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HOUSE BILL NO. 109

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Agriculture, Chesapeake and Natural Resources
on _____)

(Patron Prior to Substitute—Delegate Seibold)

*A BILL to amend and reenact §§ 3.2-800 and 3.2-802 of the Code of Virginia, relating to Board of Agriculture and Consumer Services; noxious weeds; commercial viability.***Be it enacted by the General Assembly of Virginia:****1. That §§ 3.2-800 and 3.2-802 of the Code of Virginia are amended and reenacted 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.~~

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

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

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

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

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

A. The Board shall establish by regulation, after a public hearing, those weeds deemed to be noxious weeds not otherwise so declared by the terms of this chapter. Prior to designating a living plant or part thereof as a noxious weed, the Board shall review the recommendations of an advisory committee established by the Commissioner to conduct a scientific risk assessment of the proposed plant. The assessment shall include the degree to which the plant is detrimental to crops; surface waters, including lakes; other desirable plants; livestock; land or other property; public health; the environment; and the economy. The advisory committee shall also include in its recommendations to the Board an analysis of ~~the current and potential in-state commercial viability of the specific plant species and~~ the economic impact on industries affected by the designation of the plant as a noxious weed. *Upon being designated as a noxious weed, any such plant commercially propagated in Virginia shall be subject to a phase-out period of two years for grasses, forbs, and vines; four years for shrubs; and seven years for trees.*

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

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

C. The Board shall develop and adopt regulations requiring tradespersons involved with proposing or installing plants to provide written notification to property owners for all plants proposed for installation that

60 are included on the list of invasive plants established in § 10.1-104.6:2.

61 **2. That the Commissioner of Agriculture and Consumer Services (the Commissioner) shall conduct a**
62 **review of the legislative and regulatory authority of the Board of Agriculture and Consumer Services**
63 **and the Commissioner pursuant to §§ 3.2-800 and 3.2-802 of the Code of Virginia, as amended by this**
64 **act, pertaining to the control of noxious weeds. Such review shall include the role of the Noxious Weeds**
65 **Advisory Committee (the Committee); the membership structure, terms, and meetings of the**
66 **Committee; the regulatory process and considerations for which plant species, including specific**
67 **cultivars, are either added or omitted from the list published in 2VAC5-317-20 of the Virginia**
68 **Administrative Code; and the necessary resources required by the Department of Agriculture and**
69 **Consumer Services to implement the provisions of 2VAC5-317-20 of the Virginia Administrative Code.**
70 **The Commissioner shall report his findings and any recommendations to the Chairs of the House**
71 **Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on**
72 **Agriculture, Conservation and Natural Resources no later than November 1, 2026.**