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I N S E N A T E

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Introduced by Sens. LITTLE, GRISANTI -- read twice and ordered printed,
and when printed to be committed to the Committee on Environmental
Conservation

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

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, 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 REGULATE THE SALE, PURCHASE, POSSESSION, INTRODUC-
8 TION, IMPORTATION AND TRANSPORT OF INVASIVE SPECIES PURSUANT TO THIS
9 SECTION. THE DEPARTMENT, IN COOPERATION WITH THE DEPARTMENT OF AGRICUL-
10 TURE AND MARKETS AND IN CONSULTATION WITH THE COUNCIL, SHALL, AFTER
11 PUBLIC HEARING, PROMULGATE REGULATIONS TO DEVELOP:
12 (A) A PERMIT FOR PROHIBITED SPECIES DISPOSAL, CONTROL, RESEARCH AND
13 EDUCATION; AND
14 (B) A SYSTEM FOR REGULATING THE SALE, PURCHASE, POSSESSION, INTRODUC-
15 TION, IMPORTATION AND TRANSPORT OF INVASIVE SPECIES. SUCH SYSTEM REGU-
16 LATIONS SHALL CONTAIN: (I) A LIST OF PROHIBITED SPECIES, WHICH SHALL BE
17 UNLAWFUL TO POSSESS WITH THE INTENT TO SELL, IMPORT, PURCHASE, TRANSPORT
18 OR INTRODUCE OR TO IMPORT, SELL, PURCHASE, PROPAGATE, TRANSPORT, OR
19 INTRODUCE EXCEPT UNDER A PERMIT FOR DISPOSAL, CONTROL, RESEARCH, OR
20 EDUCATION; AND (II) A LIST OF REGULATED SPECIES WHICH SHALL BE LEGAL TO
21 POSSESS, SELL, BUY, PROPAGATE AND TRANSPORT BUT MAY NOT BE KNOWINGLY
22 INTRODUCED INTO A FREE-LIVING STATE OR INTRODUCED BY A MEANS THAT ONE
23 KNEW OR SHOULD HAVE KNOWN WOULD LEAD TO THE INTRODUCTION INTO A
24 FREE-LIVING STATE.
25 AS PART OF THE REGULATORY PROCESS, THE DEPARTMENTS AND THE COUNCIL
26 SHALL CONSIDER ESTABLISHING GRACE PERIODS FOR PROHIBITED AND REGULATED
27 SPECIES SO BUSINESSES CAN PLAN THE MANAGEMENT OF EXISTING STOCK.

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

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

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

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

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

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

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

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

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

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

25 9. A. ANY PERSON WHO TRANSPORTS, SELLS, IMPORTS OR INTRODUCES INVASIVE
26 SPECIES, IN VIOLATION OF THE REGULATIONS PROMULGATED PURSUANT TO SECTION
27 9-1709 OF THIS CHAPTER SHALL BE SUBJECT TO THE FOLLOWING:

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

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

49 S 3. This act shall take effect on the one hundred eightieth day after
50 it shall have become a law. Effective immediately, the department of
51 environmental conservation shall promulgate regulations to implement the
52 provisions of this act. Such regulations shall be completed on or before
53 September 1, 2013.