

Linda Foley
Legislative District 15
Montgomery County

Environment and Transportation
Committee

The Maryland House of
Delegates
6 Bladen Street, Room 220
Annapolis, Maryland 21401
410-841-3052 • 301-858-3052
800-492-7122 Ext. 3052
Linda.Foley@house.state.md.us

THE MARYLAND HOUSE OF DELEGATES

ANNAPOLIS, MARYLAND 21401

Testimony: HB 979, Agriculture - Invasive Plants Species - Regulation

Committee: Environment and Transportation

Hearing Date: February 28, 2024

Position: FAV

HB979, the Biodiversity and Agriculture Protection Act, is necessary legislation to control the unchecked spread of terrestrial and aquatic invasive species and protect Maryland's natural heritage. This bill would streamline and accelerate the assessment protocol used to determine and prohibit invasive plant species. HB979 represents a crucial step in protecting our native ecosystems, biodiversity, agricultural interests and Maryland's crown jewel, the Chesapeake Bay.

The goals of this bill include prohibiting harmful invasive plants from being propagated, purchased, or sold in Maryland, and adopting a more rapid status assessment protocol to minimize eradication and management costs incurred by the state later. Furthermore, this proposal will combine Tier 2 plants, that are often more established and equally as harmful as Tier 1 prohibited species and which only require signage at point of sale, and Tier 1 plants, which are currently banned, into a single Prohibited List. The measure offers a reasonable transition period to minimize economic impact to the trade.

Based on the proposed FY 2025 Budget, both the Department of Agriculture (MDA) and the Department of Natural Resources (DNR) will have sufficient staff for regular assessment and inspection of invasive plants so that the state can effectively respond to ecological threats on land and water. Additionally, while current legislation only includes terrestrial invasive plants, this bill would expand to include aquatic invasive plants, as well as cover plants that are not currently sold in Maryland but could be in the future unless banned.

Background of Invasive Species Law in Maryland

In 2011, Maryland enacted its first law regulating commercially sold terrestrial invasive plants. The 2011 law established a two-tier system, with some plants being prohibited (Tier 1) and others requiring warning signage at the point of sale (Tier 2). In the 13 years since the original 2011 legislation was enacted, only six plants have been prohibited under Tier 1, and thirteen have been listed under Tier 2, despite the rapid spread of invasives in the state jeopardizing Maryland ecosystems, biodiversity, private property, park land, and farmlands.

Variegated porcelain berry, which smothers and kills our trees and other plants, is considered non-commercial,

but is sold on the Walmart website and could presently be offered at any Maryland nursery. The 2011 law did not address aquatic plants or species not considered commercial in Maryland, both of which this proposal does.

In 2022, legislation was passed that required the assessment of over 60 plants listed in the *Plant Invaders of the Mid-Atlantic Natural Areas* guide. The 2022 fiscal note specified the need for a staff increase in MDA's Plant Protection and Weed Management Program, which oversees the control of invasive species. Even so, not a single plant has been assessed since 2019 as staffing is only being made available in the FY 2025 Governor's budget.

Now with three new staffers being budgeted, Tier 1 and 2 combined into prohibited, and a streamlined assessment process in the new bill, the 2022 law can finally be more effectively implemented. Moreover, more invasive plants can be added to the list, enabling greater protection of Maryland's natural resources with less negative financial impact on Maryland in the long run.

Why is it Important to Control Invasive Species

Invasive species are nonnative terrestrial or aquatic plants, introduced intentionally or accidentally, that cause damage to the environment by outcompeting and directly harming native plants, animals, and ecosystems. The nonregulatory Maryland Invasive Species Council has a partial list of nearly 300 invasive plant species, and while prior regulations have been enacted, more significant action is necessary.

As we witness the unregulated proliferation of invasive plants within our state, we are confronted with the profound ecological disruptions inflicted upon our local ecosystems and the economic harm within our own communities. Invasive species are a major driver of biodiversity loss, significantly altering Maryland's ecosystems and threatening human welfare. Around 42% of North American species on the federal "Threatened or Endangered" species list are at risk primarily due to invasive species.

Invasive Species have a Substantial Economic Impact on Maryland

The economic impact of invasive species in Maryland is substantial, significantly reducing productivity in key business sectors and requiring huge sums for ongoing efforts to manage and mitigate these impacts. The net effect within Maryland could easily be in the billions of dollars, although comprehensive research is not available. Invasive terrestrial and aquatic plants produce agriculture and fishery losses as invasive species have no natural predators or diseases and outcompete native species. Invasives damage critical infrastructure by spreading rapidly and damaging roads, bridges, buildings, and power lines and by impeding boat traffic and fishing. And they disrupt ecosystems and reduce pollinators like birds and native bees—that are the crucial pollinators for our crops and ensure biodiversity—to the point of detracting from tourism and recreation.

Besides the displacement of native species, loss of biodiversity, altered ecosystem functions, and a negative impact on agriculture and forestry, there is another major cost to the state of Maryland. Controlling and managing invasive species can be expensive and resource intensive. Governments, land managers, and conservation organizations often need to invest significant time and money to control the spread of invasive species and mitigate their impact.

Invasive Species have a Damaging Effect on Agriculture

For example, the Maryland Department of Natural Resources has spent approximately \$1 million dollars since 2014 to control one invasive species, hydrilla, in one location, Deep Creek Lake. Invasive plants have a serious impact on agriculture. Agricultural yields are reduced by 12% due to invasive plants despite the \$6.6 billion spent annually on pesticides, which are harmful to workers and to the environment. Three-fourths of the weeds impacting cropland are invasive plants. Reduced yields and increased pesticide use drive up food and healthcare costs.

The invasive planthopper spotted lanternfly is another example. This invasive's host is another terrestrial invasive species, "Tree of Heaven". These insects significantly damage crops, leading to reduced yields and increased costs for farmers. The spotted lanternfly particularly targets grapes, devastates vineyards unless expensive measures are taken to control the insects, and can significantly damage Maryland winemaker profits, even making these business non-viable. Because the spotted lantern fly is damaging mid-Atlantic agriculture, the MDA is putting a focused and expensive effort into dealing with this insect. This proposal would ensure that Tree of Heaven is listed as prohibited and may not be commercially sold in this state.

As for livestock producers, a Virginia farmer has submitted testimony that a neighbor's ornamental planting of the invasive fountain grass has spread over his 225 acres of pastureland, where he raises Angus cattle. In just a few years, it has covered 25-30% in his fields. Because this invasive grass is incredibly difficult and expensive to eradicate from pastures, he is now facing the possibility that sometime in the not-too-distant future he will have to close down his livestock business. Other mid-Atlantic states have either significantly strengthened invasive species regulations or plan to follow suit.

What is the Impact on Nurseries

It is important to note that invasive plants represent just 4% of the nursery trade, according to research conducted by Delaware's Mt. Cuba Center. HB979 contains important Maryland Green Industries Council approved protections that will provide plenty of time for growers and retailers to sell off existing Tier 2 inventory of plants and to start growing replacement plants that purchasers want. Although some businesses will need to modify their product offerings, nurseries will not be unduly restricted by this legislation and will still be able to offer a broad selection of plants to gardeners and landscapers. Furthermore, nursery customers are starting to become aware of the harm that even a single invasive plant species, like English ivy, can cause, and they are shifting to digging up invasives and replacing them with species that are good for the environment. Much of the green industry is considering current market trends and are transitioning to non-natives that are not invasive and to native species.

What is the Impact on Human and Animal Health and on Healthcare Costs?

Some invasive plants impact our health and healthcare costs. Japanese barberry is a host for mice and blacklegged ticks that carry Lyme disease. According to scientific research "several invasive plant species such as Japanese honeysuckle and barberry have been definitively shown to harbor and enhance tick, host, and pathogen populations by enhancing microhabitat and survival." Where there is greater infestation of barberry, there is a greater spread of Lyme disease, which impacts human, equine and canine health, as well as livestock. Concerns are so significant that the Department of Defense considers this to be a threat to military readiness on military property. According to Invasive Species Advisory Council research, public-land managers report that

ticks and tick-borne diseases originating on public lands can have serious adverse consequences to employees, other public-land users, and wildlife.

What is Biodiversity and Why is it Important

Within ecosystems, diverse species keep each other in check, preventing any one species from dominating and causing imbalances. Biodiversity supports industries such as agriculture, fisheries, and tourism. In almost all crops, native insects are the primary pollinators, or they significantly supplement the activity of honeybees. Ensuring we have the native plants that our native insects depend on helps ensure we have food to eat. Healthy ecosystems provide us with food, medicine, materials for manufacturing, and recreational opportunities. Biodiverse ecosystems provide essential natural services like pollination, water purification, soil fertility, and climate regulation. These services are often taken for granted but are vital for human well-being.

Preserving biodiverse ecosystems is as critical for the health of the planet as reducing greenhouse gas emissions. It's not just about saving individual species; it's about preserving the intricate web of life—the variety of plants, animals, fungi, and microorganisms that make up our critical ecosystems—that sustains us all. Losing native terrestrial or aquatic plants to invasive plants which outcompete them, means losing the habitat for critical pollinators—birds, bees, and other insects— leading to the extinction of native species and disrupting the balance of ecosystems.

The first step in protecting Maryland's native species is by prohibiting those plants that impact the health and existence of critical pollinators and flora in the state of Maryland. This bill would help farmers, winemakers, and the recreational industry, and it would also bring much needed relief to public and private property owners and managers, who are struggling to contain these invaders on private property and in our parks, despite expending greater labor and costs each year. It is imperative that we enact an updated invasive species assessment protocol to manage and control invasive plant species in Maryland effectively. Considering these fundamental and costly biodiversity concerns to both the environment and economy because of the lack of adequate invasive species regulations, I strongly urge a favorable report on HB979.

Sponsor Amendments

I am proposing six sponsor amendments based on discussions with the Department, DNR and the Maryland Green Industry Council (MaGIC), who have proven to be an excellent partner in developing this bill.

1. Adds language regarding whether to declassify a “cultivar”, “selection” or “infraspecific hybrid” of a prohibited plant.
2. Clarifies that species in Plant Invaders of Mid-Atlantic Natural Areas will be assessed using the process described in the bill for other invasive plants.
3. Deletes language that would automatically classify all current Tier 2 plants.
4. Adds language that would ensure all current Tier 2 plants are assessed by December 31, 2025, and if they are determined to be an invasive plant shall be classified as prohibited, otherwise they will be placed on the Watch List.
5. Provides more definition to qualified independent assessor.
6. Clarifies that DNR has enforcement authority and responsibility for all aquatic plants.