

SENATE SUBSTITUTE FOR
SENATE, No. 2186

STATE OF NEW JERSEY
220th LEGISLATURE

ADOPTED JUNE 26, 2023

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator BOB SMITH

District 17 (Middlesex and Somerset)

Co-Sponsored by:

Senators Turner, Diegnan, Zwicker and Durr

SYNOPSIS

Prohibits purchase, sale, distribution, import, export, or propagation of certain invasive species without permit from Department of Agriculture or Department of Environmental Protection; establishes NJ Invasive Species Council.

CURRENT VERSION OF TEXT

Substitute as adopted by the Senate.



1 AN ACT concerning invasive species and supplementing Title 4 of
2 the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this act:

8 “Cultivar” means a variety of plant that has been specifically
9 cultivated by humans, through artificial selection, in order to
10 produce particular traits.

11 “Invasive animal species” means a living, multi-cellular,
12 vertebrate or invertebrate invasive species that is a member of the
13 biological kingdom Animalia.

14 “Invasive microorganism species” means a living part of any
15 microscopic or submicroscopic invasive species that is too small to
16 be seen by the unaided human eye, including, but not limited to,
17 bacteria, fungi, archaea, or protists.

18 “Invasive plant or fungi species” means any living part of an
19 invasive species that has photosynthetic or spore-producing
20 capabilities and is a member of the biological kingdom Plantae or
21 Fungi, and any cultivar, variety, subspecies, seeds, or spores of such
22 species. “Invasive plant or fungi species” includes the following
23 specific species: Norway maple (*Acer platanoides*); tree of heaven
24 (*Ailanthus altissima*); mimosa or silk tree (*Albizia julibrissin*);
25 porcelain berry (*Ampelopsis glandulosa* var. *brevipedunculata*);
26 Japanese angelica tree (*Aralia elata*); Japanese barberry (*Berberis
27 thunbergii*); Japanese clematis (*Clematis terniflora*); autumn olive
28 (*Elaeagnus umbellata*); weeping lovegrass (*Eragrostis curvula*);
29 winged burning bush (*Euonymus alatus*); English ivy (*Hedera
30 helix*); Japanese hop (*Humulus japonicas*); sericea lespedeza
31 (*Lespedeza cuneate*); European privet (*Ligustrum vulgare*); Amur
32 honeysuckle (*Lonicera maackii*); Morrow’s honeysuckle (*Lonicera
33 morrowii*); purple loosestrife (*Lythrum salicaria*); Japanese
34 crabapple (*Malus toringo*); Chinese silvergrass (*Miscanthus
35 sinensis*); Eurasian water-milfoil (*Myriophyllum spicatum*); Oriental
36 photinia (*Photinia villosa*); Callery or Bradford pear (*Pyrus
37 calleryana*); common buckthorn (*Rhamnus cathartica*); jetbead
38 (*Rhodotypos scandens*); multiflora rose (*Rosa multiflora*); European
39 water chestnut (*Trapa natans*); Siebold's arrowwood (*Viburnum
40 sieboldii*); Japanese wisteria (*Wisteria floribunda*); Chinese wisteria
41 (*Wisteria sinensis*); and any other species designated pursuant to
42 section 4 of this act.

43 “Invasive species” means a species of living organism
44 categorized in any taxon, including any plant, fungus, vertebrate or
45 invertebrate animal, or microorganism, that is determined to be non-
46 native or alien to the terrestrial, freshwater aquatic, or marine
47 ecosystem under consideration, and the introduction of which into
48 such terrestrial, freshwater aquatic, or marine ecosystem may, or is

1 likely to, cause economic or environmental harm or harm to human
2 health.

3 “Invasive Species Council” or “council” means the council
4 established pursuant to section 7 of this act.

5 “Permit” means a permit that is issued by the Department of
6 Agriculture or the Department of Environmental Protection, as
7 applicable, pursuant to section 3 of this act.

8 “Regulated invasive species” means an invasive animal species,
9 an invasive microorganism species, or an invasive plant or fungi
10 species, and all sub-species, hybrids, varieties, cultivars, and other
11 subcategories thereof, which may not be introduced into a
12 terrestrial, freshwater aquatic, or marine ecosystem without a
13 permit, and which are not specifically exempted from the permitting
14 requirements established pursuant to this act.

15

16 2. a. No person may purchase, sell, offer for sale, distribute,
17 import, export, or otherwise propagate for sale or distribution, a
18 regulated invasive species in the State without a permit issued, by
19 the Department of Agriculture or the Department of Environmental
20 Protection, pursuant to this act.

21 b. The following cultivars and varieties of invasive plant
22 species shall be exempt from the prohibitions and permitting
23 requirements of subsection a. of this section, but, when purchased,
24 sold, offered for sale, distributed, imported, exported, or otherwise
25 propagated for sale or distribution in this State, shall still be labeled
26 in accordance with any applicable labeling requirements that are
27 established, by the Department of Agriculture, pursuant to section 3
28 of this act, and accompanied, at the point of sale, by appropriate
29 educational materials that have been developed or provided by the
30 Department of Agriculture, pursuant to section 5 of this act:

31 (1) the following cultivars or varieties of Japanese Barberry
32 (*Berberis thunbergii*): (a) Aurea; (b) UCONNBTCP4N; (c)
33 UCONNBTB133; (d) UCONNBTB048; and (e) UCONNBTB039;
34 and

35 (2) the following cultivars or varieties of Chinese Silvergrass
36 (*Miscanthus sinensis*): (a) NCMS1; and (b) Tift M77.

37

38 3. a. The Department of Agriculture and the Department of
39 Environmental Protection shall jointly adopt rules and regulations,
40 in cooperation and consultation with each other and pursuant to the
41 “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et
42 seq.), to establish and implement a permitting program for the
43 purpose of facilitating the safe purchase, sale, import, export,
44 introduction, distribution, and propagation of regulated invasive
45 species in the State.

46 b. The rules and regulations adopted pursuant to this section
47 shall include, at a minimum:

- 1 (1) the list of regulated invasive species that has been
2 developed, by each department, pursuant to section 4 of this act, as
3 well as a description of the regulatory processes that will be used by
4 each department, pursuant to section 4 of this act, to annually
5 identify new invasive species to be added to each department's list;
- 6 (2) criteria for the issuance of permits authorizing the limited
7 propagation of a regulated invasive species in the State for purposes
8 of sale or distribution;
- 9 (3) criteria for the issuance of permits authorizing the
10 propagation or distribution of an invasive species for educational or
11 research purposes;
- 12 (4) criteria for the issuance of general permits, as may be
13 necessary to effectuate the purposes of this act;
- 14 (5) criteria for the exemption, from applicable invasive species
15 permitting requirements, of cultivars, subspecies, or other varieties
16 of ordinarily invasive plant species, other than those already
17 expressly exempted from such permitting requirements pursuant to
18 subsection b. of section 2 of this act, which cultivars, subspecies, or
19 other varieties have been proven to be non-invasive in nature, by
20 virtue of sterility factors or other stable genetic traits unique
21 thereto;
- 22 (6) requirements providing for consumer warning labels to be
23 attached, at the point of sale, to each invasive species that is sold,
24 offered for sale, or distributed at retail in the State, and providing
25 for such warning labels to describe the best practices to be used, in
26 association with the consumer's possession or cultivation of the
27 invasive species, in order to prevent the escape or unintended wild
28 propagation of the invasive species;
- 29 (7) procedures for the submission and departmental review of
30 permit applications;
- 31 (8) a schedule of fees that will be imposed, by each department,
32 to finance the costs associated with implementation of the
33 permitting program; and
- 34 (9) any other requirements or provisions that are necessary for
35 the implementation of this act.
- 36 c. Any permitting criteria established pursuant to this section
37 shall be designed to prevent or to minimize, to the greatest extent
38 practicable, the potential for a regulated invasive species to escape
39 into, or to unintentionally propagate in, the wild.
- 40
- 41 4. a. (1) The Departments of Agriculture and Environmental
42 Protection, acting in accordance with recommendations from the
43 New Jersey Invasive Species Council established pursuant to
44 section 7 of this act, and in consultation with one another and any
45 other relevant State entity, shall, not more than one year after the
46 effective date of this act, develop a list of the regulated invasive
47 species that are subject to each department's respective jurisdiction
48 and the permitting requirements of this act. Each year thereafter, in

1 accordance with the “Administrative Procedure Act,” P.L.1968,
2 c.410 (C.52:14B-1 et seq.), the departments shall respectively adopt
3 rules and regulations revising the departmental lists developed
4 pursuant to this section, as may be necessary to designate new
5 species as regulated invasive species for the purposes of this act.

6 (2) Notwithstanding any other provision of this act, or any rule
7 or regulation, to the contrary, each invasive plant species that is
8 specifically identified in section 1 of this act shall become subject
9 to the prohibitions and permitting requirements of subsection a. of
10 section 2 of this act immediately upon the plant’s inclusion in a
11 departmental list developed pursuant to this subsection. Any other
12 commercially available invasive plant species that is not listed in
13 section 1 of this act, but which is later added to a departmental list
14 of regulated invasive species, pursuant to this act, shall become
15 subject to the prohibitions and permitting requirements of
16 subsection a. of section 2 of this act, as applicable to the
17 propagation and import of the plant, on the first day of the
18 thirteenth month after the plant is first identified on a departmental
19 list of regulated invasive species, pursuant to this section, and shall
20 become subject to the remaining prohibitions and permitting
21 requirements of subsection a. of section 2 of this act, as applicable,
22 on the first day of the 49th month after the plant is first identified
23 on a departmental list of regulated invasive species, pursuant to this
24 section.

25 b. When determining whether to add a species to the list of
26 regulated invasive species developed pursuant to subsection a. of
27 this section, the Department of Agriculture or the Department of
28 Environmental Protection, as applicable, shall consider:

29 (1) the threat that the species poses to native species in the
30 State;

31 (2) the threat that the species poses to any sensitive habitats or
32 endangered or threatened species in the State;

33 (3) the threat that the species poses to any historical, cultural, or
34 infrastructure resources in the State; and

35 (4) the likelihood that the species will escape and propagate
36 uncontrolled in the State.

37 c. In order to designate a species as a regulated invasive
38 species, pursuant to this section, the Department of Agriculture or
39 the Department of Environmental Protection, as applicable, shall
40 make a finding that the species threatens, or has the potential to
41 threaten, the ecological, cultural, historical, or infrastructure
42 resources of, or human health in, the State. A species shall not be
43 designated as a regulated invasive species, pursuant to this section,
44 solely on the basis that it is not native to New Jersey.

45

46 5. a. The Department of Agriculture and the Department of
47 Environmental Protection, in consultation with the New Jersey
48 Invasive Species Council, the New Jersey Agricultural Experiment

1 Station at Rutgers, the State University, the Highlands Water
2 Protection and Planning Council established pursuant to P.L.2004,
3 c.120 (C.13:20-1 et seq.), the Pinelands Commission established
4 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.), and any other
5 relevant State entity or out-of-State entity, shall develop or provide,
6 in a manner deemed by the Department of Agriculture or the
7 Department of Environmental Protection to be most effective,
8 physical and digital educational materials identifying:

- 9 (1) New Jersey's regulated invasive species;
10 (2) best propagation, cultivation, and management practices to
11 be used in order to prevent the spread of a regulated invasive
12 species; and
13 (3) where applicable, alternative species that can be more safely
14 propagated in the State.

15 b. The educational materials developed or provided by the
16 departments, pursuant to this section, shall be distributed to
17 consumers, either by the departments or by collaborating entities, at
18 the point of sale of a regulated invasive species and at any other
19 locations deemed by the departments or the collaborating entities to
20 be appropriate.

21
22 6. a. (1) Any person who violates this act, or any rule or
23 regulation adopted pursuant thereto, shall be subject to a warning
24 for a first offense and a civil penalty of up to \$1,000 for a second
25 offense, up to \$2,000 for a third offense, and up to \$5,000 for a
26 fourth or subsequent offense. Such person shall be provided with a
27 three-month period in which to remediate any such violation before
28 being subjected to an enhanced penalty for a subsequent offense
29 pursuant to this paragraph.

30 (2) A civil penalty imposed pursuant to this subsection may be
31 collected, with costs, in a summary proceeding commenced
32 pursuant to the "Penalty Enforcement Law of 1999," P.L.1999,
33 c.274 (C.2A:58-10 et seq.). The Superior Court shall have
34 jurisdiction to enforce the provisions of the "Penalty Enforcement
35 Law of 1999" in connection with this act.

36 b. The Department of Agriculture or the Department of
37 Environmental Protection may institute a civil action in a court of
38 competent jurisdiction for injunctive relief to prohibit or prevent a
39 violation of this act, or any rule or regulation adopted pursuant
40 thereto, and the court may proceed in the action in a summary
41 manner.

42 c. The Department of Agriculture shall conduct inspections of
43 commercial facilities, contemporaneously with, and in a manner and
44 form similar to, inspections conducted pursuant to R.S.4:7-21, for
45 the purposes of determining compliance with this act. The
46 department shall not charge a separate inspection fee for an
47 inspection that is conducted pursuant to this subsection.

1 d. The Department of Agriculture or the Department of
2 Environmental Protection, acting within their respective
3 jurisdictions, may seize and destroy any invasive species that forms
4 a basis of a violation of this act or any rule or regulation adopted
5 pursuant thereto.

6 e. The Department of Agriculture or the Department of
7 Environmental Protection may jointly compromise and settle any
8 claim for a penalty under this act in such amount which appears, in
9 the discretion of the departments, to be appropriate and equitable
10 under all of the circumstances.

11 f. Nothing in this act shall be construed to impose liability on
12 any news media that accepts or publishes advertising for any
13 product that may fall within the scope of this act.

14

15 7. a. There is established a New Jersey Invasive Species
16 Council. The council shall consist of 13 members to be appointed
17 as follows:

18 (1) the Commissioner of Environmental Protection or the
19 commissioner's designee, who shall serve ex-officio;

20 (2) the Secretary of Agriculture or the secretary's designee, who
21 shall serve ex-officio;

22 (3) the Commissioner of Transportation or the commissioner's
23 designee, who shall serve ex-officio;

24 (4) the Commissioner of Health, or the commissioner's
25 designee, who shall serve ex-officio; and

26 (5) nine additional members appointed by the Governor, no later
27 than 60 days after the effective date of this section, as follows:

28 (a) three representatives from conservation organizations;

29 (b) one representative from the agricultural sector;

30 (c) two representatives of the nursery and landscape sector;

31 (d) one representative from academia; and

32 (e) two representatives from the general public having
33 knowledge and experience concerning invasive species, with special
34 consideration being given to the members of the public who are
35 representatives of indigenous and under-represented communities.

36 b. Each public member appointed to the council shall serve for
37 a term of three years, except that, of the public members first
38 appointed pursuant to this section: three members, including one
39 appointed under subparagraph (a) of paragraph (5) of subsection a.
40 of this section, one appointed under subparagraph (b) or (c) of
41 paragraph (5) of subsection a. of this section, and one appointed
42 under subparagraph (d) or (e) of paragraph (5) of subsection a. of
43 this section, shall serve for initial terms of two years; three
44 members, including one appointed under subparagraph (a) of
45 paragraph (5) of subsection a. of this section, one appointed under
46 subparagraph (b) or (c) of paragraph (5) of subsection a. of this
47 section, and one appointed under subparagraph (d) or (e) of
48 paragraph (5) of subsection a. of this section, shall serve for initial

1 terms of three years; and three members, including one appointed
2 under subparagraph (a) of paragraph (5) of subsection a. of this
3 section, one appointed under subparagraph (b) or (c) of paragraph
4 (5) of subsection a. of this section, and one appointed under
5 subparagraph (d) or (e) of paragraph (5) of subsection a. of this
6 section, shall serve for initial terms of four years.

7 c. A public member in good standing may be reappointed to
8 the council following the expiration of the member's term. A
9 public member who is not in good standing may be removed from
10 the council, for cause, on that basis. The council shall develop its
11 own rules of order, shall define the level of participation required to
12 maintain a member's status in good standing for the purposes of
13 reappointment and removal pursuant to this subsection, and may
14 submit a written request or referral, to the Governor, seeking the
15 removal or reappointment of a member on the basis of their
16 determined good standing or lack thereof.

17 d. Any vacancy in the public membership of the council shall
18 be filled, within six months after the date on which the vacancy
19 occurs, in the same manner provided for the initial appointments.

20 e. Members of the council shall not be entitled to
21 compensation, but may be reimbursed for necessary expenses
22 incurred thereby in the performance of their duties, within the limits
23 of funds made available for the council's purposes.

24 f. The co-chairs of the council shall be the Commissioner of
25 Environmental Protection and the Secretary of Agriculture, or their
26 designees. A majority of the membership of the council shall
27 constitute a quorum for the transaction of council business, and
28 action may be taken at any council meeting by the affirmative vote
29 of a majority of the council's membership.

30 g. The council shall meet on at least a quarterly basis, at the
31 call of one or both of the co-chairs.

32 h. (1) The council shall work in cooperation with the
33 Department of Agriculture and the Department of Environmental
34 Protection to assist the departments in developing and adopting a
35 program for the transparent regulation and management of invasive
36 species in the State, consistent with proven best practices. To that
37 end, within one year after the effective date of this act, and annually
38 thereafter, the council shall evaluate, and develop its own
39 comprehensive lists of, species that are already deemed to be, or
40 may ultimately become, invasive and, based on those evaluations
41 and lists, submit written recommendations to the Department of
42 Agriculture and the Department of Environmental Protection
43 regarding the inclusion of new invasive species on, or the removal
44 or exemption of specific non-invasive species, cultivars, varieties,
45 or subspecies from, each department's regulated invasive species
46 list, established pursuant to section 4 of this act. The council's
47 species lists, established and regularly updated pursuant to this
48 subsection, shall identify all invasive species in New Jersey,

1 including all species that are already included on the list of invasive
2 species maintained by the New Jersey Invasive Species Strike
3 Force, as well as all other species that are identified on the
4 regulated invasive species lists newly developed pursuant to this
5 act, and all invasive species that are currently subject to regulation
6 in the nearby states of New York, Pennsylvania, Connecticut,
7 Maryland, Delaware, and Virginia. The council shall also develop
8 procedures and make recommendations to the Department of
9 Agriculture and the Department of Environmental Protection, as
10 necessary to simplify and expedite the process for adding species
11 to, and removing or exempting species from, the council and
12 departmental lists that are developed pursuant to this act.

13 (2) Whenever the council recommends that a new species be
14 added to a departmental list of regulated invasive species, pursuant
15 to this subsection, the council shall also recommend an appropriate
16 date on which the newly added species should become subject to
17 the sales and propagation prohibition and permitting requirements
18 established pursuant to section 2 of this act. When making such a
19 recommendation regarding the date on which the permitting
20 requirements of this act are to become effective with respect to any
21 newly added species, the council shall consider, at a minimum, the
22 economic impact of regulating the newly added species, pursuant to
23 this act, on the nursery industry, and the ecological urgency of
24 regulation.

25 i. The council shall examine and revise the 2009 New Jersey
26 Strategic Management Plan for Invasive Species, prepared by the
27 New Jersey Invasive Species Council pursuant to Executive Order
28 No. 97 of 2004, and the revised plan shall be submitted to the
29 Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
30 19.1), to the Legislature, no later than one year after the first
31 meeting of the council held pursuant to this act. The revised
32 management plan shall include, but not be limited to:

33 (1) a policy and mission statement;

34 (2) relevant definitions;

35 (3) findings concerning the current status of non-indigenous
36 species in New Jersey and their impact on habitat, biota, and natural
37 ecosystems;

38 (4) a description of the measures, methods, and procedures that
39 are available to prevent and control the release and wild
40 propagation of regulated invasive species, and to facilitate early
41 detection of, and rapid response to, such unintended releases and
42 propagation in the wild;

43 (5) a description of existing restoration and research needs and
44 available pilot projects;

45 (6) provisions establishing information management, education,
46 and interpretation measures; and

47 (7) provisions requiring coordination among State agencies,
48 adjacent states, and other applicable entities.

1 j. The council shall undertake the following tasks and any
2 other reasonable measures necessary to prevent the introduction of
3 regulated invasive species into the State and to eliminate or
4 minimize the presence and detrimental impacts of regulated
5 invasive species already established in the State. These tasks, as
6 appropriate, may be integrated as components of the New Jersey
7 Invasive Species Management Plan:

8 (1) recommend measures necessary for State departments and
9 agencies, and for non-governmental organizations, to cooperate
10 with federal agencies and other states in complying with federal
11 Executive Order No. 13112 and the National Invasive Species
12 Management Plan;

13 (2) identify research needs to better assess the sources, degree,
14 distribution, and threat posed by invasive species, and methods for
15 preventing the introduction and control of invasive species;

16 (3) review ongoing invasive species control efforts being carried
17 out by State departments and agencies, and recommend new or
18 revised measures to limit the introduction and effectuate the control
19 of invasive species;

20 (4) produce or identify educational programs and materials, for
21 public distribution, identifying the threats posed by invasive
22 species, outlining measures to prevent the introduction of invasive
23 species and to control invasive species in the State, and encouraging
24 the use of local native genotypes, including drought-tolerant native
25 plants, preferably propagated in New Jersey, in landscaping and
26 planting activities;

27 (5) develop partnerships with federal, State, and local
28 government agencies, institutions of primary, secondary, and higher
29 education, and non-profit and other private organizations, including
30 the horticultural organizations, as necessary to implement the
31 policies and recommendations of the council;

32 (6) identify and use sources of funding that are available to
33 support the council's research, monitoring, and control activities,
34 relevant youth and community outreach programs, and other council
35 operations and activities; and

36 (7) identify legislative or regulatory actions necessary to
37 implement or further the policies and recommendations of the
38 council.

39 k. In performing its duties pursuant to this act, the council shall
40 consult with the New Jersey Agricultural Experiment Station at
41 Rutgers, the State University, as well as with the Highlands Water
42 Protection and Planning Council established pursuant to P.L.2004,
43 c.120 (C.13:20-1 et seq.) and the Pinelands Commission established
44 pursuant to P.L.1979, c.111 (C.13:18A-1 et seq.); shall request the
45 participation of the United States Department of Agriculture, the
46 United States Environmental Protection Agency, and the United
47 States Department of the Interior; and may consult with, or request

1 the participation of, any other agencies or organizations the council
2 deems appropriate.

3 1. The Department of Agriculture and the Department of
4 Environmental Protection shall provide staff support to the council,
5 and the council shall also be entitled to call to its assistance and
6 avail itself of the services of the employees of any State department,
7 board, bureau, commission, or agency, as it may require and as may
8 be available for its purposes.

9
10 8. a. The Department of Agriculture and the Department of
11 Environmental Protection shall each be authorized to obtain
12 assistance from, and make use of the services provided by, any
13 State department, board, commission, or agency, as may be required
14 to effectuate the purposes of this act.

15 b. The Department of Agriculture, the Department of
16 Environmental Protection, and the Invasive Species Council shall
17 cooperate and consult with one another when developing budgets
18 for the purposes of this act.

19
20 9. The provisions of this act and the rules and regulations
21 adopted pursuant thereto shall supersede any contradictory
22 ordinances, resolutions, rules, or regulations which are, or have
23 been, adopted at the municipal, county, or regional levels in
24 association with the regulation of invasive species or the permitting
25 of activities involving the introduction, sale, import, export,
26 distribution, propagation, or purchase of a regulated invasive
27 species.

28
29 10. Sections 1 through 6, and sections 8 and 9, of this act shall
30 take effect on the first day of the 24th month next following
31 enactment, except that the Department of Agriculture and the
32 Department of Environmental Protection may take any anticipatory
33 administrative action, in advance of the effective date, as may be
34 necessary for the implementation of this act. The remaining
35 provisions of this act shall take effect immediately.

36

37

38

STATEMENT

39

40 This floor substitute would improve the State's ability to
41 regulate, monitor, and mitigate the effects of invasive species in the
42 State (i.e., any species that is non-native or alien to the terrestrial,
43 freshwater aquatic, or marine ecosystems of this State, and the
44 introduction of which into such ecosystems may, or is likely to,
45 cause economic or environmental harm or harm to human health).
46 To that end, the substitute bill would: (1) permanently establish the

1 New Jersey Invasive Species Council, originally established by
2 Executive Order No. 97 of 2004, and require the permanently
3 established council to review and revise the 2009 New Jersey
4 Strategic Management Plan for Invasive Species, establish initial
5 comprehensive lists of invasive species and likely invasive species,
6 develop procedures and provide recommendations for the
7 designation of new invasive species in New Jersey, and perform
8 various other tasks related to the management of invasive species in
9 the State; (2) prohibit the purchase, sale, offer for sale, distribution,
10 importation, exportation, or other propagation of invasive species in
11 the State, except under a valid permit issued by the Department of
12 Agriculture (DOA) or the Department of Environmental Protection
13 (DEP); (3) require the DOA and DEP to jointly adopt rules and
14 regulations implementing an invasive species permitting program
15 and providing for the labeling of regulated invasive species at the
16 point of sale; and (4) require the DOA and the DEP, in consultation
17 with the permanently established New Jersey Invasive Species
18 Council and other relevant entities, to develop or provide physical
19 and digital educational materials on invasive species for distribution
20 to consumers at the point of sale. This substitute differs from the
21 first reprint of the bill, in that the first reprint would have required
22 permitting, consumer labeling, and consumer education only with
23 respect to the sale, distribution, or propagation for sale or
24 distribution of certain invasive plant species falling under DOA
25 jurisdiction. The substitute would expressly exempt, from its
26 provisions, certain non-invasive cultivars and varieties of Japanese
27 Barberry and Chinese Silvergrass, and it would further authorize the
28 DOA and DEP to establish criteria for the exemption of other
29 cultivars, subspecies, and varieties that are proven to be non-
30 invasive. Under the provisions of the substitute, section 7
31 (establishing the New Jersey Invasive Species Council) would take
32 effect immediately, while the remaining provisions of the substitute
33 would take effect on the first day of the 24th month following the
34 date of enactment.

35 Any person who violates the substitute bill's provisions would be
36 subject to a warning for a first offense and a civil penalty of up to
37 \$1,000 for a second offense, up to \$2,000 for a third offense, and up
38 to \$5,000 for a fourth or subsequent offense, except that a violator
39 would be provided with a three-month period in which to remediate
40 any violation before being subjected to an enhanced penalty for a
41 subsequent offense. The DOA and DEP would also be authorized
42 to seek injunctive relief, as necessary to prevent an ongoing
43 violation, and to seize and destroy any invasive plant species
44 forming a basis of a violation. Finally, the DOA would be required
45 to conduct nursery inspections, in a manner and form similar to

1 inspections for nursery stock conducted pursuant to law, in order to
2 evaluate compliance with the bill's provisions.

3 This substitute bill is identical to the combined Assembly
4 committee substitute for Assembly Bill Nos. 3677 and 2907, as
5 reported by the Assembly Agriculture and Natural Resources
6 Committee on May 18, 2023.