

# STATE OF NEW YORK

8153

2023-2024 Regular Sessions

## IN ASSEMBLY

October 13, 2023

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to establishing the New York native plants program

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Legislative intent. The legislature finds that native  
2 plants and ecology are under threat due to habitat destruction, modifi-  
3 cation, and curtailment. The state's ecology is likewise facing  
4 increased competition from invasive species and additional stress due to  
5 climate change. The state has a responsibility to conserve and enhance  
6 the native ecological health of the state which directly influences  
7 public health, agricultural efficacy, economic activity, and recreation-  
8 al enjoyment.

9 § 2. The environmental conservation law is amended by adding a new  
10 section 9-0114 to read as follows:

11 § 9-0114. Native plant program.

12 1. Definitions. For the purposes of this section:

13 (a) "Native plants" shall mean plants whose known native range  
14 includes all or part of New York state and its proximate ecoregion.

15 (b) "Native range" shall mean an ecoregion which a plant has histor-  
16 ically been found in or which has adapted to in the context of climate  
17 change and which is non-invasive to North America, such as plants native  
18 to the mid-Atlantic ecoregion.

19 (c) "Political subdivision" shall mean a county, town, city, district,  
20 or village of the state.

21 (d) "Soil ecology restoration practices" shall mean land management  
22 that improves soils through actions that:

23 (i) follow the principles of: minimizing soil disturbance from soil  
24 preparation; maximizing soil vegetation cover; maximizing the diversity  
25 of beneficial soil organisms; increasing soil carbon content and seques-

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

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1 tration capacity; maximizing the presence of living roots; and integrat-  
2 ing native animals into land management; and

3 (ii) include such practices as: conservation tillage or no-till;  
4 precision nitrogen and phosphorus application; land management through  
5 grazing; integrated pest management; nutrient best management practices;  
6 and those practices recommended by the United States department of agri-  
7 culture natural resources conservation services and that are supported  
8 by the state soil and water conservation committee.

9 (e) "Xeriscape" shall mean landscapes that conserve water, minimize  
10 use of pesticides and fertilizers, protect the natural environment, are  
11 adaptable to local conditions, and which are drought tolerant through  
12 actions that follow the principles of the environmental planning and  
13 design of landscapes with appropriate choice of native plants, topo-  
14 graphic features, soil analysis and care which may include the use of  
15 waste compost, practical use of turf, efficient natural irrigation  
16 features, selective use of mulches, and appropriately limited mainte-  
17 nance as designed for cost and resource saving.

18 (f) "Ecoregion" shall mean areas of general similarity in ecosystems  
19 and in the type, quality, and quantity of environmental resources, and  
20 that are defined by distinctive geography and similar climate.

21 (g) "Seed or plant provenance" shall mean the specified area in which  
22 the seed or plants produced from the seed were located or were derived.

23 (h) "Greenspace" shall mean public land including state or municipally  
24 owned, managed, or administered recreational spaces, parks, preserves,  
25 medians and verges, and gardens that are designated for non-commercial,  
26 non-residential, or non-agricultural use with the purpose of public  
27 recreation, ecological conservation or scientific study, and natural or  
28 cultivated aesthetics. Greenspace shall not include zoos, arboretums,  
29 botanical gardens, aquaria, or other similar institutions whose express  
30 purpose is to educate and engage the public or engage in scientific  
31 research.

32 2. (a) The commissioner shall develop and implement a "New York native  
33 plants program" to identify and promulgate a list of New York native  
34 plants appropriate for each ecoregion in the state which shall be  
35 labeled as such and eligible for rebate. The purpose of the program  
36 shall be to encourage and promote the sale of New York native plants and  
37 seeds at retail garden centers and nurseries. The program shall increase  
38 consumer awareness of the important role of native plants in the ecosys-  
39 tem through advertising campaigns, marketing programs, and publicly  
40 available information about New York native plants. Eligible plants  
41 shall be labeled as "New York Native Plants".

42 (b) The commissioner may offer rebates at the point-of-sale for eligi-  
43 ble New York native plants.

44 3. New York native plants shall be used in greenspaces except as  
45 authorized pursuant to paragraphs (g) and (h) of this subdivision, and  
46 the commissioner shall encourage the use of such plants.

47 (a) Plans and specifications for any greenspace, where practicable and  
48 appropriate as determined by the commissioner, shall require the use of  
49 native plants.

50 (b) Appropriate site and soil analyses, as determined by the commis-  
51 sioner, shall be performed to best match native plant preferences with  
52 site and soil conditions.

53 (c) Site design and construction, as well as plant selection,  
54 conducted, financed, or contracted with the state shall incorporate  
55 considerations such as biological needs, minimal maintenance and water  
56 usage, benefits to native pollinators and animals, the composition of

1 plant communities at project sites, provenance and ecoregion, recre-  
2 ational capacity, and the minimal use of fertilizers and pesticides.

3 (d) The commissioner shall provide to the public, through the internet  
4 and by other means as appropriate, public engagement events, signage, or  
5 other relevant information, as determined by the commissioner, on the  
6 importance and role of native plants to native ecological habitats and  
7 local communities.

8 (e) Outdoor demonstration projects exhibiting and promoting the bene-  
9 fits of native species and environmentally sound landscaping practices  
10 shall be created and maintained in state parks, conservation sites,  
11 recreation areas, historic locations, tourist attractions, areas of  
12 local importance, and at SUNY schools.

13 (f) Public-private partnerships with educational institutions, zoos,  
14 botanical gardens, aquaria, arboreta, commercial nurseries, community  
15 gardens, and garden clubs shall be encouraged to increase the availabil-  
16 ity of native plants and share knowledge about their use, provenance  
17 maintenance, and propagation.

18 (g) The commissioner may determine that no native plant may adequately  
19 fit a certain environment or landscape in which case plants that are  
20 non-competitive and neutral, as determined by the commissioner, to  
21 native plants and animals may be permitted.

22 (h) This section shall not apply to community gardens and state funded  
23 or sponsored agricultural activities for the purpose of growing food or  
24 other crops which may not be native to the state.

25 (i) Non-native species that are utilized as a cover crop to establish  
26 native plants and are temporary in nature, as determined by the commis-  
27 sioner, may be permitted.

28 § 3. This act shall take effect immediately.