



# Montgomery County

## Office of Intergovernmental Relations

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**SB 836**

**DATE: March 2, 2023**

**SPONSOR: Senator Brooks**

**ASSIGNED TO: Education, Energy, and the Environment**

**CONTACT PERSON: Steven Shofar (steven.shofar@montgomerycountymd.gov)**

**POSITION: Support with Amendments (Department of Environmental Protection)**

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### Maryland Native Plant Program

The Montgomery County Department of Environmental Protection (DEP) supports Senate Bill 836 with several important amendments. Senate Bill 836 is focused on cultivating native plants in the horticultural industry and creating a Maryland Native Plant program through the University of Maryland Extension that includes a new position for a native plant specialist. Native plants are an important category of plants that are responsible for supporting our local pollinators and other species. They are specific to soils and geography and often have ranges that cross state boundaries but are recognizable as native due to their historic presence in a defined area. However, the definition of “Native Plant” in the bill is both problematic and ultimately unenforceable.

As written, cultivars of native Maryland plants would be excluded from consideration for inclusion in this program, even though their genetics are native to Maryland. The term “cultivar” is an abbreviation of “cultivated variety.” They can be fully native Maryland genetics in their composition and are distinguished from other non-cultivars of that plant by the addition of a cultivar name.

Cultivars may be selections from a natural population based on a trait, like color, form, or size or be the product of breeding efforts (for disease resistance or size for example). There are several cultivars of native plants that are selections. The term “selections” refers to plants that are not modified in anyway but are chosen for their specific traits and assigned a cultivar name that follows the genus and species of the plant. In addition, some plants are dioecious, meaning male and female flowers are on separate plants. This is the case of for the *Ilex* genus (hollies). Named selections are cultivars(e.g. *Ilex opaca* Satyr Hill). Where there are no named selections of dioecious species, consumers do not know if they are buying a male or a female and must depend on there being a plant of the opposite sex near the final planting site. Further, due to variable sizes of offspring of the same plant, some are known to be short. Thus, a named cultivar allows consumers to make informed decisions to purchase

the appropriately sized and sexed plant for their landscape. Selections of native plants still embody native genetic provenance and should be included in this program.

It is important to note that the majority of plants native to Maryland do not have a cultivar name; those that do are often the only representative of that plant available in the trade. For those consumers looking to only buy native plants, excluding these cultivars eliminates whole categories of native plants.

We propose changes to the definitions set forth in the bill to expand the designation of Maryland native plant to include plants with cultivar nomenclature, providing that they are selections or crosses of Maryland natives. It would also be appropriate to designate plants as seed grown or vegetatively propagated to ensure consumers make informed decisions. Proposed language is below.

Proposed changes to the definition are below:

- On page 2, in line 7, delete “ecosystem, and habitat, without direct or indirect human action” and insert “Ecoregion III, as defined by the United States Environmental Protection Agency (USEPA)”.
- On page 2, in line 13, delete ”does not include a plant that is a named or unnamed cultivar of hybrid” and insert “includes both naturally found and horticulturally produced plants which have the genetics of the plants that are indigenous to Maryland and Ecoregion III as defined by USEPA, including plants that are named selections or hybrids of two Maryland native plants”.
- On page 4, at the end of line 17, add “Plant labeling shall include information to indicate if the plant is seed grown or propagated vegetatively.”

With these proposed changes, DEP requests that the Education, Energy, and the Environment Committee give Senate Bill 836 a favorable report.