
By: **Delegate Hecht**

Introduced and read first time: February 12, 1999

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Pest Control - Neglected or Abandoned Orchards**

3 FOR the purpose of providing that certain neglected or abandoned orchards are public
4 nuisances and may not be maintained; requiring owners of certain abandoned
5 orchards to remove trees by a certain time; providing for the effect of certain
6 remedies for certain orchards; providing for the application of this Act;
7 authorizing the Secretary of Agriculture to adopt certain regulations; defining
8 certain terms; and generally relating to pest control of neglected or abandoned
9 orchards.

10 BY repealing and reenacting, with amendments,
11 Article - Agriculture
12 Section 5-301
13 Annotated Code of Maryland
14 (1985 Replacement Volume and 1998 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article - Agriculture
17 Section 5-304, 5-306, and 5-307
18 Annotated Code of Maryland
19 (1985 Replacement Volume and 1998 Supplement)

20 BY adding to
21 Article - Agriculture
22 Section 5-305.1
23 Annotated Code of Maryland
24 (1985 Replacement Volume and 1998 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
26 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Agriculture**

2 5-301.

3 (a) In this subtitle the following words have the meanings indicated.

4 (B) (1) "ACTIVE TREE" MEANS A TREE BEING CULTIVATED BY THE FRUIT
5 GROWING INDUSTRY FOR THE COMMERCIAL PRODUCTION OF FRUIT, WHETHER OR
6 NOT THAT TREE HAS REACHED FRUIT-BEARING AGE.7 (2) "ACTIVE TREE" DOES NOT INCLUDE A TREE TOO OLD TO BE
8 PRODUCTIVE ECONOMICALLY.9 [(b)] (C) "Broker" means any person who solicits, takes orders, sells or
10 distributes nursery stock in the State other than a nurseryman or dealer.11 [(c)] (D) (1) "Dealer" means any person, except a nurseryman or broker, who
12 advertises nursery stock for sale or installation or who buys, collects, or otherwise
13 acquires wild plants or nursery stock for the purpose of selling, planting or
14 distributing them.15 (2) "Dealer" does not include a person who acquires plants for personal
16 use.17 (E) (1) "FRUIT GROWING INDUSTRY" MEANS AN AREA OR TREE DEDICATED
18 BY THE OWNER TO THE ACTIVE PRODUCTION OF FRUIT FOR COMMERCIAL SALE.

19 (2) "FRUIT GROWING INDUSTRY" DOES NOT INCLUDE:

20 (I) FRUIT PRODUCTION FOR CASUAL ROADSIDE SALE THAT IS NOT
21 PART OF THE PART-TIME OR FULL-TIME BUSINESS OF THE OWNER; OR22 (II) SALE OF HOMEGROWN SURPLUS FRUIT BY AN INDIVIDUAL
23 WHOSE PRODUCTION EXCEEDS PERSONAL USE.

24 (F) "NEGLECTED OR ABANDONED ORCHARD" MEANS AN ORCHARD IN WHICH:

25 (1) TWO OR MORE CONDITIONS OF STANDARD ORCHARD MANAGEMENT
26 PRACTICES, AS DESCRIBED IN STATE OR LOCAL PUBLICATIONS, ARE NOT BEING MET;
27 AND28 (2) ONE OR MORE PESTS, DISEASES, OR CONDITIONS OF ECONOMIC
29 CONSEQUENCE TO THE PARTICULAR CROP BEING GROWN ARE PRESENT.30 [(d)] (G) "Nursery stock" means (1) any hardy plant or plant that survives
31 Maryland winters, including a deciduous or evergreen tree, shrub, or woody vine
32 whether cultivated, native, or wild, and all viable parts of the plant; (2) any nonhardy
33 plant or plant part to be distributed in another state that requires plant inspection
34 and certification before entering that state; and (3) any other plant included by the
35 Secretary, if regulating its movement is necessary to control any dangerously
36 injurious plant pest.

1 [(e)] (H) "Nursery" means any place where nursery stock is produced for sale
2 or distribution.

3 [(f)] (I) "Nurseryman" means any person engaged in the production of
4 nursery stock for sale or distribution.

5 (J) "ORCHARD" MEANS AN AREA THAT HAS FIVE OR MORE FRUIT TREES, WILD
6 OR CULTIVATED, FOR COMMERCIAL PURPOSES.

7 [(g)] (K) "Plant pest" means any insect, snail, nematode, fungus, virus,
8 bacteria, weed, or any other form of terrestrial or aquatic plant or microorganisms
9 (except viruses, bacteria, or other microorganisms on or in living man or another
10 living animal) which is normally considered to be a plant pest or which the Secretary
11 declares to be a pest.

12 5-304.

13 In order to control, retard, or eradicate dangerously injurious plant pests, the
14 Secretary may:

15 (1) Establish or rescind quarantines against the introduction into the
16 State of any plant material known to be infested or infected or which reasonably may
17 be believed to be infested or infected;

18 (2) Quarantine any area of the State known or reasonably believed to be
19 infested or infected with dangerously injurious plant pests;

20 (3) Regulate the movement of infested or infected plant material or
21 nonplant material likely to transfer the infestation or infection from a quarantined
22 area to a noninfested or noninfected area;

23 (4) Remove any quarantine when the purpose for which it was
24 established is achieved;

25 (5) Regulate or prohibit the planting of any crop in a quarantined area
26 which the Secretary determines would prevent or limit the control, retardation, or
27 eradication of any dangerously injurious plant pest for which the quarantine is
28 established; and

29 (6) Issue directives for any quarantined area as an integral part of the
30 quarantine order relating to treatment of infested or infected crops and to treatment
31 of soil, implements, storage facilities, or any other equipment or materials in the area
32 that are likely to be a factor in transmitting any dangerously injurious plant pest to
33 nonquarantined areas in the State.

34 5-305.1.

35 (A) THIS SECTION APPLIES TO A NEGLECTED OR ABANDONED ORCHARD
36 LOCATED WITHIN 2 MILES OF AN ACTIVE TREE OF THE FRUIT GROWING INDUSTRY.

1 (B) A NEGLECTED OR ABANDONED ORCHARD WHICH, BECAUSE OF
2 INFESTATION WITH A DANGEROUSLY INJURIOUS PLANT PEST, OR BECAUSE OF
3 ANOTHER CONDITION, CONSTITUTES A MENACE TO THE FRUIT GROWING INDUSTRY
4 OF THE STATE, OR WHICH CONTAINS HOST PLANTS OF OR PROVIDES FAVORABLE
5 AND LIKELY HARBORAGE FOR A DANGEROUSLY INJURIOUS PLANT PEST, IS A PUBLIC
6 NUISANCE AND MAY NOT BE MAINTAINED.

7 (C) ALL REMEDIES FOR THE PREVENTION OF A PUBLIC NUISANCE, AND
8 REMEDIES PROVIDED UNDER THIS SUBTITLE, INCLUDING QUARANTINE,
9 TREATMENT, CONDEMNATION, REMOVAL, AND DESTRUCTION OF PLANT MATERIAL,
10 APPLY TO A NEGLECTED OR ABANDONED ORCHARD.

11 (D) AN OWNER OF AN ABANDONED FRUIT ORCHARD SHALL REMOVE ALL
12 TREES WITHIN 3 YEARS AFTER THE TERMINATION OF ACTIVE COMMERCIAL
13 PRODUCTION.

14 (E) THIS SECTION IS IN ADDITION TO AND NOT IN LIMITATION OF THE
15 POWERS OF THE SECRETARY CONCERNING PLANT DISEASE CONTROL.

16 (F) THE SECRETARY MAY ADOPT REGULATIONS TO IMPLEMENT THE
17 PROVISIONS OF THIS SECTION.

18 5-306.

19 (a) To accomplish the purpose of this subtitle, the Secretary may enter any
20 public or private land or property, vehicle, vessel or aircraft in the State to inspect,
21 destroy, treat, or experiment with dangerously injurious plant pests. It is unlawful to
22 deny access to, offer any resistance to, hinder, misrepresent or conceal facts from the
23 Secretary or his agent in the performance of their duties.

24 (b) If the Secretary determines that any dangerously injurious plant pest can
25 be controlled without destroying the plant, then he shall order it treated. If the person
26 notified fails to comply with the order, the Secretary shall apply the appropriate
27 control measures and the owner shall pay the cost. If the owner refuses to pay the
28 cost, it shall be collected as provided in § 5-307. The Secretary may treat any
29 suspicious plant found in dangerous proximity to those infested or infected in order to
30 prevent dissemination.

31 5-307.

32 (a) If the Secretary or his designee finds any plant infested or infected with
33 any dangerously injurious plant pest, he shall issue a stop sale notice and mark or tag
34 the plant in a conspicuous manner. He shall give written notice to the owner, tenant,
35 or person in charge of the premises.

36 (b) If the person notified does not destroy or treat the infested or infected
37 plant pursuant to the departmental rules and regulations, the Secretary shall destroy
38 or treat the plant. The Secretary shall prepare a statement of the expenses of
39 destruction or treatment and shall transmit a copy of the statement and account to
40 the State's Attorney of the county where the owner of the premises resides. The

1 State's Attorney shall collect the expenses and account to the Secretary. The copy of
2 the statement and account is sufficient evidence to prove the claim.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
4 effect October 1, 1999.