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Townsend, Walsh, Wilson; Reps. Dorsey Walker,
Lambert, Mitchell, Michael Smith

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 22

AN ACT TO AMEND TITLE 3 OF THE DELAWARE CODE RELATING TO INVASIVE PLANTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Part II, Title 3 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 CHAPTER 29. Invasive Plants.

4 § 2901. Purpose.

5 The purpose of this chapter is to prohibit invasive plant species at their point of sale or delivery into this State.

6 § 2902. Definitions.

7 As used in this chapter:

8 (1) "Invasive plant" means any living part, cultivar, variety, species, or subspecies not native to Delaware
9 identified by the Secretary as having the potential to do all of the following:

10 a. Result in widespread dispersal and establishment.

11 b. Out-compete other species in the same area.

12 c. Exhibit rapid growth or high seed or propagule productions.

13 d. Become established in natural areas in the State.

14 (2) "Secretary" means the Secretary of the Delaware Department of Agriculture.

15 § 2903. Restrictions on invasive plants.

16 (a) No person may import, export, buy, sell, transport, distribute, or propagate any viable portion, including seeds,
17 of an invasive plant in this State, unless the Secretary provides prior written approval under subsection (b) of this section.

18 (b) The Secretary may provide written approval for a person to conduct an activity prohibited under subsection (a)
19 of this section if the purpose of the activity is for any of the following:

20 (1) Disposal.

21 (2) Control.

- 22 (3) Research or education.
- 23 (4) Export for the purpose of disposal, control, research, or education.
- 24 § 2904. Regulations; designation of plants.
- 25 (a) The Secretary may promulgate and adopt regulations deemed necessary to carry out the purposes of this
- 26 chapter.
- 27 (b) The Secretary shall maintain a list of invasive plants, known as the “Invasive Plant List”.
- 28 (1) The Secretary shall maintain the Invasive Plant List with the advice of the Delaware Native Species
- 29 Commission, so long as the Delaware Native Species Commission exists.
- 30 (2) The Secretary may make the alterations to the Invasive Plant List under Chapter 101 of Title 29.
- 31 (c) The Invasive Plant list must include, at a minimum, all of the following:
- 32 (1) Multiflora rose (*Rosa multiflora*).
- 33 (2) Japanese honeysuckle (*Lonicera japonica*).
- 34 (3) Oriental bittersweet (*Celastrus orbiculatus*).
- 35 (4) Japanese stilt grass (*Microstegium vimineum*).
- 36 (5) Japanese knotweed (*Fallopia japonica*).
- 37 (6) Autumn olive (*Elaeagnus umbellata*).
- 38 (7) Norway maple (*Acer platanoides*).
- 39 (8) European reed (*Phragmites australis* subsp. *australis*).
- 40 (9) Hydrilla (*Hydrilla verticillata*).
- 41 (10) Morrow’s honeysuckle (*Lonicera morrowii*).
- 42 (11) Mile-a-minute weed (*Persicaria perfoliata*).
- 43 (12) Yam-leaved Clematis (*Clematis terniflora*).
- 44 (13) European Privet (*Ligustrum vulgare*).
- 45 (14) European Sweetflag (*Acorus calamus*).
- 46 (15) Wineberry (*Rubus phoenicolasius*).
- 47 (16) Japanese barberry (*Berberis thunbergii*).
- 48 (17) Lesser periwinkle (*Vinca minor*).
- 49 (18) Garlic mustard (*Alliaria petiolata*).
- 50 (19) Winged euonymus (*Euonymus alatus*).
- 51 (20) Porcelain berry (*Ampelopsis glandulosa*).

- 52 (21) Callery pear (*Pyrus calleryana*).
- 53 (22) Marsh Dewflower (*Murdannia keisak*).
- 54 (23) Lesser celandine (*Ficaria verna*).
- 55 (24) Purple loosestrife (*Lythrum salicaria*).
- 56 (25) Amur honeysuckle (*Lonicera maackii*).
- 57 (26) Tartarian honeysuckle (*Lonicera tatarica*).
- 58 (27) Tree of heaven (*Ailanthus altissima*).
- 59 (28) Spotted knapweed (*Centaurea stoebe* subsp. *micranthos*).
- 60 (29) Creeping water primrose (*Ludwigia peploides* subsp. *glabrescens*).
- 61 (30) Water hyacinth (*Eichhornia crassipes*).
- 62 (31) Parrot-feather (*Myriophyllum aquaticum*).
- 63 (32) English ivy (*Hedrix helix*).
- 64 (33) Orange daylily (*Hemerocallis fulva*).
- 65 (34) Yellow flag iris (*Iris pseudoacorus*).
- 66 (35) Creeping Jenny (*Lysimachia nummularia*).
- 67 (36) Japanese pachysandra (*Pachysandra terminalis*).
- 68 (37) Chinese wisteria (*Wisteria sinensis*).

69 (d) The Secretary shall maintain a watch list of potentially invasive plants.

70 (1) The Secretary shall maintain the watch list of potentially invasive plants with the advice of the Delaware
71 Native Species Commission, so long as the Delaware Native Species Commission exists.

72 (2) A plant on the watch list of potentially invasive plants may only be sold or offered for sale at a retail or
73 wholesale outlet if the plant has a tag or label that identifies the plant as being potentially invasive.

74 § 2905. Acceptance of Grants.

75 The Department of Agriculture and the Department of Natural Resources and Environmental Control may accept,
76 use, or expand a gift, grant, aid, or loan that may be available from any source, public or private, for the purposes of
77 carrying out the provisions of this chapter.

78 § 2906. Violations.

79 (a) A person who violates this chapter is subject to a civil penalty of not less than \$50 and not more than \$500 for
80 each proven occurrence.

81 (b) Before imposing a penalty under subsection (a) of this section, the Secretary must offer the person advice on
82 compliance with this chapter and an administrative hearing under § 2907 of this title.

83 (c) The Secretary must send a person who violates this chapter a written notice of the violation. The written notice
84 of a violation must contain information regarding the opportunity for an administrative hearing under § 2907 of this title.

85 (d)(1) A person who violates this chapter may enter into a written agreement with the Secretary, specifying terms
86 and conditions for compliance with this chapter.

87 (2) A person who is in compliance with all of the terms and conditions of a written agreement under
88 paragraph (d)(1) of this section is not in violation of this chapter.

89 (e) All civil penalties collected under this section are payable to the Delaware Department of Agriculture and must
90 be used for enforcement of this chapter.

91 § 2907. Hearing procedure; appeals.

92 (a) The Secretary, or the Secretary's designee shall conduct all administrative proceedings under this chapter.

93 (b) A person accused of violating this chapter has the right to appear personally, to be represented by counsel, and
94 to submit evidence and witnesses in defense of the charges.

95 (c) The Secretary or the Secretary's designee shall make and preserve a full record of the proceeding. A transcript
96 of the record may be purchased upon payment to the Department of Agriculture of the cost of preparing such a transcript.

97 (d) The Secretary or the Secretary's designee shall issue a decision in writing to the person accused of violating
98 this chapter within 30 days of the conclusion of the hearing.

99 (e) The decision by the Secretary or the Secretary's designee is appealable to the Superior Court within 30 days of
100 the date the decision is mailed.

101 (f) Written notice of an appeal under subsection (e) of this section, must state the grounds for the appeal and be
102 served on the Secretary.

103 Section 2. This Act takes effect on July 1, 2022.

SYNOPSIS

This Act prohibits the import, export, sale, transport, distribution, or propagation of any plant identified by the Secretary of the Department of Agriculture, with the advice of the Delaware Native Species Commission, as an invasive plant. This Act also requires that plants identified as potentially invasive be sold with a tag that identifies the plant as potentially invasive. A violation of this Act may result in a civil penalty of \$50 to \$500, but only after the person has had the opportunity for an administrative hearing and the opportunity to come into compliance with this Act.

This Act takes effect July 1, 2022.

Author: Senator Hansen