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HOUSE BILL NO. 396

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact §§ 3.2-800, 3.2-802, 3.2-804, and 3.2-805 of the Code of Virginia, relating to invasive plants.*

Patrons—Hope and Surovell

Referred to Committee on Agriculture, Chesapeake and Natural Resources

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-800, 3.2-802, 3.2-804, and 3.2-805 of the Code of Virginia are amended and reenacted as follows:

§ 3.2-800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Certificate" means a document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with a noxious weed.

"Infested" means the establishment of a noxious weed or exposure to such weed, which would be reasonable cause to believe that establishment could occur.

"Invasive plant" means a terrestrial plant species that did not evolve in the Commonwealth and if introduced within the Commonwealth, will cause or is likely to cause, as determined by the Board, economic harm, ecological harm, environmental harm, or harm to human health.

"Landscaping services" includes services for ornamental horticultural design, maintenance, and installation of living plants.

"Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved.

"Noxious weed" means any living plant, not widely disseminated, or part thereof, declared by the Board through regulations under this chapter, to be detrimental to crops, surface waters, including lakes, or other desirable plants, livestock, land, or other property, or to be injurious to public health or the economy.

"Permit" means a document issued or authorized by the Commissioner to provide for movement of regulated articles to restricted destinations for limited handling, utilization, processing, or for scientific purposes.

"Person" means the term as defined in § 1-230. The term also means any society.

"Quarantine" means a legal declaration by the Board that specifies: (i) the noxious weed; (ii) the articles to be regulated; (iii) conditions governing movement; and (iv) exemptions.

"Regulated article" means any article of any character as described in this chapter or in the quarantine carrying or capable of carrying a noxious weed against which this chapter or the quarantine is directed.

"Tier 1 invasive plants" are those plants that are not native to the Commonwealth, not widely disseminated in the Commonwealth, and if present can cause or are likely to cause economic harm, ecological harm, environmental harm, or harm to human health.

"Tier 2 invasive plants" are those plants that are not native to the Commonwealth and if present can cause or are likely to cause economic harm, ecological harm, environmental harm, or harm to human health.

§ 3.2-802. Powers and duties of Board; quarantine.

The Board shall establish by regulation, after a public hearing, (i) those weeds deemed to be noxious weeds not otherwise so declared by the terms of this chapter; and (ii) those plants deemed to be tier 1 or tier 2 invasive plants. The Board may establish a statewide quarantine and adopt regulations pertaining to regulated articles and conditions governing movement, under which the Commissioner shall proceed to eradicate or suppress and prevent the dissemination of noxious weeds in the Commonwealth; shall adopt regulations for the control of invasive plants; and shall adopt other regulations as are necessary to carry out the purpose of this chapter. The Board may adopt regulations governing the movement of regulated articles entering the Commonwealth from without. Following the establishment of a quarantine, no person shall move any noxious weed or any regulated article described in the quarantine from any regulated area without a valid permit or certificate.

Subsequent to the declaration of a quarantine by the Board, the Commissioner shall limit the application of the regulations pertinent to such quarantine to the infested portion of the Commonwealth and appropriate environs, which would be known as the regulated area and may, without further hearing,

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59 extend the regulated area to include additional portions of the Commonwealth upon publication of a
60 notice to that effect in a newspaper distributed in the extended area or by direct written notice to those
61 concerned.

62 § 3.2-804. Prohibited acts.

63 A. No person shall violate any provisions of this chapter or any regulation adopted hereunder. No
64 person shall move, transport, deliver, ship, or offer for shipment into or within the Commonwealth any
65 noxious weed, or part thereof, without first obtaining a permit from the Commissioner. Such permit shall
66 be issued only after it has been determined that the noxious weed is generally present already or it is for
67 scientific purposes subject to prescribed safeguards.

68 B. *No person shall propagate, import, transfer, sell, purchase, transport, or introduce any living part*
69 *of a tier 1 invasive plant in the Commonwealth unless prior written approval is issued by the*
70 *Commissioner. Tier 1 invasive plants are subject to seizure, destruction, or treatment by VDACS. This*
71 *subsection does not apply to the transfer, lease, sale, or purchase of real property on which a tier 1*
72 *invasive plant is located.*

73 C. No person shall (i) *sell or offer for sale at a retail outlet any tier 2 invasive plant unless a sign*
74 *identifying the plant as a tier 2 invasive plant is displayed in a conspicuous manner and in proximity to*
75 *all tier 2 invasive plants; or (ii) provide landscaping services to plant or supply for planting a tier 2*
76 *invasive plant unless the person provides to its customer a list of tier 2 invasive plants.*

77 § 3.2-805. Authority to stop sale or delivery of invasive plants and noxious weeds.

78 The Commissioner, in order to prevent the introduction or dissemination of *tier 1 invasive plants and*
79 *noxious weeds*, may stop delivery, stop sale, seize, destroy, treat, or order returned to the point of
80 origin, at the owner's expense, any *tier 1 invasive plant or noxious weed*, article, or substance
81 whatsoever, if transported or moved within the Commonwealth, or if existing on any premise, or
82 brought into the Commonwealth from any place outside thereof, if such is found by him to *contain or*
83 *to be infested with any tier 1 invasive plant or noxious weed* subject to the provisions of this chapter.