

ASSEMBLY AGRICULTURE AND FOOD SECURITY  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 3677 and 2807

**STATE OF NEW JERSEY**

DATED: MAY 18, 2023

The Assembly Agriculture and Food Security Committee reports favorably an Assembly Committee Substitute for Assembly Bill Nos. 3677 and 2807.

This committee substitute would prohibit the purchase, sale, offer for sale, distribution, importation, exportation, or other propagation of invasive species in the State, except under a valid permit issued by the Department of Agriculture or the Department of Environmental Protection, and it would require the departments to jointly adopt rules and regulations establishing and implementing a permitting program to facilitate the safe purchase, sale, import, export, introduction, distribution, and propagation of regulated invasive species in the State. This differs from the bill, as introduced, which would have only required permitting with respect to the sale or distribution, or the propagation for sale or distribution, of certain invasive plant species falling under the jurisdiction of the Department of Agriculture. The substitute bill would also establish, in the statutory law, with certain modifications, the New Jersey Invasive Species Council (council) that was originally created by Governor Corzine's Executive Order No. 97 of 2004.

The substitute defines "invasive species" to include any plant, animal, or microorganism species that is non-native or alien to the terrestrial, freshwater aquatic, or marine ecosystems of this State, and the introduction of which into such ecosystems may, or is likely to, cause economic or environmental harm or harm to human health. The bill would expressly exempt, from its prohibitions and permitting requirements, certain plant cultivars and varieties of Japanese Barberry and Chinese Silvergrass, which have been deemed to be non-invasive, and it would further authorize the departments' rules and regulations to establish criteria for the exemption, from the bill, of other cultivars, subspecies, and varieties of ordinarily invasive plant species which are proven to be non-invasive, by virtue of sterility factors or other unique and stable genetic traits.

The substitute bill would require the departments, within one year after the bill's effective date, to develop a list of the regulated invasive species that are subject to each department's respective jurisdiction

and the bill's permitting requirements. Each year thereafter, the departments would be required to update the departmental lists, as necessary to designate new species as regulated invasive species for the bill's purposes. In order to designate a new species as a regulated invasive species, the respective department would be required to find that the species threatens, or has the potential to threaten, the ecological, cultural, historical, or infrastructure resources of, or human health in, the State. The departments would not be authorized to designate a species as a regulated invasive species solely on the basis that it is non-native to New Jersey.

In addition to establishing a permitting system for invasive species and providing for the exemption of certain plant cultivars therefrom, the substitute requires the departments' rules and regulations to incorporate labeling requirements for regulated invasive species, as well as permit application requirements and criteria for permit approval, a fee schedule, and any other regulations necessary for the implementation of the substitute bill. The departments would further be required, in consultation with the Invasive Species Council and other relevant entities, to develop or provide physical and digital educational materials, for distribution to consumers at the point of sale. These materials are to identify the State's regulated invasive species, as well as the best propagation, cultivation, and management practices to be used in order to prevent the spread of a regulated invasive species, and, where applicable, alternative species that can be more safely propagated in the State.

A person who violates the substitute bill's provisions would be subject to a warning for a first offense and a civil penalty of up to \$1,000 for a second offense, up to \$2,000 for a third offense, and up to \$5,000 for a fourth or subsequent offense. Any violator would be provided with a three-month period in which to remediate any violation before being subjected to an enhanced penalty for a subsequent offense under the substitute bill's provisions. The Department of Agriculture and the Department of Environmental Protection would also be authorized to seek injunctive relief, as necessary to prevent an ongoing violation, and to seize and destroy any invasive plant species that forms a basis of a violation. The Department of Agriculture would be required to conduct nursery inspections, in a manner and form similar to inspections for nursery stock conducted pursuant to law, to evaluate compliance with the bill's provisions.

The New Jersey Invasive Species Council, as established under the substitute bill, would consist of a combination of ex-officio members from State agencies and public members appointed by the Governor. The council would be charged with examining and revising the 2009 New Jersey Strategic Management Plan for Invasive Species, prepared by the New Jersey Invasive Species Council pursuant to Executive Order No. 97 of 2004, and submit the revised plan to the Governor and

the Legislature no later than one year after the effective date of the bill. The council would also be charged with the following duties: (1) establishing initial comprehensive lists of invasive species and likely invasive species present in New Jersey and the nearby states of New York, Pennsylvania, Connecticut, Maryland, Delaware, and Virginia; (2) developing procedures for the addition of new species to the lists maintained under the bill; (3) providing recommendations to the departments regarding their addition of new species to the departments' lists of regulated invasive species; and (4) performing various other tasks related to the management of invasive species, as enumerated in the substitute bill. The substitute would exclude, from the council's responsibilities, the requirement – present in Executive Order No. 97 – to plan, design, and implement two invasive species eradication and native plant restoration pilot projects.

The substitute provides for sections 1 through 6 of the bill to take effect on the first day of the 24th month after the bill's enactment, and section 7 of the bill (establishing the New Jersey Invasive Species Council) to take effect immediately.