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HOUSE BILL NO. 2096

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on/for _____
on _____)

(Patron Prior to Substitute--Delegate Bulova)

A BILL to amend and reenact §§ 3.2-800, 3.2-802, and 3.2-804 of the Code of Virginia and to amend the Code of Virginia by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:2, relating to noxious weeds; invasive plant species.

Be it enacted by the General Assembly of Virginia:

1. That §§ 3.2-800, 3.2-802, and 3.2-804 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 1 of Chapter 1 of Title 10.1 a section numbered 10.1-104.6:2 as follows:

§ 3.2-800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Certificate" means a document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with a noxious weed.

"Infested" means the establishment of a noxious weed or exposure to such weed, which would be reasonable cause to believe that establishment could occur.

"Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved, except for bona fide agricultural purposes including the management, tilling, planting, or harvesting of agricultural products.

"Noxious weed" means any living plant, or part thereof, declared by the Board through regulations under this chapter to be detrimental to crops, surface waters, including lakes, or other desirable plants, livestock, land, or other property, or to be injurious to public health, the environment, or the economy, except when in-state production of such living plant, or part thereof, is commercially viable or such living plant is commercially propagated in Virginia.

27 "Permit" means a document issued or authorized by the Commissioner to provide for movement
28 of regulated articles to restricted destinations for limited handling, utilization, processing, or for scientific
29 purposes.

30 "Person" means the term as defined in § 1-230. The term also means any society.

31 "Quarantine" means a legal declaration by the Board that specifies: (i) the noxious weed; (ii) the
32 articles to be regulated; (iii) conditions governing movement; and (iv) exemptions.

33 "Regulated article" means any article of any character as described in this chapter or in the
34 quarantine carrying or capable of carrying a noxious weed against which this chapter or the quarantine is
35 directed.

36 **§ 3.2-802. Powers and duties of Board; quarantine.**

37 A. The Board shall establish by regulation, after a public hearing, those weeds deemed to be
38 noxious weeds not otherwise so declared by the terms of this chapter. Prior to designating a living plant
39 or part thereof as a noxious weed, the Board shall review the recommendations of an advisory committee
40 established by the Commissioner to conduct a scientific risk assessment of the proposed plant. The
41 assessment shall include the degree to which the plant is detrimental to crops; surface waters, including
42 lakes; other desirable plants; livestock; land or other property; public health; the environment; and the
43 economy. The advisory committee shall also include in its recommendations to the Board an analysis of
44 the current and potential in-state commercial viability of the specific plant species and the economic
45 impact on industries affected by the designation of the plant as a noxious weed.

46 B. The Board may establish a statewide quarantine and adopt regulations pertaining to regulated
47 articles and conditions governing movement, under which the Commissioner shall proceed to eradicate or
48 suppress and prevent the dissemination of noxious weeds in the Commonwealth, and shall adopt other
49 regulations as are necessary to carry out the purpose of this chapter. The Board may adopt regulations
50 governing the conditions under which a permit is required to move, transport, deliver, ship, offer for
51 shipment, sell, or offer for sale into or within the Commonwealth any noxious weed or part thereof. The
52 Board may adopt regulations governing the movement of regulated articles entering the Commonwealth
53 from without. Following the establishment of a quarantine, no person shall move any noxious weed or

54 any regulated article described in the quarantine from any regulated area without a valid permit or
55 certificate, if required.

56 Subsequent to the declaration of a quarantine by the Board, the Commissioner shall limit the
57 application of the regulations pertinent to such quarantine to the infested portion of the Commonwealth
58 and appropriate environs, which would be known as the regulated area and may, without further hearing,
59 extend the regulated area to include additional portions of the Commonwealth upon publication of a notice
60 to that effect in a newspaper distributed in the extended area or by direct written notice to those concerned.

61 C. The Board shall develop and adopt regulations requiring tradespersons involved with proposing
62 or installing plants to provide written notification to property owners for all plants proposed for installation
63 that are included on the list of invasive plants established in § 10.1-104.6:2.

64 **§ 3.2-804. Prohibited acts; noxious weeds.**

65 No person shall violate any provisions of this chapter or any regulation adopted hereunder. ~~No~~
66 ~~person shall move, transport, deliver, ship, or offer for shipment into or within the Commonwealth any~~
67 ~~noxious weed, or part thereof, without first obtaining a permit from the Commissioner. If the Board~~
68 requires a person to obtain a permit pursuant to subsection B of § 3.2-802, such person shall obtain such
69 permit prior to moving, transporting, delivering, shipping, offering for shipment, selling, or offering for
70 sale into or within the Commonwealth a noxious weed or part thereof. Such permit shall be ~~issued only~~
71 ~~after it has been determined that the noxious weed is generally present already or it is for scientific~~
72 ~~purposes~~ subject to prescribed safeguards.

73 **§ 10.1-104.6:2. Invasive plant species.**

74 A. The Department shall create a list of invasive plant species no later than January 1, 2024, and
75 shall update such list at least every four years thereafter.

76 B. No agency of the Commonwealth shall plant, sell, or propagate any plant on the list of invasive
77 plants established in subsection A except when doing so is necessary for scientific or educational purposes
78 or bona fide agricultural purposes including the management, tilling, planting, or harvesting of agricultural
79 products.

80 C. Pursuant to § 3.2-802, the Board of Agriculture and Consumer Services shall develop and adopt
81 regulations requiring tradespersons involved with proposing or installing plants to provide written
82 notification to property owners for all plants proposed for installation that are included on the list of
83 invasive plants established in subsection A.

84 **2. That the Department of Conservation and Recreation shall convene the Virginia Invasive Species**
85 **Working Group to develop industry resources and recommendations to be sent to the Chairmen of**
86 **the Senate Committees on Agriculture, Conservation and Natural Resources and Finance and**
87 **Appropriations and the House Committees on Agriculture, Chesapeake and Natural Resources and**
88 **Appropriations for the 2024 Regular Session of the General Assembly to support full**
89 **implementation of the Virginia Invasive Species Working Group's existing Virginia Invasive**
90 **Species Management Plan.**

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