

SENATE ENVIRONMENT AND ENERGY COMMITTEE

STATEMENT TO

SENATE, No. 2186

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 15, 2022

The Senate Environment and Energy Committee favorably reports Senate Bill No. 2186, with committee amendments.

This bill, as amended by the committee, would prohibit the sale, offer for sale, distribution, or propagation for sale or distribution of certain invasive plant species in the State, except under a valid permit issued by the Department of Agriculture (department).

The bill defines "invasive plant species" to cover a set of invasive species that are both widespread and pose a high risk to the ecology of the State. The bill would require the department to create a permitting system for the safe distribution of certain invasive plant species, including permits for research or educational purposes. The bill would also require the adoption of labeling requirements, general permits, and any other regulations necessary for the implementation of the bill.

The bill would also allow the department to add species to the list of invasive plant species if the department finds that the species threatens ecological, cultural, historical, or infrastructure resources of the State. In determining to classify a species as an invasive plant species, the department would consider: the threat the species poses to native species in the State; the threat the species poses to any sensitive habitats or endangered or threatened species in the State; the threat the species poses to any historical, cultural, or infrastructure resources in the State; and the likelihood that the species will escape intended cultivation areas and propagate in the State. The department would be required to adopt criteria to exempt cultivars of otherwise invasive species if the cultivars prove to be non-invasive due to sterility or other genetic traits. The department would also be required to develop educational materials for distribution at the point of sale and any other locations the department deems appropriate, which identify invasive plant species, recommended cultivation practices to avoid the spread of invasive plant species, and safer alternative plant species for cultivation in the State.

A person who sells, offers for sale, distributes, or propagates an invasive plant species for sale or distribution without a permit from the department would be subject to a civil penalty of up to \$100 for a first offense, up to \$200 for a second offense, and up to \$500 for a third or subsequent offense. The department would be authorized to seize and destroy any invasive plant species that forms a basis of a violation. The

department would also be required to conduct nursery inspections in a manner and form similar to inspections for nursery stock conducted pursuant to law.

The bill would also establish the New Jersey Invasive Species Council (council), originally created by Governor Corzine's Executive Order No. 97 of 2004, in the statutory law, with certain modifications. The council would consist of a combination of ex-officio members from State agencies and public members appointed by the Governor, and would be charged with developing a New Jersey Invasive Species Management Plan to be submitted to the Governor and the Legislature no later than one year after the effective date of the bill. The council would also be charged with various tasks related to the management of invasive species, as enumerated in subsection e. of section 7 of the bill. The bill would exclude the task – present in Executive Order No. 97 – to plan, design, and implement two invasive species eradication and native plant restoration pilot projects.

Sections 1 through 6 of the bill would take effect on the first day of the 24th month after the bill is enacted into law, and section 7 of the bill would take effect immediately.

The committee amendments to the bill would:

(1) add the tree of heaven (*Ailanthus altissima*) to the definition of "invasive plant species";

(2) require the department to adopt criteria to exempt specific cultivars of otherwise invasive species, if the cultivars prove to be non-invasive due to sterility or other genetic traits;

(3) clarify that the bill would not impose liability on any news media that accepts or publishes advertising for any product covered under the bill; and

(4) insert a new section that establishes the New Jersey Invasive Species Council, originally created by Governor Corzine's Executive Order No. 97 of 2004, into statutory law, and provides that this section would take effect immediately.