

SENATE, No. 1029

STATE OF NEW JERSEY 221st LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2024 SESSION

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senators Turner, Diegnan and Zwicker

SYNOPSIS

Prohibits sale, distribution, import, export, or propagation of certain invasive species without permit from Department of Agriculture; establishes NJ Invasive Species Council.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning invasive species and supplementing Title 4 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Cultivar” means a variety of plant that has been specifically
9 cultivated by humans, through artificial selection, in order to
10 produce particular traits.

11 “Department” means the Department of Agriculture.

12 “Invasive plant species” means any living part of an invasive
13 species that has photosynthetic capabilities and is a member of the
14 biological kingdom Plantae, and any cultivar, variety, subspecies, or
15 seeds of such species. “Invasive plant species” includes the
16 following specific species: Norway maple (*Acer platanoides*); tree
17 of heaven (*Ailanthus altissima*); mimosa or silk tree (*Albizia*
18 *julibrissin*); porcelain berry (*Ampelopsis glandulosa* var.
19 *brevipedunculata*); Japanese angelica tree (*Aralia elata*); Japanese
20 barberry (*Berberis thunbergii*); Japanese clematis (*Clematis*
21 *terniflora*); autumn olive (*Elaeagnus umbellata*); weeping lovegrass
22 (*Eragrostis curvula*); winged burning bush (*Euonymus alatus*);
23 English ivy (*Hedera helix*); Japanese hop (*Humulus japonicas*);
24 sericea lespedeza (*Lespedeza cuneate*); European privet (*Ligustrum*
25 *vulgare*); Amur honeysuckle (*Lonicera maackii*); Morrow’s
26 honeysuckle (*Lonicera morrowii*); purple loosestrife (*Lythrum*
27 *salicaria*); Japanese crabapple (*Malus toringo*); Chinese silvergrass
28 (*Miscanthus sinensis*); Eurasian water-milfoil (*Myriophyllum*
29 *spicatum*); Oriental photinia (*Photinia villosa*); running bamboo
30 (*Phyllostachys*); Callery or Bradford pear (*Pyrus calleryana*);
31 common buckthorn (*Rhamnus cathartica*); jetbead (*Rhodotypos*
32 *scandens*); multiflora rose (*Rosa multiflora*); European water
33 chestnut (*Trapa natans*); Siebold's arrowwood (*Viburnum*
34 *sieboldii*); Japanese wisteria (*Wisteria floribunda*); Chinese wisteria
35 (*Wisteria sinensis*); and any other species designated pursuant to
36 section 4 of this act.

37 “Invasive species” means a species of living organism
38 categorized in any taxon, including any plant, fungus, vertebrate or
39 invertebrate animal, or microorganism, that is determined to be non-
40 native or alien to the terrestrial, freshwater aquatic, or marine
41 ecosystem under consideration, and the introduction of which into
42 such terrestrial, freshwater aquatic, or marine ecosystem has caused,
43 or is likely to cause, economic, ecological, or environmental harm
44 or harm to human health.

45 “Invasive Species Council” or “council” means the council
46 established pursuant to section 7 of this act.

47 “Non-native” or “not native” means that the species has been
48 introduced to the relevant ecosystem after the European

1 colonization of the United States, according to the most up-to-date
2 research.

3 “Permit” means a permit that is issued by the Department of
4 Agriculture pursuant to section 3 of this act.

5 “Regulated invasive species” means an invasive plant species,
6 and any non-hybrid sub-species, variety, cultivar, or other
7 subcategory thereof, which is included in a departmental list of
8 regulated invasive species, published pursuant to subsection a. of
9 section 4 of this act, and which, consequently, may not be
10 introduced into a terrestrial, freshwater aquatic, or marine
11 ecosystem in this State without a permit issued pursuant to this act.

12

13 2. a. Except as otherwise provided by this act:

14 (1) Commencing on the first day of the thirteenth month next
15 following the effective date of this act, no person shall propagate a
16 regulated invasive species in this State, or shall import or otherwise
17 introduce a regulated invasive species into this State, without a
18 permit issued pursuant to this act.

19 (2) Commencing on the first day of the forty-ninth month next
20 following the effective date of this act, no person shall sell,
21 distribute, export, or offer or otherwise make available for sale,
22 distribution, or exportation, a regulated invasive species in the State
23 without a permit issued pursuant to this act.

24 b. The prohibitions and permitting requirements established in
25 subsection a. of this section shall apply to any invasive plant
26 species, including any non-hybrid sub-species, variety, cultivar, or
27 other subcategory thereof, which is formally designated as a
28 regulated invasive species in a departmental list published pursuant
29 to subsection a. of section 4 of this act. Notwithstanding the
30 provisions of subsection a. of this section to the contrary, whenever
31 the Department of Agriculture adds a new regulated invasive
32 species to the list annually published thereby, pursuant to
33 subsection a. of section 4 of this act, the department shall:

34 (1) provide for the prohibitions and permitting requirements set
35 forth in paragraph (1) of subsection a. of this section to take effect,
36 with respect to such newly regulated invasive species, either on the
37 first day of the thirteenth month next following the department’s
38 publication of the updated list containing initial reference to that
39 new species, or on another date that is consistent with
40 recommendations made by the Invasive Species Council, pursuant
41 to paragraph (3) of subsection h. of section 7 of this act; and

42 (2) provide for the prohibitions and permitting requirements set
43 forth in paragraph (2) of subsection a. of this section to take effect,
44 with respect to such newly regulated invasive species, either on the
45 first day of the forty-ninth month next following the department’s
46 publication of the updated list containing initial reference to that
47 new species, or on another date that is consistent with

1 recommendations made by the Invasive Species Council, pursuant
2 to paragraph (3) of subsection h. of section 7 of this act.

3 c. The following cultivars and varieties of invasive plant
4 species shall be exempt from the prohibitions and permitting
5 requirements of subsection a. of this section, but, when imported
6 into, or when propagated, sold, distributed, exported, or offered or
7 otherwise made available for sale, distribution, or exportation in,
8 this State, shall still be labeled in accordance with any applicable
9 labeling requirements that are established, by the Department of
10 Agriculture, pursuant to section 3 of this act, and shall be
11 accompanied, at the point of sale, by appropriate educational
12 materials that have been developed or provided, by the Department
13 of Agriculture, pursuant to section 5 of this act, including the
14 following cultivars or varieties of Chinese Silvergrass (*Miscanthus*
15 *sinesnsis*): (1) NCMS1; and (2) Tift M77.

16 d. The Department of Agriculture may impose fees to cover its
17 permitting and inspection costs incurred in implementing the
18 provisions of this act. All fees collected under this act shall be paid
19 into the State treasury, and shall be appropriated to the department
20 for use in implementing the provisions of this act.

21
22 3. a. The Department of Agriculture shall adopt rules and
23 regulations pursuant to the “Administrative Procedure Act,”
24 P.L.1968, c.410 (C.52:14B-1 et seq.), to establish and implement a
25 permitting program for the purpose of facilitating the safe
26 introduction, importation, propagation, sale, distribution, and
27 exportation of regulated invasive species in, into, and out of, the
28 State.

29 b. The rules and regulations adopted pursuant to this section
30 shall include, at a minimum:

31 (1) the list of regulated invasive species that has been
32 developed, by each department, pursuant to subsection a. of section
33 4 of this act, as well as a description of the regulatory processes that
34 will be used by each department, in accordance with the provisions
35 of subsections b., c., and d. of section 4 of this act, to annually
36 identify new invasive species to be added to each department’s list;

37 (2) criteria for the issuance of permits authorizing the limited
38 propagation of a regulated invasive species in the State for purposes
39 of sale or distribution;

40 (3) criteria for the issuance of permits authorizing the limited
41 propagation, importation, or distribution of an invasive species for
42 educational or research purposes;

43 (4) criteria for the issuance of general permits, as may be
44 necessary to effectuate the purposes of this act;

45 (5) criteria for the exemption, from applicable invasive species
46 permitting requirements, of cultivars, subspecies, or other varieties
47 of ordinarily invasive plant species, other than those already
48 expressly exempted from such permitting requirements pursuant to

1 subsection c. of section 2 of this act, which cultivars, subspecies, or
2 other varieties have been proven to be non-invasive in nature, by
3 virtue of sterility factors or other stable genetic traits unique
4 thereto;

5 (6) requirements, to be administered by the department,
6 providing for consumer warning labels to be attached, at the point
7 of sale, to each regulated invasive species that is sold, offered for
8 sale, or distributed at retail in the State, and providing for such
9 warning labels to describe the best practices to be used, in
10 association with the consumer's possession or cultivation of the
11 regulated invasive species, as appropriate, in order to prevent the
12 escape or unintended wild propagation thereof;

13 (7) procedures for the submission and departmental review of
14 permit applications;

15 (8) a schedule of fees that will be imposed, by the department,
16 to finance the costs associated with implementation of the
17 permitting program; and

18 (9) any other requirements or provisions that are necessary for
19 the implementation of this act.

20 c. Any permitting criteria established pursuant to this section
21 shall be designed to prevent or to minimize, to the greatest extent
22 practicable, the potential for a regulated invasive species to escape
23 into, or to unintentionally propagate in, the wild.

24
25 4. a. The Department of Agriculture, acting in accordance with
26 recommendations from the New Jersey Invasive Species Council,
27 established pursuant to section 7 of this act, and in consultation any
28 other relevant State entity, shall, not more than one year after the
29 effective date of this act, develop a list identifying the regulated
30 invasive species that are subject to the permitting requirements of
31 this act. Each year thereafter, in accordance with the
32 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
33 seq.), the department shall adopt rules and regulations revising the
34 departmental list developed pursuant to this section, as may be
35 necessary to designate new species as regulated invasive species for
36 the purposes of this act.

37 b. (1) Notwithstanding any other provision of this act, or
38 any rule or regulation, to the contrary, no invasive plant species
39 shall be subject to the prohibitions and permitting requirements set
40 forth in subsection a. of section 2 of this act unless and until such
41 species is expressly identified in a departmental list of regulated
42 invasive species developed or updated, and published, by the
43 Department of Agriculture pursuant to subsection a. of this section.

44 (2) In any year in which a departmental list, published pursuant to
45 this section, has been updated to include reference to a new
46 regulated invasive species, which was not previously subject to
47 departmental regulation pursuant to this act, the provisions of
48 subsection b. of section 2 of this act shall be controlling with

1 respect to the date on which such newly regulated invasive species
2 will become subject to the prohibitions and permitting requirements
3 set forth in subsection a. of section 2 of this act.

4 c. When determining whether to add a species to the list of
5 regulated invasive species developed pursuant to subsection a. of
6 this section, the Department of Agriculture shall consider:

7 (1) the threat that the species poses to native species in the
8 State;

9 (2) the threat that the species poses to sensitive habitats or
10 endangered or threatened species in the State;

11 (3) the threat that the species poses to historical, cultural, or
12 infrastructure resources in the State; and

13 (4) the likelihood that the species will escape and propagate
14 uncontrolled in the State.

15 d. In order to designate a species as a regulated invasive
16 species, pursuant to this section, the Department of Agriculture
17 shall make a finding that the species threatens, or has the potential
18 to threaten, the ecological, cultural, historical, or infrastructure
19 resources of, or human health in, the State. A species shall not be
20 designated as a regulated invasive species, pursuant to this section,
21 solely on the basis that it is not native to New Jersey.

22

23 5. a. The Department of Agriculture shall develop or provide,
24 in a manner deemed thereby to be most effective, physical and
25 digital educational materials identifying:

26 (1) New Jersey's regulated invasive species;

27 (2) best propagation, cultivation, and management practices to
28 be used in order to prevent the spread of a regulated invasive
29 species; and

30 (3) where applicable, alternative species that can be more safely
31 propagated in the State.

32 b. The educational materials developed or provided by the
33 department, pursuant to this section, shall be distributed to
34 consumers, either by the department or by collaborating entities, at
35 the point of sale of a regulated invasive species and at any other
36 locations deemed by the department or the collaborating entities to
37 be appropriate.

38 c. The department shall be authorized, but not required, to
39 consult with the New Jersey Invasive Species Council, the New
40 Jersey Agricultural Experiment Station at Rutgers, the State
41 University, the Highlands Water Protection and Planning Council
42 established pursuant to P.L.2004, c.120 (C.13:20-1 et seq.), the
43 Pinelands Commission established pursuant to P.L.1979, c.111
44 (C.13:18A-1 et seq.), and any other relevant State entity or out-of-
45 State entity, in developing the educational materials required by this
46 section.

1 6. a. (1) Any person who violates this act, any rule or
2 regulation adopted pursuant thereto, or the conditions of any permit
3 issued thereunder, shall be subject to a warning for a first offense
4 and a civil penalty of up to \$1,000 for the second offense, up to
5 \$2,000 for the third offense, and up to \$5,000 for the fourth and any
6 subsequent offense. Such person shall be provided with a three-
7 month period in which to remediate any such violation before being
8 subjected to an enhanced penalty for a subsequent offense pursuant
9 to this paragraph.

10 (2) For the purposes of this subsection, each day on which a
11 violation occurs or continues shall constitute a separate and distinct
12 offense; however, no monetary civil penalty shall be imposed, or
13 shall accrue, for a violation of this act, or for a violation of the rules
14 or regulations adopted, or the conditions of a permit issued,
15 pursuant thereto, if such violation is fully remediated, to the
16 satisfaction of the department, prior to the expiration of the three-
17 month corrective action timeframe authorized for the voluntary
18 remediation thereof, pursuant to paragraph (1) of this subsection.

19 (3) A civil penalty imposed pursuant to this subsection may be
20 collected, with costs, in a summary proceeding commenced
21 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
22 c.274 (C.2A:58-10 et seq.). The Superior Court shall have
23 jurisdiction to enforce the provisions of the "Penalty Enforcement
24 Law of 1999" in connection with this act.

25 b. The Department of Agriculture may institute a civil action in
26 a court of competent jurisdiction for injunctive relief to prohibit or
27 prevent a violation of this act, or any rule or regulation adopted
28 pursuant thereto, and the court may proceed in the action in a
29 summary manner.

30 c. The Department of Agriculture shall conduct inspections of
31 commercial facilities, contemporaneously with, and in a manner and
32 form similar to, inspections conducted pursuant to R.S.4:7-21, for
33 the purposes of determining compliance with this act. The
34 department shall not charge a separate inspection fee for an
35 inspection that is conducted pursuant to this subsection.

36 d. The Department of Agriculture may seize and destroy any
37 regulated invasive species that forms a basis for a violation of this
38 act or a violation of any rule or regulation adopted, or any permit
39 issued, pursuant thereto.

40 e. The Department of Agriculture may compromise and settle
41 any claim for a penalty under this act in such amount which
42 appears, in the discretion of the department, to be appropriate and
43 equitable under all of the circumstances.

44 f. Nothing in this act shall be construed to impose liability on
45 any news media that accepts or publishes advertising for any
46 product that may fall within the scope of this act.

- 1 7. a. There is established a New Jersey Invasive Species
2 Council. The council shall consist of 17 members to be appointed
3 as follows:
- 4 (1) the Commissioner of Environmental Protection or the
5 commissioner's designee, who shall serve ex-officio;
 - 6 (2) the Secretary of Agriculture or the secretary's designee, who
7 shall serve ex-officio;
 - 8 (3) the Commissioner of Transportation or the commissioner's
9 designee, who shall serve ex-officio;
 - 10 (4) the Commissioner of Health, or the commissioner's
11 designee, who shall serve ex-officio; and
 - 12 (5) thirteen additional members appointed by the Governor, no
13 later than 60 days after the effective date of this section, as follows:
 - 14 (a) three representatives from conservation organizations;
 - 15 (b) three representatives from the agricultural sector representing
16 the northern, central, and southern regions of the State respectively;
 - 17 (c) three representatives of the nursery and landscape sector
18 representing the northern, central, and southern regions of the State
19 respectively;
 - 20 (d) three representatives from academia; and
 - 21 (e) one representative from the general public having knowledge
22 and experience concerning invasive species, with special
23 consideration being given to the members of the public who are
24 representatives of indigenous and under-represented communities.
- 25 b. Each public member appointed to the council shall serve for
26 a term of three years, except that, of the public members first
27 appointed pursuant to this section: three members, including one
28 appointed under subparagraph (a) of paragraph (5) of subsection a.
29 of this section, one appointed under subparagraph (b) or (c) of
30 paragraph (5) of subsection a. of this section, and one appointed
31 under subparagraph (d) or (e) of paragraph (5) of subsection a. of
32 this section, shall serve for initial terms of two years; three
33 members, including one appointed under subparagraph (a) of
34 paragraph (5) of subsection a. of this section, one appointed under
35 subparagraph (b) or (c) of paragraph (5) of subsection a. of this
36 section, and one appointed under subparagraph (d) or (e) of
37 paragraph (5) of subsection a. of this section, shall serve for initial
38 terms of three years; and three members, including one appointed
39 under subparagraph (a) of paragraph (5) of subsection a. of this
40 section, one appointed under subparagraph (b) or (c) of paragraph
41 (5) of subsection a. of this section, and one appointed under
42 subparagraph (d) or (e) of paragraph (5) of subsection a. of this
43 section, shall serve for initial terms of four years.
- 44 c. Upon the expiration of a public member's term, as provided
45 by subsection b. of this section, the member may continue in their
46 post, and shall be deemed to be a member in good standing, until a
47 successor is appointed, pursuant to this section, and is sworn into
48 office. A public member in good standing may be reappointed to

1 the council following the expiration of the member's term. A
2 public member who is not in good standing may be removed from
3 the council, for cause, on that basis. The council shall develop its
4 own rules of order, shall define the level of participation required to
5 maintain a member's status in good standing for the purposes of
6 reappointment and removal pursuant to this subsection, and may
7 submit a written request or referral, to the Governor, seeking the
8 removal or reappointment of a member on the basis of their
9 determined good standing or lack thereof.

10 d. Any vacancy in the public membership of the council shall
11 be filled, within six months after the date on which the vacancy
12 occurs, in the same manner provided for the initial appointments.

13 e. Members of the council shall not be entitled to
14 compensation, but may be reimbursed for travel and other necessary
15 expenses incurred thereby in the performance of their duties, within
16 the limits of funds appropriated or otherwise made available for the
17 council's purposes.

18 f. The chairperson of the council shall be the Secretary of
19 Agriculture, or the Secretary's designee. A majority of all of the
20 council's authorized membership shall constitute a quorum for the
21 transaction of council business, and action may be taken, at any
22 council meeting, by the affirmative vote of a majority of the
23 members present who are in good standing.

24 g. The council, upon the call of the chairperson, shall hold an
25 organizational meeting as soon as practicable following the
26 appointment of a majority of its authorized membership pursuant to
27 this act, and shall meet, at the call of the chairperson, on at least a
28 quarterly basis thereafter.

29 h. (1) The council shall work in cooperation with the
30 Department of Agriculture to assist the department in developing
31 and adopting a program for the transparent regulation and
32 management of invasive plant species in the State, consistent with
33 proven best practices. To that end, within one year after the
34 effective date of this act, and every two years thereafter, the council
35 shall evaluate, and develop its own comprehensive list of, species
36 that are already deemed to be, or may ultimately become, invasive
37 and, based on those evaluations and such invasive species list, shall
38 submit written recommendations to the Department of Agriculture
39 regarding the invasive species, and the non-hybrid cultivars,
40 varieties, or subspecies thereof, which should be added to, or should
41 be removed or exempted from, the department's regulated invasive
42 species list, established pursuant to subsection a. of section 4 of this
43 act.

44 (2) The council's invasive species list, established and regularly
45 updated pursuant to paragraph (1) of this subsection, shall review
46 all invasive species in New Jersey, including all species that are
47 included on the list of invasive species maintained by the New
48 Jersey Invasive Species Strike Team and all other species identified

1 on the regulated invasive species lists developed pursuant to
2 subsection a. of section 4 of this act, as well as all invasive species
3 that are currently subject to regulation in the nearby states of New
4 York, Pennsylvania, Connecticut, Maryland, Delaware, and
5 Virginia, for possible inclusion on the list . The council shall also
6 develop appropriate procedures and provide written
7 recommendations to the Department of Agriculture, as necessary to
8 simplify and expedite the process for adding species to, and
9 removing or exempting species from, the council and departmental
10 lists that are developed pursuant to this act.

11 (3) Whenever the council recommends that a new invasive
12 species be added to a departmental list of regulated invasive
13 species, developed pursuant to subsection a. of section 4 of this act,
14 the council shall also recommend an appropriate effective date on
15 which the newly added species should become subject to the
16 prohibitions and permitting requirements set forth in subsection a.
17 of section 2 of this act. When making any such effective date
18 recommendation, the council shall consider, at a minimum, the
19 economic impacts, on the nursery industry, that are likely to result
20 from the regulation of such new species as a regulated invasive
21 species, pursuant to this act, as well as the ecological urgency of
22 such regulation.

23 i. The council shall examine and revise the 2009 New Jersey
24 Strategic Management Plan for Invasive Species, prepared by the
25 New Jersey Invasive Species Council pursuant to Executive Order
26 No. 97 of 2004, and shall submit the revised plan to the Governor
27 and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the
28 Legislature, no later than two years after the first meeting of the
29 council held pursuant to this act. The revised management plan
30 shall include, but not be limited to:

31 (1) a policy and mission statement;

32 (2) relevant definitions;

33 (3) findings concerning the current status of non-indigenous
34 species in New Jersey and their impact on habitat, biota, and natural
35 ecosystems;

36 (4) a description of the measures, methods, and procedures that
37 are available to prevent and control the release and wild
38 propagation of regulated invasive species, and to facilitate early
39 detection of, and rapid response to, such unintended releases and
40 propagation in the wild;

41 (5) a description of existing restoration and research needs and
42 available pilot projects;

43 (6) provisions establishing information management, education,
44 and interpretation measures;

45 (7) provisions requiring coordination among State agencies,
46 adjacent states, and other applicable entities; and

47 (8) a description of the tasks to be undertaken, and the measures
48 to be implemented, by the council, pursuant to subsection j. of this

1 section, to eliminate or minimize the presence, and the detrimental
2 impacts, of regulated invasive species already established in the
3 State.

4 j. The council shall engage in the following tasks and other
5 reasonable measures, as necessary to prevent the introduction of
6 regulated invasive species into the State and eliminate or minimize
7 the presence and detrimental impacts of regulated invasive species
8 already established in the State:

9 (1) recommend measures to enhance and facilitate cooperation
10 and collaboration between and among relevant State departments
11 and agencies, non-governmental organizations, federal agencies,
12 and other states, as necessary to ensure compliance with federal
13 Executive Order No. 13112 and the National Invasive Species
14 Management Plan;

15 (2) identify research needs to better assess the sources, degree,
16 distribution, and threat posed by invasive species, and identify the
17 methods that are being used to prevent the introduction of regulated
18 invasive species into the State and to control and manage existing
19 populations of regulated invasive species already established in
20 New Jersey;

21 (3) review ongoing invasive species control and management
22 efforts being carried out by State departments and agencies, and
23 recommend the use of new or revised measures to more effectively
24 limit the introduction of invasive plant species into, and more
25 effectively control and manage existing populations of regulated
26 invasive species in, the State;

27 (4) produce or identify educational programs and educational
28 materials, for public use and distribution, which programs and
29 materials shall: (a) provide information on the threats posed by
30 invasive species; (b) outline available measures to be used in
31 preventing the introduction of invasive species into, and in
32 controlling or managing invasive species present in, the State; and
33 (c) encourage the use of local native genotypes, including drought-
34 tolerant native plants, preferably those propagated in New Jersey, in
35 landscaping and planting activities;

36 (5) develop partnerships with federal, State, and local
37 government agencies, institutions of primary, secondary, and higher
38 education, and non-profit and other private organizations, including
39 horticultural organizations, as necessary to implement the policies
40 and recommendations of the council;

41 (6) identify and use all available sources of funding to support
42 the council's research, monitoring, control activities and the
43 council's other activities and operations, as well as relevant youth
44 and community outreach programs; and

45 (7) identify legislative or regulatory actions necessary to
46 implement or further the policies and recommendations of the
47 council.

1 k. In performing its duties pursuant to this act, the council shall
2 consult with the New Jersey Agricultural Experiment Station at
3 Rutgers, the State University, as well as with the Highlands Water
4 Protection and Planning Council, established pursuant to P.L.2004,
5 c.120 (C.13:20-1 et seq.), and the Pinelands Commission,
6 established pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); shall
7 request the participation of the United States Department of
8 Agriculture, the United States Environmental Protection Agency,
9 and the United States Department of the Interior; and may consult
10 with, or request the participation of, any other agencies or
11 organizations the council deems appropriate.

12 l. The Department of Agriculture shall provide staff support to
13 the council, and the council shall also be entitled to call to its
14 assistance and avail itself of the services of the employees of any
15 State department, board, bureau, commission, or agency, as it may
16 require and as may be available for its purposes.

17 m. Notwithstanding any provisions of this section to the
18 contrary, the council shall be authorized to study and make
19 recommendations regarding any invasive, or potentially invasive,
20 species, and shall not be limited to studying and making
21 recommendations regarding invasive plant species only.

22
23 8. a. The Department of Agriculture shall be authorized to
24 obtain assistance from, and make use of the services provided by,
25 any State department, board, commission, or agency, as may be
26 required to effectuate the purposes of this act.

27 b. The Department of Agriculture and the Invasive Species
28 Council shall cooperate and consult with one another when
29 developing budgets for the purposes of this act.

30
31 9. The provisions of this act and the rules and regulations
32 adopted pursuant thereto shall supersede any contradictory
33 ordinances, resolutions, rules, or regulations which are, or have
34 been, adopted at the municipal, county, or regional levels in
35 association with the regulation of invasive species or the permitting
36 of activities involving the introduction, sale, import, export,
37 distribution, or propagation of a regulated invasive species.

38
39 10. This act shall take effect immediately.

40

41

42

STATEMENT

43

44 This bill would prohibit the sale, offering for sale, distribution,
45 importation, exportation, or other propagation of certain invasive
46 plant species in the State, except under a valid permit issued by the
47 Department of Agriculture (DOA), and it would require the DOA to
48 adopt rules and regulations establishing and implementing a

1 permitting program to facilitate the safe sale, import, export,
2 introduction, distribution, and propagation of regulated invasive
3 species in the State. The bill would also establish, in the statutory
4 law, with certain modifications, the New Jersey Invasive Species
5 Council (council) that was originally created by Governor Corzine's
6 Executive Order No. 97 of 2004.

7 The bill defines "regulated invasive species" to mean an invasive
8 plant species, and any non-hybrid sub-species, variety, cultivar, or
9 other subcategory thereof, which is included in a list of invasive
10 species to be developed by the DOA under the bill. The bill would
11 expressly exempt, from its prohibitions and permitting
12 requirements, certain plant cultivars and varieties of Chinese
13 Silvergrass, which have been deemed to be non-invasive, and it
14 would further authorize the department's rules and regulations to
15 establish criteria for the exemption, from the bill, of other cultivars,
16 subspecies, and varieties of ordinarily invasive plant species which
17 are proven to be non-invasive, by virtue of sterility factors or other
18 unique and stable genetic traits.

19 The bill would require the DOA, within one year after the bill's
20 effective date, to develop a list of the regulated invasive species that
21 are subject to the bill's permitting requirements. Each year
22 thereafter, the DOA would be required to update the departmental
23 list, as necessary to designate new species as regulated invasive
24 species for the bill's purposes. In order to designate a new plant
25 species as a regulated invasive species, the DOA would be required
26 to find that the species threatens, or has the potential to threaten,
27 the ecological, cultural, historical, or infrastructure resources of,
28 or human health in, the State. The departments would not be
29 authorized to designate a species as a regulated invasive species
30 solely on the basis that it is non-native to New Jersey.

31 The bill also requires the DOA's rules and regulations to
32 incorporate labeling requirements for regulated invasive species,
33 permit application requirements, criteria for permit approval, and a
34 fee schedule. The DOA would further be required, in consultation
35 with the Invasive Species Council and other relevant entities, as
36 deemed appropriate, to develop or provide physical and digital
37 educational materials, for distribution to consumers at the point of
38 sale. These materials are to identify the State's regulated invasive
39 species, as well as the best propagation, cultivation, and
40 management practices to be used in order to prevent the spread of a
41 regulated invasive species, and, where applicable, alternative
42 species that can be more safely propagated in the State.

43 A person who violates the bill's provisions would be subject to a
44 warning for a first offense and a civil penalty of up to \$1,000 for a
45 second offense, up to \$2,000 for a third offense, and up to \$5,000
46 for a fourth or subsequent offense. Any violator would be provided
47 with a three-month period in which to remediate any violation
48 before being subjected to an enhanced penalty for a subsequent

1 offense under the bill's provisions. The DOA would also be
2 authorized to seek injunctive relief, as necessary to prevent an
3 ongoing violation, and to seize and destroy any invasive plant
4 species that forms a basis of a violation. The DOA would be
5 required to conduct nursery inspections, in a manner and form
6 similar to inspections for nursery stock conducted pursuant to law,
7 to evaluate compliance with the bill's provisions.

8 The New Jersey Invasive Species Council, as established under
9 the bill, would consist of a combination of ex-officio members from
10 State agencies and public members appointed by the Governor. The
11 council would be charged with examining and revising the 2009
12 New Jersey Strategic Management Plan for Invasive Species,
13 prepared by the New Jersey Invasive Species Council pursuant to
14 Executive Order No. 97 of 2004. The council would be required to
15 submit the revised plan to the Governor and the Legislature no later
16 than two years after the effective date of the bill. The council
17 would also be charged with the following duties: (1) reviewing
18 comprehensive lists of invasive species and likely invasive species
19 present in New Jersey and the nearby states of New York,
20 Pennsylvania, Connecticut, Maryland, Delaware, and Virginia for
21 possible inclusion on the list; (2) developing procedures for the
22 addition of new species to the departmental list maintained under
23 the bill; (3) providing recommendations to the DOA regarding their
24 addition of new species to the list of regulated invasive species; and
25 (4) performing various other tasks related to the management of
26 invasive species. The bill would exclude, from the council's
27 responsibilities, the requirement – present in Executive Order No.
28 97 – to plan, design, and implement two invasive species
29 eradication and native plant restoration pilot projects.