

March 5, 2024

The Honorable Brian J. Feldman
Chair, Senate Education, Energy, and the Environment Committee
2 West, Miller Senate Office Building
Annapolis MD 21401

***RE: Letter of Information – Senate Bill 915 – Agriculture – Invasive Plant Species – Regulation
(Biodiversity and Agricultural Protection Act)***

Dear Chair Feldman and Committee Members:

The Maryland Department of Transportation (MDOT) offers the following information on Senate Bill 915 for the Committee’s consideration.

Senate Bill 915 alters the regulatory approach for controlling invasive plant species in the State and includes a repeal of certain provisions of law that established a two-tiered regulatory approach in favor of a single classification of invasive plant species. Under Senate Bill 915, the Secretary of Agriculture must establish a consolidated list of prohibited invasive plants on or before October 1, 2024, as well as protocols for assessing nonnative plants and determining whether those plants are invasive or should be placed on a watch list. All terrestrial plants classified by regulation before January 1, 2024 as a tier 1 or tier 2 invasive plant will be classified as a prohibited invasive plant under the revised regulatory framework.

The State Highway Administration (SHA) manages approximately 50,000 acres of land outside of the paved roadways, along roadsides, and at administrative facilities operated by the Administration. SHA’s Office of Environmental Design manages the control of noxious weed species as identified by the Maryland Department of Agriculture (MDA) according to State law and MDA regulation. The existing program to manage noxious weeds represents longstanding efforts, and the programmatic costs associated with this management are significant.

The SHA understands and appreciates that Senate Bill 915 does not require the control or disposal of invasive plant species located on lands under its control. However, by repealing the two-tiered designation system for invasive plants, SHA interprets the bill to require the Administration to seek MDA approval of control and disposal activities for invasive species formerly designated as “tier 2.” Further, because current law requires the control and disposal of tier 1 invasive plants subject to MDA regulation, the control and disposal of former tier 2 invasive plants will be subject to heightened regulatory control once these two groupings are collapsed into a single category of “prohibited invasive plants.”

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The current list of tier 1 plants is very limited; however, inclusion of tier 2 plants will result in increased delay in the execution of control and disposal activities for this vegetation, as well as increased costs to be incurred by SHA. Current regulations require a permit and additional transportation and disposal considerations for the tier 1 species invasive plants. Expanding the list would require SHA to institute new practices for many species of plants that are common along State highways, including Callery Pear, bamboo, and barberry. Plant material from these activities would either need to be left on-site, which is not always possible depending on the location, or disposed of in an approved facility with specific controls during transport. It is difficult to quantify fiscal impacts tied to these new standards, as 1) needs can vary among sites and 2) some of SHA's disposal operations are location dependent. However, SHA estimates there could be a 15% to 25% increase in costs for vegetation management operations involving the newly classified "prohibited invasive plants" standard if House Bill 979 is enacted into law. As currently drafted, the added costs and approval processes may result in further proliferation of invasive species on State right-of-way, as the process would make it harder to implement controls.

The SHA has met with the sponsor and appreciates the continued dialogue on the bill and the impacts to the Administration. The Administration thanks the sponsor for suggesting alternative language that will maintain the strength and goals of Senate Bill 915 while limiting overall impact to SHA vegetation management activities. SHA will continue to work with the sponsor to craft language that will address SHA's concerns with the bill as drafted.

The Maryland Department of Transportation respectfully requests the Committee consider this information when deliberating Senate Bill 915.

Sincerely,

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