

# SENATE BILL 7

M4, M1, P2

(PRE-FILED)

2lr0897  
CF HB 15

---

By: **Senator Elfreth**

Requested: October 21, 2021

Introduced and read first time: January 12, 2022

Assigned to: Education, Health, and Environmental Affairs and Budget and Taxation

---

## A BILL ENTITLED

1 AN ACT concerning

2 **Invasive and Native Plants – Classification, Listing, Use, and Sales and Use Tax**

3 FOR the purpose of requiring the Secretary of Agriculture to classify certain plants as a  
4 tier 1 or tier 2 invasive plant; requiring the Department of Natural Resources to  
5 create, maintain, and publish on its website a list of plant species native to the State;  
6 requiring that each entity that receives State funding and each State agency  
7 prioritize the use of plants native to the State for every planting project; exempting  
8 the sale of plants native to the State from the sales and use tax; requiring the  
9 Department to notify certain persons of the provisions of this Act; and generally  
10 relating to invasive and native plants.

11 BY repealing and reenacting, with amendments,  
12 Article – Agriculture  
13 Section 9.5–301  
14 Annotated Code of Maryland  
15 (2016 Replacement Volume and 2021 Supplement)

16 BY adding to  
17 Article – Natural Resources  
18 Section 1–1001 to be under the new subtitle “Subtitle 10. Miscellaneous”  
19 Annotated Code of Maryland  
20 (2018 Replacement Volume and 2021 Supplement)

21 BY repealing and reenacting, with amendments,  
22 Article – State Finance and Procurement  
23 Section 14–417  
24 Annotated Code of Maryland  
25 (2021 Replacement Volume)

26 BY adding to

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Tax – General  
2 Section 11–244  
3 Annotated Code of Maryland  
4 (2016 Replacement Volume and 2021 Supplement)

5 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
6 That the Laws of Maryland read as follows:

7 **Article – Agriculture**

8 9.5–301.

9 (A) The Secretary, with the advice of the Committee, shall:

10 (1) On or before October 1, 2012, adopt regulations that:

11 (i) Establish a science–based risk assessment protocol for invasive  
12 plants that:

13 1. Will serve as a basis for creating a two–tiered regulatory  
14 approach for controlling invasive plants in the State; and

15 2. Considers the harm, as determined by the Secretary, that  
16 invasive plants cause in the State, including:

17 A. Economic harm;

18 B. Ecological harm;

19 C. Environmental harm; and

20 D. Harm to human health;

21 (ii) Govern administrative orders that the Secretary may issue to  
22 enforce this subtitle; and

23 (iii) Establish a procedure for the approval required under § 9.5–302  
24 of this subtitle for activities involving tier 1 invasive plants.

25 (2) On or before October 1, 2013, adopt regulations that:

26 (i) Establish a list of tier 1 plants and tier 2 plants in accordance  
27 with the risk assessment protocol adopted under paragraph (1) of this subsection;

28 (ii) Establish a procedure for classification or declassification of an  
29 invasive plant as a tier 1 invasive plant or a tier 2 invasive plant;

1 (iii) Phase in the implementation of the requirements of this subtitle  
2 with consideration of the economic impact of these requirements on nurseries, landscapers,  
3 plant wholesalers, plant retailers, and any other industry;

4 (iv) Establish a procedure for the disposal of tier 1 plants;

5 (v) Designate the format, size, and content of the sign required  
6 under § 9.5–302(b)(1) of this subtitle; and

7 (vi) Provide for the distribution of a list of tier 2 invasive plants to  
8 licensed nurseries, plant dealers, and plant brokers on an annual basis.

9 **(B) (1) THE SECRETARY SHALL CLASSIFY AS A TIER 1 INVASIVE PLANT**  
10 **OR A TIER 2 INVASIVE PLANT EACH PLANT IDENTIFIED AS INVASIVE IN THE**  
11 **NATIONAL PARK SERVICE’S AND U.S. FISH AND WILDLIFE SERVICE’S PLANT**  
12 **INVADERS OF MID-ATLANTIC NATURAL AREAS.**

13 **(2) NOTHING IN THIS SECTION MAY BE CONSTRUED AS LIMITING THE**  
14 **SECRETARY’S AUTHORITY TO CLASSIFY AS A TIER 1 INVASIVE PLANT OR A TIER 2**  
15 **INVASIVE PLANT PLANTS NOT IDENTIFIED AS INVASIVE IN THE NATIONAL PARK**  
16 **SERVICE’S AND U.S. FISH AND WILDLIFE SERVICE’S PLANT INVADERS OF**  
17 **MID-ATLANTIC NATURAL AREAS.**

18 **Article – Natural Resources**

19 **SUBTITLE 10. MISCELLANEOUS.**

20 **1–1001.**

21 **(A) THE DEPARTMENT SHALL CREATE, MAINTAIN, AND PUBLISH ON ITS**  
22 **WEBSITE A LIST OF PLANT SPECIES NATIVE TO THE STATE.**

23 **(B) THE LIST CREATED UNDER SUBSECTION (A) OF THIS SECTION SHALL**  
24 **IDENTIFY NATIVE PLANTS THAT MAY BE USED AND PLANTED AS AN ALTERNATIVE TO**  
25 **THE USE AND PLANTING OF TIER 2 INVASIVE PLANTS.**

26 **Article – State Finance and Procurement**

27 **14–417.**

28 (a) **(1)** Except as provided in [subsection (b)] **PARAGRAPH (2)** of this [section]  
29 **SUBSECTION**, on or after July 1, 2022, State funds may not be used to purchase or plant  
30 an invasive plant species for an outdoor project.

31 **[(b)] (2)** The prohibition under [subsection (a)] **PARAGRAPH (1)** of this

1 [section] SUBSECTION does not apply if the plant species is commonly used for agricultural  
2 or horticultural purposes and is being maintained for the purposes of education or research.

3 (B) EACH ENTITY THAT RECEIVES STATE FUNDING AND EACH STATE  
4 AGENCY SHALL PRIORITIZE, WHENEVER POSSIBLE, THE USE OF PLANTS NATIVE TO  
5 THE STATE FOR EVERY PLANTING PROJECT.

6 Article – Tax – General

7 11-244.

8 THE SALES AND USE TAX DOES NOT APPLY TO THE SALE OF PLANTS NATIVE TO  
9 THE STATE.

10 SECTION 2. AND BE IT FURTHER ENACTED, That the Department of Natural  
11 Resources shall notify nurseries, landscapers, plant wholesalers, and plant retailers of the  
12 provisions of this Act.

13 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
14 October 1, 2022.