

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

H

2

HOUSE BILL 862*
Committee Substitute Favorable 4/4/07

Short Title: Amend Plant Protection and Conservation Act.-AB (Public)

Sponsors:

Referred to:

March 15, 2007

A BILL TO BE ENTITLED

AN ACT TO AMEND THE PLANT PROTECTION AND CONSERVATION ACT.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 106-202.15 reads as rewritten:

"§ 106-202.15. Powers and duties of the Board.

The Board shall have all of the following powers and duties:

- (1) To adopt ~~and publish by July 1, 1980, an endangered species list, a threatened species list and a list of species of special concern, as provided for in G.S. 106-202.16,~~ and maintain a list of protected plant species for North Carolina, identifying each entry by the common name and scientific ~~name and cross-referencing by family, genus, and species number as found in the current edition of "The Manual of the Vascular Flora of the Carolinas," or if not found in this edition, as identified by the American Society of Plant Taxonomists;~~ name, along with its status as endangered, threatened, or of special concern, as provided under G.S. 106-202.16.
- (2) To reconsider and revise the lists from time to time in response to public proposals and as the Board deems ~~necessary;~~necessary.
- (3) To conserve and to regulate the collection and shipment of those plant species or higher taxa that are of such similarity to endangered and threatened species that they cannot be easily or readily distinguished from an endangered or threatened ~~species;~~species.
- (4) To regulate within the State any exotic species, in the same manner as a resident species if the exotic species is on the Federal Endangered and Threatened Species List or it is listed in the Appendices to the International Treaty to Conserve Endangered and Threatened ~~Species;~~Species.
- (5) To determine that certain plant species growing in North Carolina, whether or not they are on the endangered or threatened species list,

- 1 are of special concern and to limit, regulate or forbid sale or collection
2 of these ~~plants;~~plants.
- 3 (6) To conduct investigations to determine whether a plant should be on
4 the protected plant lists and the requirements for survival of resident
5 species of ~~plants;~~plants.
- 6 (7) To adopt regulations to protect, conserve and enhance resident and
7 exotic species of plants on the lists, or to otherwise affect the intent of
8 this ~~Article;~~Article.
- 9 (8) To develop, establish and coordinate conservation programs for
10 endangered species and threatened species of plants, consistent with
11 the policies of the Endangered Species Act, including the acquisition
12 of rights to land or aquatic ~~habitats;~~habitats.
- 13 (9) To enter into and administer cooperative agreements through the
14 Commissioner of Agriculture, in concert with the North Carolina
15 Botanical Garden and other agencies, with the U.S. Department of
16 Interior or other federal, State or private organizations concerning
17 endangered and threatened species of plants and their conservation and
18 ~~management;~~management.
- 19 (10) To cooperate or enter into formal agreements with any agency of any
20 other state or of the federal government for the purpose of enforcing
21 any of the provisions of this ~~Article;~~Article.
- 22 (11) Through the Commissioner, to receive funds, donations, grants or
23 other moneys, issue grants, enter contracts, employ personnel and
24 purchase supplies and materials necessary to fulfill its ~~duties;~~duties.
- 25 (12) To ~~promulgate regulations~~adopt rules under which the Department of
26 Agriculture and Consumer Services may issue permits to licensed
27 nurserymen, commercial growers, scientific supply houses and
28 botanical gardens for the sale or distribution of plants on the protected
29 list provided that the plants are nursery propagated ~~and or~~ grown
30 ~~horticulturally from seeds or by vegetative propagation of cuttings,~~
31 ~~meristems or other similar materials and that the plants bear the~~
32 ~~grower's permit number.~~horticulturally.
- 33 (13) To stop the sale of or to seize any endangered, threatened, or special
34 concern plant species, or part thereof possessed, transported, or moved
35 within this State or brought into this State from any place outside the
36 State if such is found by the Board or its duly authorized agent to be in
37 violation of this Article or rules adopted pursuant to this Article. Such
38 plants shall be moved or disposed of at the direction of the Board or its
39 agent or by court order.
- 40 (14) To establish fees for permits, which fees are authorized by this
41 Article."

42 **SECTION 2.** G.S. 106-202.17(b) reads as rewritten:

43 "(b) The Scientific Committee shall consist of the Directors of The University of
44 North Carolina at Chapel Hill Herbarium, the North Carolina State University

1 Herbarium, the North Carolina Botanical Garden of The University of North Carolina at
2 Chapel Hill, the North Carolina State Museum of Natural Sciences and the North
3 Carolina Natural Heritage Program of the Department of Environment and Natural
4 Resources or their designees, a representative of the North Carolina Association of
5 Nurserymen, Inc., appointed by the Commissioner, and a representative of ~~the Garden~~
6 ~~Club of North Carolina, Incorporated, the North Carolina Chapter of the Nature~~
7 ~~Conservancy or the North Carolina Wild Flower Preservation Society, Inc., a~~
8 conservation organization, appointed by the Commissioner. Members shall serve for
9 three-year terms and may succeed themselves."

10 **SECTION 3.** G.S. 106-202.18 reads as rewritten:

11 "**§ 106-202.18. Powers and duties of the Scientific Committee.**

12 The Scientific Committee shall have all of the following powers and duties:

- 13 (1) To gather and provide information and data and advise the Board with
14 respect to all aspects of the biology and ecology of endangered and
15 threatened plant ~~species;~~species.
- 16 (2) To develop and present to the Board management and conservation
17 practices for preserving endangered or threatened plant
18 ~~species;~~species.
- 19 (3) To recommend habitat areas for acquisition to the extent that funds are
20 available or ~~expected;~~expected.
- 21 (4) To investigate and make recommendations to the Board as to the status
22 of endangered, threatened plant species, or species of special
23 ~~concern;~~concern.
- 24 (5) To make recommendations to the Board concerning regulation of the
25 collection and shipment of endangered or threatened plant species
26 within North ~~Carolina;~~Carolina.
- 27 (6) To review and comment on ~~botanical aspects of environmental impact~~
28 ~~statements prepared projects within North Carolina proposed by North~~
29 ~~Carolina agencies or other agencies as appropriate; and that have the~~
30 potential to affect protected plants or their habitats; provided, however,
31 that approval by the Scientific Committee or the Board shall not be
32 required.
- 33 (7) To advise the Board on matters submitted to the Scientific Committee
34 by the Board or the Commissioner which involve technical questions
35 and the development of pertinent rules and regulations, and make any
36 recommendations as deemed by the Scientific Committee to be worthy
37 of the Board's consideration."

38 **SECTION 4.** G.S. 106-202.19(a1) reads as rewritten:

39 "(a1) Any person convicted of violating this Article, or any rule of the Board
40 adopted pursuant to this Article shall be guilty of a Class 3 ~~misdemeanor, and for a first~~
41 ~~violation shall only be fined not less than one hundred dollars (\$100.00) nor more than~~
42 ~~five hundred dollars (\$500.00); and upon a subsequent conviction shall only be fined~~
43 ~~not less than five hundred dollars (\$500.00) and not more than one thousand dollars~~
44 ~~(\$1,000);~~2 misdemeanor. Each illegal movement or distribution of a protected plant

1 shall constitute a separate violation. In addition, if any person continues to violate or
2 further violates any provision of this Article after written notice from the Board, the
3 court may determine that each day during which the violation continued or is repeated
4 constitutes a separate violation subject to the foregoing penalties."

5 **SECTION 5.** G.S. 106-202.19(b) reads as rewritten:

6 "(b) The Commissioner or any employee or agent of the Department of
7 Agriculture and Consumer Services designated by the Commissioner to enforce the
8 provisions of this Article, may enter any place within the State at all reasonable times
9 where plant materials are being grown, ~~transported~~ transported, or offered for sale and
10 require the presentation for inspection of all pertinent papers and records relative to the
11 provisions of this Article, after giving notice in writing to the owner or custodian of the
12 premises to be entered. If he refuses to consent to the entry, the Commissioner may
13 apply to any district court judge and the judge may order, without notice, that the owner
14 or custodian of the place permit the Commissioner to enter the place for the purposes
15 herein stated and failure by any person to obey the order may be punished as for
16 contempt."

17 **SECTION 6.** This act becomes effective December 1, 2007, and applies to
18 offenses committed on or after that date.