

Department of Legislative Services
 Maryland General Assembly
 2010 Session

FISCAL AND POLICY NOTE

House Bill 1360 (Delegate Boteler, *et al.*)
 Environmental Matters

Department of Agriculture - Invasive Plants - Labeling and Notice

This bill designates specified species of plant as invasive plants and authorizes the Maryland Department of Agriculture (MDA) to designate additional plants as invasive by regulation under specified conditions. Generally, a person may not sell an invasive plant in the State and may not supply or plant an invasive plant as part of a landscaping service in the State except in accordance with specified labeling, signage, and notice requirements. A person is prohibited from concealing, detaching, altering, defacing, or destroying any such labels, signs, and notices. The bill establishes provisions relating to suspected violations of the bill and establishes applicable criminal penalties. MDA must develop implementing regulations.

Fiscal Summary

State Effect: General fund expenditures increase by \$189,000 in FY 2011 to provide signs to retailers and to hire an additional agricultural inspector. Future years reflect annualization and inflation. Special fund revenues may decrease minimally due to loss of State nursery sales. General fund revenues may increase minimally due to the bill's penalty provision.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
GF Revenue	-	-	-	-	-
SF Revenue	(-)	(-)	(-)	(-)	(-)
GF Expenditure	\$189,000	\$126,000	\$129,200	\$132,600	\$136,100
Net Effect	(\$189,000)	(\$126,000)	(\$129,200)	(\$132,600)	(\$136,100)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The bill does not materially affect local governments.

Small Business Effect: Meaningful.

Analysis

Bill Summary: Several species of plant are identified in the bill as invasive. By regulation, MDA may designate additional species as invasive if they are not native to the State and are, or are likely to be, harmful to human health, the environment, or the economy.

The bill generally prohibits a person from selling an invasive plant or supplying or planting an invasive plant as part of a landscaping service except in accordance with specified requirements. Specifically, (1) each container of an invasive plant that is sold in the State must have a specified label attached that indicates that it is harmful to the environment; (2) each retail display of invasive plants must include a specified sign that advises customers that invasive plant species cause harm to the environment; and (3) before supplying or planting an invasive plant as part of a landscaping service, a person must give specified written notice to the customer that the invasive plant is harmful to the environment. The bill prohibits a person from concealing, detaching, altering, defacing, or destroying any such labels, signs, and notices.

MDA is required to develop a sign that retailers may use and make the sign available to retailers at no cost.

The Secretary of Agriculture must notify a person suspected of a violation of the suspected violation and provide that person with an opportunity to dispute the violation. A person who violates the bill's provisions is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 per violation.

Current Law: Under the Plant Disease Control Law, the Secretary of Agriculture is required to adopt regulations governing the certification of nurseries and the licensing of dealers and brokers; develop a system for establishing plant standards; develop a program for preventing the sale or distribution of plants that may be infested or infected with dangerously injurious pests; and establish reasonable service fees. The Secretary is required to inspect each nursery in the State at least once each year to determine if the nursery stock is infested or infected with dangerously injurious plant pests.

Under the Maryland Weed Control Law, the existence of growth of certain species of plants is declared to be noxious. The Secretary of Agriculture is authorized to, among other things, institute programs of control and eradication and to enter into agreements with counties, subdivisions of the State, adjoining states, and federal agencies to do so.

No person may import or transport a noxious weed in the State in any form capable of growth or contaminate any uninfested land with a noxious weed through specified actions. Each landowner or person who possesses and manages land infested with a noxious weed is required to eradicate or control the noxious weed on that land by using practices that the Secretary prescribes, including mowing, cultivating, or treating with an approved herbicide.

No person may transport or sell sod for planting purposes that, among other things, contains prohibited noxious weeds in any amount or that contains restricted noxious weeds except under specified conditions.

Background: According to the U.S. National Arboretum, an invasive plant has the ability to thrive and spread aggressively outside its natural range, and a naturally aggressive plant may be especially invasive when introduced to a new habitat. The U.S. National Arboretum, however, indicates that all invasive plants are not equally invasive, with some only colonizing small areas and others dominating large areas in just a few years.

State Expenditures: General fund expenditures increase by \$188,963 in fiscal 2011, which accounts for the bill’s October 1, 2010 effective date. This estimate reflects the cost of providing signs to retailers and hiring an additional agricultural inspector. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses. The estimate is based on the following information and assumptions:

- Signs are provided to 70% of Maryland’s approximately 1,800 licensed nurseries and plant dealers, with signs for six production area types (trees, shrubs, broad-leaved perennials, vines, annuals, and ornamental grasses) provided to each nursery or plant dealer at \$20 per sign; and
- MDA expands its inspection of nurseries due to: (1) additional inspection criteria for each nursery visited; and (2) the likelihood that, because several of the plants listed in the bill are not currently regulated, additional unlicensed nursery operations, or areas within licensed nurseries, will need to be inspected.

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Signs	\$151,200
Salary and Fringe Benefits	34,595
One-time Costs/Operating Expenses	<u>3,168</u>
Total FY 2011 State Expenditures	\$188,963

Future year expenditures reflect replacement of 50% of distributed signs each year; a full salary with 4.4% annual increases and 3% employee turnover; and 1% annual increases in ongoing operating expenses.

State Revenues: Special fund revenues to the Forest or Park Reserve Fund within the Department of Natural Resources (DNR) may decrease by a relatively minimal amount. DNR indicates that one species included on the list of invasive plants in the bill, the Sawtooth Oak, is sold at the John S. Ayton State Tree Nursery. DNR indicates the nursery sells 40,000 to 50,000 Sawtooth Oak seedlings each year, equating to approximately \$30,000 in special fund revenue. Special fund revenues, therefore, may decrease by some portion of \$30,000 in fiscal 2011 and future years to the extent the labeling and signage required by the bill deters customers from buying the Sawtooth Oak, or the Sawtooth Oak is no longer offered for sale by DNR due to its listing as an invasive plant, and the lost revenue is not otherwise made up for by sales of other plants.

General fund revenues may increase minimally under the bill's monetary penalty provision.

Small Business Effect: Small business nurseries and landscaping businesses in Maryland are expected to be negatively impacted by the bill and the deterrent effect it will likely have on purchases and use of the listed plants. MDA estimates that nearly 30 plants listed in the bill as invasive are currently produced and sold by Maryland nurseries. According to MDA, plant production is already underway for 2010 and beyond, and landscaping jobs may be predetermined months or years in advance. MDA indicates that nurseries and plant dealers will be negatively impacted due to market and production disruption.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture, Department of Natural Resources, Maryland Department of Transportation (State Highway Administration), Maryland Nursery and Landscape Association, U.S. National Arboretum, Department of Legislative Services

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