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DELAWARE STATE SENATE  
151st GENERAL ASSEMBLY

SENATE BILL NO. 239

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

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

Section 1. Chapter 27 of Title 3 of the Delaware Code is hereby repealed.

Section 2. Amend Chapter 29, Title 3 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and redesignating accordingly:

Chapter 29. Invasive ~~Plants~~ and Potentially Invasive Plants.

§ 2903. Restrictions on invasive and potentially invasive plants.

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

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

(1) Disposal.

(2) Control.

(3) Research or education.

(4) Export for the purpose of disposal, control, research, or education.

(c) No person may import, export, buy, sell, transport, distribute, or propagate any viable portion, including seeds, of a plant on the Plant Watch List, unless the plant is identified with a tag, label, or sign published under § 2904 of this title.

Section 3. Amend Chapter 29 of Title 3 by repealing § 2904 in its entirety and inserting in lieu thereof the insertions as shown by underline as follows:

§ 2904. Regulations; designation of plants.

(a)(1) The Secretary shall adopt regulations necessary to carry out the purposes of this chapter.

(2) The regulations adopted under paragraph (a)(1) of this section shall include all of the following:

22                    a. Maintaining the Invasive Plant List.

23                    b. Establishing and maintaining the Plant Watch List.

24                    (3) The Secretary shall adopt regulations under paragraph (a)(2) of this section with the advice of the  
25 Delaware Native Species Commission, so long as the Delaware Native Species Commission exists.

26                    (b) The Invasive Plant List contains plants that are known to be invasive plants. Until revised under paragraph  
27 (a)(2)a. of this section, the Invasive Plant List is as follows:

28                    (1) Amur honeysuckle (Lonicera maackii).

29                    (2) Autumn olive (Elaeagnus umbellate).

30                    (3) Callery pear (Pyrus calleryana).

31                    (4) Chinese wisteria (Wisteria sinensis).

32                    (5) Creeping Jenny (Lysimachia nummularia).

33                    (6) Creeping water primrose (Ludwigia peploides subsp. glabrescens).

34                    (7) English ivy (Hedera helix).

35                    (8) European privet (Ligustrum vulgare).

36                    (9) European reed (Phragmites australis subsp. australis).

37                    (10) European sweetflag (Acorus calamus).

38                    (11) Garlic mustard (Alliaria petiolate).

39                    (12) Hydrilla (Hydrilla verticillate).

40                    (13) Japanese barberry (Berberis thunbergia).

41                    (14) Japanese honeysuckle (Lonicera japonica).

42                    (15) Japanese knotweed (Fallopia japonica).

43                    (16) Japanese pachysandra (Pachysandra terminalis).

44                    (17) Japanese stiltgrass (Microstegium vimineum).

45                    (18) Lesser celandine (Ficaria verna).

46                    (19) Lesser periwinkle (Vinca minor).

47                    (20) Marsh dewflower (Murdannia keisak).

48                    (21) Mile-a-minute weed (Persicaria perfoliate).

49                    (22) Morrow's honeysuckle (Lonicera morrowii).

50                    (23) Multiflora rose (Rosa multiflora).

51                    (24) Norway maple (Acer platanoides).

- 52                   (25) Orange daylily (*Hemerocallis fulva*).
- 53                   (26) Oriental bittersweet (*Celastrus orbiculatus*).
- 54                   (27) Parrot-feather (*Myriophyllum aquaticum*).
- 55                   (28) Porcelain berry (*Ampelopsis glandulosa*).
- 56                   (29) Purple loosestrife (*Lythrum salicaria*).
- 57                   (30) Spotted knapweed (*Centaurea stoebe* subsp. *micranthos*).
- 58                   (31) Tatarian honeysuckle (*Lonicera tatarica*).
- 59                   (32) Tree of heaven (*Ailanthus altissima*).
- 60                   (33) Water hyacinth (*Eichhornia crassipes*).
- 61                   (34) Wineberry (*Rubus phoenicolasius*).
- 62                   (35) Winged euonymus (*Euonymus alatus*).
- 63                   (36) Yam-leaved clematis (*Clematis terniflora*).
- 64                   (37) Yellow flag iris (*Iris pseudoacorus*).
- 65                   (c)(1) The Plant Watch List contains plants that have the potential to be invasive plants.
- 66                   (2) The Secretary shall create and publish a template for the tags, labels, and signs that must be used to
- 67                   identify a plant on the Plant Watch List as being potentially invasive.
- 68                   Section 4. This Act takes effect on July 1, 2022.

#### SYNOPSIS

Chapter 29 of Title 3, which restricts the use of invasive and potentially invasive plants, was enacted by Senate Bill No. 22 in 2021, but does not take effect until July 1, 2022. This Act revises § 2904 of Title 3 so that the Department of Agriculture, through the regulatory process, can both add and remove plants from the initial Invasive Plant List created under this section. In addition, this Act repeals Chapter 27 of Title 3 the same day that Chapter 29 takes effect, because Chapter 27 regulates the same topic, using the term nuisance plants, and Chapter 29 uses current terminology and best practices.

This Act also reorganizes the requirements under §§ 2903 and 2904 of Title 3 so that similar requirements are grouped together for clarity and so that the plants in § 2904(b) are listed in alphabetical order.

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