

Chapter 551

(House Bill 15)

AN ACT concerning

Invasive and Native Plants – Classification, Listing, and Use, ~~and Sales and Use Tax~~

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

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

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

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

~~BY adding to
Article – Tax – General
Section 11–244
Annotated Code of Maryland
(2016 Replacement Volume and 2021 Supplement)~~

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

Article – Agriculture

9.5–301.

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

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

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

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

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

A. Economic harm;

B. Ecological harm;

C. Environmental harm; and

D. Harm to human health;

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

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

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

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

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

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

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

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

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

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

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

Article – Natural Resources

SUBTITLE 10. MISCELLANEOUS.

1-1001.

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

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

Article – State Finance and Procurement

14-417.

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

[(b)] (2) The prohibition under [subsection (a)] PARAGRAPH (1) of this [section] SUBSECTION does not apply if the plant species is commonly used for agricultural or horticultural purposes and is being maintained for the purposes of education or research.

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

~~**Article – Tax – General**~~

~~11-244.~~

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

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

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

Enacted under Article II, § 17(c) of the Maryland Constitution, May 29, 2022.