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Cal. No. 599

I N   S E N A T E

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Introduced by Sens. LITTLE, GRISANTI, BONACIC, DUANE, O'MARA, ROBACH, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the environmental conservation law and the agriculture and markets law, in relation to nonnative animal and plant species

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Section 9-1709 of the environmental conservation law, as  
2     added by chapter 674 of the laws of 2007 and subdivisions 1 and 2 as  
3     amended by chapter 26 of the laws of 2008, is amended to read as  
4     follows:  
5     S 9-1709. General powers and duties of the department.  
6     1.     THE DEPARTMENT, IN COOPERATION WITH THE DEPARTMENT OF AGRICULTURE  
7     AND MARKETS, SHALL RESTRICT THE SALE, PURCHASE, POSSESSION, PROPAGATION,  
8     INTRODUCTION, IMPORTATION, TRANSPORT AND DISPOSAL OF INVASIVE SPECIES  
9     PURSUANT TO THIS SECTION. THE DEPARTMENT AND THE DEPARTMENT OF AGRICUL-  
10    TURE AND MARKETS IN CONSULTATION WITH THE COUNCIL, SHALL, AFTER PUBLIC  
11    HEARING, PROMULGATE JOINT REGULATIONS TO DEVELOP:  
12    (A) A PERMIT FOR PROHIBITED SPECIES DISPOSAL, CONTROL, RESEARCH AND  
13    EDUCATION;  
14    (B) A LIST OF PROHIBITED SPECIES, WHICH SHALL BE UNLAWFUL TO KNOWINGLY  
15    POSSESS WITH THE INTENT TO SELL, IMPORT, PURCHASE, TRANSPORT OR INTRO-  
16    DUCE;  
17    (C) A LIST OF PROHIBITED SPECIES WHICH SHALL BE UNLAWFUL TO IMPORT,  
18    SELL, PURCHASE, PROPAGATE, TRANSPORT, OR INTRODUCE EXCEPT UNDER A PERMIT  
19    FOR DISPOSAL, CONTROL, RESEARCH, OR EDUCATION; AND  
20    (D) A LIST OF REGULATED SPECIES WHICH SHALL BE LEGAL TO POSSESS, SELL,  
21    BUY, PROPAGATE AND TRANSPORT BUT MAY NOT BE KNOWINGLY INTRODUCED INTO A  
22    FREE-LIVING STATE OR INTRODUCED BY A MEANS THAT ONE KNEW OR SHOULD HAVE  
23    KNOWN WOULD LEAD TO THE INTRODUCTION INTO A FREE-LIVING STATE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 AS PART OF THE REGULATORY PROCESS, THE DEPARTMENTS AND THE COUNCIL  
2 SHALL CONSIDER ESTABLISHING GRACE PERIODS FOR PROHIBITED AND REGULATED  
3 SPECIES SO BUSINESSES CAN PLAN THE MANAGEMENT OF EXISTING STOCK.

4 2. For the purpose of carrying out the provisions of this title, the  
5 department in cooperation with the department of agriculture and markets  
6 shall have the authority, within funds available, to:

7 [1.] (A) establish, operate and maintain state-wide databases and  
8 clearinghouses for all taxa of invasive species that incorporate exist-  
9 ing data from agencies and organizations in the state, as well as from  
10 nearby states, provinces, Canada, and the federal government. Such data-  
11 bases and clearinghouses may provide the aggregate data on-line in a  
12 GIS;

13 [2.] (B) coordinate state agency and public authority actions to do  
14 the following:

15 [(a)] (I) phasing out uses of invasive species;

16 [(b)] (II) expanding use of native species;

17 [(c)] (III) promoting private and local government use of native  
18 species as alternatives to invasive species; and

19 [(d)] (IV) wherever practical and where consistent with watershed  
20 and/or regional invasive species management plans, prohibiting and  
21 actively eliminating invasive species at project sites funded or regu-  
22 lated by the state; and

23 [3.] (C) in collaboration with the council, aid in the review and  
24 reform of relevant regulatory processes to remove unnecessary imped-  
25 iments to the restoration of invaded ecosystems.

26 S 2. Section 71-0703 of the environmental conservation law is amended  
27 by adding a new subdivision 9 to read as follows:

28 9. A. ANY PERSON WHO TRANSPORTS, SELLS, IMPORTS OR INTRODUCES INVASIVE  
29 SPECIES, IN VIOLATION OF THE REGULATIONS PROMULGATED PURSUANT TO SECTION  
30 9-1709 OF THIS CHAPTER SHALL BE SUBJECT TO THE FOLLOWING:

31 FOR ANY FIRST VIOLATION IN LIEU OF A PENALTY THERE MAY BE ISSUED A  
32 WRITTEN WARNING BY THE DEPARTMENT AND THERE MAY ALSO BE ISSUED EDUCATION  
33 MATERIALS AT THE DISCRETION OF THE DEPARTMENT REGARDING REQUIREMENTS  
34 RELATED TO INVASIVE SPECIES. SUCH PERSON SHALL, HOWEVER, FOR ANY SUBSE-  
35 QUENT VIOLATION THEREAFTER BE SUBJECT TO A FINE OF NO LESS THAN TWO  
36 HUNDRED FIFTY DOLLARS.

37 B. ANY NURSERY GROWER LICENSED PURSUANT TO ARTICLE FOURTEEN OF THE  
38 AGRICULTURE AND MARKETS LAW, ANY PERSON WHO OWNS OR OPERATES A PUBLIC  
39 VESSEL AS SUCH TERM IS DEFINED IN PARAGRAPH (A) OF SUBDIVISION SIX OF  
40 SECTION TWO OF THE NAVIGATION LAW, OR ANY PERSON WHO OWNS OR OPERATES A  
41 COMMERCIAL FISHING VESSEL WHO TRANSPORTS, SELLS, IMPORTS OR INTRODUCES  
42 INVASIVE SPECIES IN VIOLATION OF THE REGULATIONS PROMULGATED PURSUANT TO  
43 SECTION 9-1709 OF THIS CHAPTER, SHALL BE SUBJECT TO A FINE OF NOT LESS  
44 THAN SIX HUNDRED DOLLARS UPON THE FIRST PENALTY. UPON THE SECOND PENALTY  
45 SUCH PERSON SHALL BE SUBJECT TO A FINE OF NOT LESS THAN TWO THOUSAND  
46 DOLLARS. UPON A SUBSEQUENT PENALTY AND AFTER A HEARING OR OPPORTUNITY TO  
47 BE HEARD UPON DUE NOTICE THE FOLLOWING PENALTIES MAY APPLY: (I) SUCH  
48 NURSERY GROWER MAY BE SUBJECT TO THE REVOCATION PROCEDURES OF SECTION  
49 ONE HUNDRED SIXTY-THREE-C OF THE AGRICULTURE AND MARKETS LAW (II) SUCH  
50 PERSON'S VESSEL REGISTRATION MAY BE SUSPENDED OR (III) SUCH PERSON'S  
51 FISHING PERMIT MAY BE REVOKED BY THE DEPARTMENT.

52 S 3. Section 167 of the agriculture and markets law is amended by  
53 adding a new subdivision 3-a to read as follows:

54 3-A. THE DEPARTMENT, IN COOPERATION WITH THE DEPARTMENT OF ENVIRON-  
55 MENTAL CONSERVATION SHALL RESTRICT THE SALE, PURCHASE, POSSESSION, PROP-  
56 AGATION, INTRODUCTION, IMPORTATION, TRANSPORT AND DISPOSAL OF INVASIVE

1 SPECIES PURSUANT TO SECTION 9-1709 OF THE ENVIRONMENTAL CONSERVATION  
2 LAW.

3 S 4. This act shall take effect on the one hundred eightieth day after  
4 it shall have become a law. Effective immediately, the department of  
5 environmental conservation and the department of agriculture and markets  
6 shall promulgate regulations to implement the provisions of this act.  
7 Such regulations shall be completed on or before September 1, 2013.