant products from other states, territories, or foreign countries.—

1) It is unlawful for any person to introduce into this state from another state, territory, or foreign country any citrus plant or citrus plant product or propagation therefrom without a permit issued by the department, unless specifically excluded by the rules of the department. Any such citrus plant or citrus plant product or propagation therefrom introduced into the state from another state, territory, or foreign country without a permit issued by the department, or any plants propagated thereafter from such materials, are unlawful and declared to be contraband and shall be confiscated and destroyed. No compensation shall be allowed for any plant, product, or propagation confiscated and destroyed pursuant to this section.

2) All genera of the Rutaceous subfamilies Aurantioideae, Rutoideae, and Toddalioideae shall be regulated under the provisions of this chapter unless exempted under paragraph (4)(g).

3) Application for a permit to introduce into this state from another state, territory, or foreign country any citrus plant or citrus plant product or propagation therefrom shall be made on an application form to be formulated by the department.
In considering an application for a permit to introduce into this state from another state, territory, or foreign country any citrus plant or citrus plant product or propagation therefrom, the department shall consider the following guidelines:

(a) Only budwood of clones not available in Florida will be introduced, and no citrus budwood will be permitted entry if the desired clone is known to be reproducible by seed.

(b) The clones introduced must:
   1. Have been evaluated by the Citrus Budwood Technical Advisory Committee as having desirable and superior characteristics to warrant testing under Florida field conditions prior to possible release as a new clone; or
   2. Be of a type desirable:
      a. For research; or
      b. As a breeding stock to be used by the agricultural experiment stations in Florida.

(c) The parent trees from which the imported citrus budwood is to be taken must be free, or apparently free, from serious citrus pests. Whenever possible, budwood must be taken from plants adequately tested and certified free of disease at the point of origin.

(d) Each shipment of imported citrus budwood must be accompanied by a special permit issued by the Division of Plant Industry of the Department of Agriculture and Consumer Services and must be sent directly to the Division of Plant Industry in Gainesville, Florida.

(e) All introduced citrus budwood must be grown for a period of time to be determined by the Division of Plant Industry in a secure Division of Plant Industry greenhouse or screenhouse that has been made as insect-proof as feasible, or under other acceptable conditions mutually agreed upon by the division and the importer of budwood. It shall be isolated from other citrus as much as possible. Introduced budwood shall be subject to tests for recognized virus and virus-like pathogens for which there are reliable tests. Such tests will be started as soon as possible after arrival of the budwood in Florida. After a complete determination, the budwood will be released to the person or institution responsible for its growing, testing, propagation, and distribution.

(f) When tests are completed, new clones will be evaluated by the Citrus Budwood Technical Advisory Committee. If the committee recommends the release and distribution of any clone to the industry, a portion of this clone will be validated and maintained in a Division of Plant Industry planting.

(g) The director is authorized to waive permit requirements for certain species of plants of the subfamilies Aurantioideae, Rutoideae, or Toddalioideae which the Citrus Budwood Technical Advisory Committee determines pose no threat of introducing into the state a citrus plant pest.

History.—s. 1, ch. 76-189; s. 3, ch. 87-32; s. 2, ch. 89-199; s. 2, ch. 97-220.

581.183 New citrus varieties. — It is unlawful for any person to sell or propagate for sale any tree which represents a new citrus variety brought into the state after July 1, 1977, as defined by law or by rule adopted by the department, if the tree was propagated or is being propagated by graft or budwood from a tree which the Department of Agriculture and Consumer Services has not indexed and certified as free from citrus diseases, including, but not limited to, tristeza, necrotic ring spot, exocortis, xylomorosis, psorosis, and vein enation. The cost of indexing shall be paid by the person desiring to have the tree indexed. Any tree offered for sale or sold which was propagated from a tree which is not indexed is contraband and shall be confiscated and destroyed by the department without compensation.

History.—s. 2, ch. 77-98; s. 2, ch. 77-386.

581.184 Adoption of rules; citrus disease management. —

(1) The department shall adopt by rule, pursuant to ss. 120.536(1) and 120.54, and implement a comprehensive citrus health plan to minimize the impact of exotic citrus pests and diseases to citrus production and to allow for the orderly marketing of citrus fruit in other states and countries.

(2) Regulation of the removal or destruction of citrus trees pursuant to this section is hereby preempted to the state. No county, municipal, or other local ordinance or other regulation that would otherwise impose requirements, restrictions, or conditions upon the department or its contractors with respect to the removal or destruction of citrus trees pursuant to this section shall be enforceable against the department or its contractors.
(3) The department shall adopt rules, pursuant to ss. 120.536(1) and 120.54, regarding the conditions under which citrus plants can be grown, moved, and planted in this state as may be necessary for the control or prevention of the dissemination of citrus diseases. 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 diseases in the state.

(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.

(5) Owners or operators of nonproduction vehicles and equipment shall follow the department guidelines for citrus canker decontamination effective June 15, 2000.

(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.

(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 citrus disease management 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.


581.1843 Citrus nursery stock propagation and production and the establishment of regulated areas around citrus nurseries.—

(1) As used in this section, the term “commercial citrus grove” means a solid set planting of 40 or more citrus trees.

(2) Effective January 1, 2007, it is unlawful for any person to propagate for sale or movement any citrus nursery stock that was not propagated or grown on a site and within a protective structure approved by the department and that is not at least 1 mile away from commercial citrus groves. A citrus nursery registered with the department prior to April 1, 2006, shall not be required to comply with the 1-mile setback from commercial citrus groves while continuously operating at the same location for which it was registered. However, the nursery shall be required to propagate citrus within a protective structure approved by the department. Effective January 1, 2008, it shall be unlawful to distribute any citrus nursery stock that was not produced in a protective structure approved by the department.

(3) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 which set forth the conditions under which citrus nursery stock can be propagated, grown, sold, or moved and the specifications for the approved site and protective structure.

(4) Under the provisions of this chapter, the department shall adopt rules that are consistent with scientific findings and recommendations of the Citrus Budwood Technical Advisory Committee to regulate all genera of the Rutaceae subfamilies Aurantioideae, Rutidoideae, and Toddalioideae that pose a threat of introducing or spreading a citrus plant pest.

(5) The department shall establish regulated areas around the perimeter of commercial citrus nurseries that were established on sites after April 1, 2006, not to exceed a radius of 1 mile. The planting of citrus in an established
regulated area is prohibited. The planting of citrus within a 1-mile radius of commercial citrus nurseries that were established on sites prior to April 1, 2006, must be approved by the department. Citrus plants planted within a regulated area prior to the establishment of the regulated area may remain in the regulated area unless the department determines the citrus plants to be infected or infested with citrus canker or citrus greening. The department shall require the removal of infected or infested citrus, nonapproved planted citrus, and citrus that has sprouted by natural means in regulated areas. The property owner shall be responsible for the removal of citrus planted without proper approval. Notice of the removal of citrus trees, by immediate final order of the department, shall be provided to the owner of the property on which the trees are located. An immediate final order issued by the department under this section shall notify the property owner that the citrus trees, which are the subject of the immediate final order, must be removed and destroyed unless the property owner, no later than 10 days after delivery of the immediate final order, 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 from the department of the immediate final order prior to seeking a stay from the district court of appeal.

(6) Regulation of the removal or destruction of citrus plants under this section is preempted to the state. No county, municipal, or other local ordinance or other regulation that would otherwise impose requirements, restrictions, or conditions upon the department or its contractors with respect to the removal or destruction of citrus trees under this section shall be enforceable against the department or its contractors.

(7) The department shall relocate foundation source trees maintained by the Division of Plant Industry from various locations, including those in Dundee and Winter Haven, to protective structures at the Florida Forest Service nursery in Chiefland or to other protective sites located a minimum of 10 miles from any commercial citrus grove.


581.185 Preservation of native flora of Florida.—

(1) LEGISLATIVE DECLARATION.—The Legislature finds and declares that it shall be the public policy of this state to: provide recognition of those plant species native to the state that are endangered, threatened, or commercially exploited; protect the native flora from unlawful harvesting on both public and privately owned lands; provide an orderly and controlled procedure for restricted harvesting of native flora from the wild, thus preventing wanton exploitation or destruction of native plant populations; encourage the propagation of native species of flora; and provide the people of this state with the information necessary to legally harvest native plants so as to ultimately transplant those plants with the greatest possible chance of survival.

(2) DEFINITIONS.—

(a) “Commercially exploited plants” means species native to the state which are subject to being removed in significant numbers from native habitats in the state and sold or transported for sale.

(b) “Endangered plants” means species of plants native to the state that are in imminent danger of extinction within the state, the survival of which is unlikely if the causes of a decline in the number of plants continue, and includes all species determined to be endangered or threatened pursuant to the federal Endangered Species Act of 1973, as amended, Pub. L. No. 93-205 (87 Stat. 884).

(c) “Harvest” means to dig up, remove, or cut and remove from the place where grown.

(d) “Landowner” includes the public agency administering any public lands.

(e) “Plant” means any member of the plant kingdom, including reproductive and vegetative parts thereof.

(f) “Regulated Plant Index” means the total number of species native to the state that are listed in rules of the department as commercially exploited plants, endangered plants, and threatened plants.

(g) “Species” means a category used in classification of plants by the binomial system of nomenclature which differentiates between plants of a given genus. This includes any subordinate subspecies or variety.

(h) “Threatened plants” means species native to the state that are in rapid decline in the number of plants within the state, but which have not so decreased in such number as to cause them to be endangered.

(3) PROHIBITIONS; PERMITS.—

(a) With regard to any plant listed as an endangered plant on the Regulated Plant Index, as provided in rules of the department, it is unlawful for any person to willfully destroy or harvest any such plant growing on the private
land of another or on any public land without first obtaining the written permission of the landowner or legal representative of the landowner and a permit from the department as provided in this section. However, permits issued for species listed on the federal Endangered Species List under the federal Endangered Species Act of 1973, as amended, must be consistent with federal standards.

(b) With regard to any plant listed as a threatened plant on the Regulated Plant Index, as provided in rules of the department, it is unlawful for any person to willfully destroy or harvest any such plant growing on the private land of another or on any public land without first obtaining the written permission of the landowner or legal representative of the landowner.

(c) With regard to any plant listed as a commercially exploited plant on the Regulated Plant Index, as provided in rules of the department, it is unlawful for any person to willfully destroy or harvest one or two such plants growing on the private land of another or on any public land without first obtaining the written permission of the landowner or legal representative of the landowner or to destroy or harvest three or more of such plants without first obtaining permission from the landowner or the legal representative of the landowner and a permit from the department.

(d) Any person transporting for the purpose of sale, selling, or offering for sale any plant listed on the Regulated Plant Index, except for those plants listed as threatened, which is harvested from the person’s own property must have a permit from the department in his or her immediate possession when engaged in any of the described activities.

(e) With regard to any plant listed on the Regulated Plant Index, as provided in rules of the department, it is unlawful for any person to falsify any paper or document that permits any person to destroy or harvest such plants, or to fail to comply with all conditions or stipulations of any permit issued, or to transport, carry, or convey on any public road or highway or sell or offer for sale in any place any such plant collected in violation of this section.

(f) Any person willfully destroying or harvesting; transporting, carrying, or conveying on any public road or highway; or selling or offering for sale any plant listed in the Regulated Plant Index must have a permit, if applicable, and the written permission required by this section in his or her immediate possession at all times when engaged in any of such activities.

(4) RULES.—The department is authorized to adopt rules relating to the listing, delisting, and changing from one category to another category any plant on the Regulated Plant Index. Any such changes shall consider the recommendation, if any, of the Endangered Plant Advisory Council and shall consider the best environmental and commercial data available. The department is authorized to adopt rules relating to the issuing of permits required by this section. The department may also define by rule specific cutting, harvesting, and plant care criteria which shall include the most favorable and practical horticultural methods and seasons to assure the survival of the plants, minimize environmental damage, and provide for natural regeneration. Such rules shall be consistent with the legislative intent cited in this section and with the provisions and requirements of the federal Endangered Species Act of 1973, as amended.

(5) REVIEW.—

(a) Beginning in 1984, a comprehensive review of this section and of the Regulated Plant Index, as provided in rules of the department, shall be made by the department and the Endangered Plant Advisory Council at 4-year intervals.

(b) The department shall consider any species of plant that should be placed on the Regulated Plant Index which is in danger of disappearing from its native habitat within the foreseeable future throughout all or a significant portion of the range of the species because of:

1. Present or threatened destruction, modification, or curtailment of the range of the species.
2. Overutilization of the species for commercial, scientific, or educational purposes.
3. Disease or predation.
4. Any other natural or manmade factor affecting the continued existence of the species.

(c) In carrying out reviews and arriving at recommendations under paragraphs (a) and (b), the department and the advisory council shall use the best scientific and commercial data available and shall consult with interested persons and organizations.

(6) DEFENSES.—
In any prosecution under this section, it shall be a defense that plants or the flowers, roots, bulbs, or other plant parts transported, carried, or conveyed, or sold or offered for sale, by the party were legally imported from another country.

In any prosecution under this section involving the destruction or harvesting of any plant on the Threatened Plant List, or one or two plants on the Commercially Exploited Plant List, without written permission, it shall be an affirmative defense that actual permission was given prior to the destruction or harvesting.

In any prosecution under this section involving the destruction or harvesting of any plant on the Endangered Plant List, or three or more plants on the Commercially Exploited Plant List, without written permission and a permit, it shall be an affirmative defense that written permission and a permit had been granted prior to the destruction or harvesting.

SALES BY NURSERYMEN.—Licensed, certified nurserymen who grow from seeds or by vegetative propagation any of the native plants on the Regulated Plant Index, as provided in rules of the department, are specifically permitted to sell these commercially grown plants and shall not be in violation of this section if they do so, as it is the intent of this section to preserve and encourage the propagation of these native plants which are rapidly disappearing from the state.

EXEMPTIONS.—No provision of this section shall apply to:

(a) The clearing or other disturbance of land for agricultural or silvicultural purposes, fire control measures, or required mining assessment work.

(b) The clearing or removal of regulated plants from a canal, ditch, survey line, building site, or road or other right-of-way by the landowner or his or her agent.

(c) The clearing of land by a public agency or a publicly or privately owned public utility when acting in the performance of its obligation to provide service to the public.

DUTIES AND AUTHORITY OF DEPARTMENT.—The department shall:

(a) As part of the regular inspection of nurseries and stock dealer establishments, be on the alert for any of the native plants on the Regulated Plant Index, as provided in rules of the department, which appear suddenly at a given nursery or stock dealer establishment in a mature stage or a stage showing several years of growth, and the department is empowered to request proof of where and how the plants were obtained.

(b) Have the authority to enter upon properties where harvesting or storage of regulated plants is suspected, to inspect vehicles or other means of transporting such plants, and to preserve and take custody of plants harvested or moved in violation of this section, in order to assure compliance with the provisions of this section.

(c) Have the authority to conduct investigations of plants native, or thought to be native, to the state for the purpose of compiling information relative to plant populations, distributions, habitats, climatic factors, and other biological ecological data, and to determine conservation measures and requirements necessary for their survival.

(d) Have the authority to issue grants to support the preservation and propagation of native plant species of the state that are endangered or threatened as defined in this section.

NOTICE OF HIGHWAY CONSTRUCTION.—The Department of Transportation shall notify the Department of Agriculture and Consumer Services and the Endangered Plant Advisory Council created by s. 581.186 of advertised bids for highway construction at the time those bids are first advertised, describing the project, the location of the project, and the representative of the Department of Transportation who can answer questions regarding the project and the plant life immediately affected by the construction. The Department of Agriculture and Consumer Services shall seek and utilize the services of the Endangered Plant Advisory Council and of any other state agencies, clubs, associations, organizations, or individuals that may offer support and services for the preservation of the plants on the Regulated Plant Index that may be affected by the construction project and shall provide by rule for the appropriate disposal of such plants.

GRANTS PROGRAM.—

(a) There is created within the department an Endangered or Threatened Native Flora Conservation Grants Program to contract with qualified corporations in the private sector for the purpose of providing recognition of those flora native to the state that are endangered or threatened; and, to encourage, within a controlled program, the
protection, curation, propagation, reintroduction, and monitoring of native flora that are identified as endangered or threatened.

(b) The Division of Plant Industry in the Department of Agriculture and Consumer Services may accept and administer moneys appropriated to it for providing grants to qualifying nonprofit corporations for the protection, curation, propagation, reintroduction, and monitoring of endangered or threatened native flora.

(c) A qualified corporation may apply for a grant of state funds to support programs designed to protect, conserve, propagate, reintroduce, and monitor endangered or threatened native flora. For the purposes of this section, a “qualified corporation” is a corporation that is designated a not-for-profit corporation under s. 501(c)(3) of the Internal Revenue Code of 1954, and which is described in, and allowed to receive contributions under, s. 170 of the Internal Revenue Code of 1954, and which is a corporation not for profit incorporated under chapter 617, and which can demonstrate through experience with existing conservation programs the ability to protect, conserve, propagate, reintroduce, and monitor endangered and threatened native flora.

(d) The department shall establish, by rule, criteria for the award of grants, including criteria evaluating:
1. Existing conservation experience with endangered or threatened native flora;
2. Existing facilities appropriate for program needs;
3. Existing programs administered by the corporation that successfully protect, conserve, propagate, reintroduce, and monitor native flora;
4. Existing recordkeeping and documentation that is accessible to national databases of endangered and threatened plants;
5. Qualified staff with demonstrated experience in native plant conservation;
6. Documentation of collaboration with related state, national, or international conservation programs;
7. Successful experience propagating and reintroducing endangered or threatened native flora;
8. Public exhibit programs publicizing the conservation of native species and the importance of the conservation effort; and
9. Fiscal stability and ability to match grant funding.

(e) Upon appropriation by the Legislature of funds for the Endangered or Threatened Native Flora Grants Program, the department shall execute a contract with each organization, which must contain information relative to the program and other provisions considered necessary by the department for the administration of the program.

2. Each recipient corporation must submit an annual report to the Division of Plant Industry detailing the expenditure of funds.

3. The department may grant moneys in advance for programs for which grants are issued, under a grant agreement or a contract.

(f) Each grant recipient shall cause an annual postaudit to be conducted by an independent certified public accountant. The annual audit report must be submitted to the department for review. The department may require from the grant recipient any detail or supplemental data relative to the operation of the corporation.

(g) The department shall adopt rules necessary to administer this subsection.

(12) REGULATED PLANT INDEX.—The Regulated Plant Index is to be used solely to restrict unlawful harvesting of native flora without the authorization of the landowner. The Regulated Plant Index is not to be used to regulate construction or other land alteration activities on any property.

History.—s. 1, ch. 78-72; s. 160, ch. 79-164; s. 1, ch. 80-23; s. 1, ch. 85-153; s. 4, ch. 87-32; s. 3, ch. 87-226; s. 3, ch. 89-199; s. 2, ch. 91-294; s. 55, ch. 93-169; s. 922, ch. 97-103; s. 3, ch. 97-220.

581.186 Endangered Plant Advisory Council; organization; meetings; powers and duties.—

(1) COMPOSITION.—

(a) The Endangered Plant Advisory Council is created, consisting of seven persons to be appointed by the Commissioner of Agriculture. One member shall be a representative of the Florida Federation of Garden Clubs, Inc.; one member shall be a representative of the Florida Nurserymen and Growers Association, Inc.; one member shall be a representative of the Committee for Rare and Endangered Plants and Animals; one member shall be a representative
of the Florida Forestry Association; one member shall be a representative of the Florida Native Plant Society; and two members shall be botanists, each of whom shall be a staff or faculty member at a state university.

(b) All members shall be appointed for terms of 4 years. A vacancy shall be filled for the remainder of the unexpired term in the same manner as the original appointment.

(2) POWERS AND DUTIES; MEETINGS; PROCEDURES; RECORDS. — The meetings, powers and duties, procedures, and recordkeeping of the Endangered Plant Advisory Council shall be pursuant to s. 570.232.

(3) PROTECTION OF ENDANGERED PLANTS. — The council shall advise the department concerning proposals for revising this section and s. 581.185. The council shall periodically examine those plant species on the Regulated Plant Index and other plants native to the state that have been proposed for inclusion on the Regulated Plant Index to determine whether the plant species should be removed from the list, transferred from one category to another category on the list, or added to an appropriate category on the list. The council shall inform the department of such determination and request that the department initiate appropriate changes in the list. The Regulated Plant Index must be used solely for the purposes specified in s. 581.185 and may not be used for regulatory purposes by other agencies. However, this section does not preclude another agency authorized to protect endangered plants from including one or more species listed on the Regulated Plant Index on a list developed by that agency under its regulatory authority.

(4) COOPERATION. — The Division of Plant Industry, the Department of Environmental Protection, the Department of Transportation, and the Fish and Wildlife Conservation Commission shall cooperate with the council whenever necessary to aid it in carrying out its duties under this section.

History. — s. 2, ch. 78-72; s. 416, ch. 81-259; s. 1, ch. 82-46; s. 2, ch. 83-265; ss. 2, 5, 6, ch. 85-153; ss. 1, 2, 3, ch. 92-153; s. 56, ch. 93-169; s. 26, ch. 94-335; s. 465, ch. 94-356; s. 4, ch. 97-220; s. 223, ch. 99-245; s. 51, ch. 2011-206; s. 137, ch. 2014-150.

581.187 Exemptions from s. 581.185. — All Florida Indians, as defined in s. 285.11, shall be exempt from the prohibitions and penalties of s. 581.185.

History. — s. 3, ch. 78-72.

581.191 Appropriations. — The department shall include in its legislative budget request the estimated amounts needed to carry out the purposes of this chapter and the Legislature shall appropriate from the General Revenue Fund such amounts as it deems necessary for these purposes.

History. — s. 14, ch. 12291, 1927; CGL 3841; s. 134, ch. 26869, 1951; s. 19, ch. 59-261; s. 1, ch. 61-59.

Note. — Former s. 581.11.

581.199 Confidential business information. — It is unlawful for any authorized representative who in an official capacity obtains under the provisions of this chapter any information entitled to protection as a trade secret, as defined in s. 812.081, to use that information for personal gain or to reveal it to any unauthorized person.

History. — s. 6, ch. 88-31; s. 8, ch. 92-4; s. 59, ch. 93-169; s. 353, ch. 96-406; s. 2, ch. 2016-5.

581.201 Injunction. — A single act in violation of the provisions of this chapter shall be sufficient to authorize the issuance of an injunction. The department is not required to furnish bond when making a complaint for an injunction. The Department of Legal Affairs, the state attorneys, and all public prosecutors in each county shall represent the department when called upon to do so. The department in the discharge of its duties and in the enforcement of its powers may send for, or subpoena duces tecum, books, records, and papers, may administer oaths, and may hear witnesses, and the various sheriffs of the state shall serve all summonses and other papers upon request of the department.

History. — s. 20, ch. 59-261; s. 7, ch. 61-409; ss. 11, 14, 35, ch. 69-106; s. 26, ch. 73-334; s. 3, ch. 85-153; s. 60, ch. 93-169.

581.211 Penalties for violations. —

(1) Any person who:

(a) Violates any provision of this chapter or the rules adopted under this chapter;

(b) Forges, counterfeits, removes, destroys, disguises, or wrongfully or improperly uses any tag, certificate, permit, compliance agreement, or other written agreement provided for in this chapter;
(c) Interferes with or obstructs any director or authorized representative of the department in the performance of her or his duties;
(d) Willfully refuses to identify the origin and source of any plant, plant product, or other thing likely to carry plant pests, noxious weeds, or arthropods; or
(e) Has in her or his possession unauthorized imported plants or plant products,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any person who imports from other states, territories, or countries, without a special permit from the Division of Plant Industry, plants or propagative plant parts of the subfamily Aurantioideae (after Swingle and Reese which includes all species of citrus) commits a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(3) (a) In addition to any other provision of law, the department may, after notice and hearing, impose an administrative fine pursuant to s. 570.971 in the Class II category for each violation of this chapter, upon a person, nurseryman, stock dealer, agent, or plant broker. The fine, when paid, shall be deposited in the Plant Industry Trust Fund. In addition, the department may place the violator on probation for up to 1 year, with conditions.

2. The imposition of a fine or probation pursuant to this subsection may be in addition to or in lieu of the suspension or revocation of a certificate of registration or certificate of inspection.

(b) Whenever any administrative order has been entered by the department imposing a fine or probation upon any person pursuant to this subsection, the order shall specify the conditions and time limit for probation, and the amount of the fine and time limit for payment which shall not exceed 15 days. If the person fails to meet the conditions of probation or to pay the fine within the established time, the person’s certificate of registration or certificate of inspection may be suspended or revoked, and a fine of $100 per day imposed for each day the violation continues.

(4) A person who knowingly acquires, imports, possesses, sells or offers to sell, trades or offers to trade, barters or offers to barter, moves or causes to be moved, introduces, or releases a plant pest without a special permit from the division:
(a) Commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083;
(b) Is subject to an administrative fine pursuant to s. 570.971 in the Class II category for each violation of this chapter;
(c) May have a certificate of registration or certificate of inspection suspended or revoked; and
(d) Is liable for the payment of all reasonable costs and expenses incurred by the department in a pest control or eradication program. Moneys collected pursuant to this section shall be deposited into the Plant Industry Trust Fund.

(5) A person who knowingly acquires, imports, possesses, sells or offers to sell, trades or offers to trade, barters or offers to barter, moves or causes to be moved, introduces, or releases a plant pest without a special permit from the division that results in the issuance of a declaration of an agricultural emergency by the Commissioner of Agriculture or the implementation of a control or eradication program by the department or the United States Department of Agriculture:
(a) Commits a felony of the second degree, punishable as provided in s. 775.082 or s. 775.083;
(b) Is subject to an administrative fine pursuant to s. 570.971 in the Class IV category for each violation of this chapter;
(c) May have a certificate of registration or certificate of inspection suspended or revoked; and
(d) Is liable for the payment of all reasonable costs and expenses incurred by the department in a plant pest control or eradication program. Moneys collected pursuant to this section shall be deposited into the Plant Industry Trust Fund.

History.—s. 11, ch. 12291, 1927; CGL 7854; s. 21, ch. 59-261; s. 600, ch. 71-136; s. 3, ch. 76-95; s. 4, ch. 78-72; s. 10, ch. 79-158; s. 6, ch. 80-41; s. 6, ch. 84-355; s. 4, ch. 85-153; s. 5, ch. 88-31; s. 150, ch. 91-224; s. 7, ch. 92-147; s. 61, ch. 93-169; s. 923, ch. 97-103; s. 32, ch. 2001-279; s. 138, ch. 2014-150; s. 4, ch. 2016-88.

Note.—Former s. 581.09.

581.212 Handling of moneys received.—All moneys received by the department under the provisions of this chapter shall be deposited in the Plant Industry Trust Fund and shall be used by the department to defray its expenses
in carrying out the duties imposed on it by this chapter.

History. — s. 2, ch. 65-539; s. 3, ch. 84-60; s. 7, ch. 84-355; s. 9, ch. 95-317.

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