

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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HOUSE BILL 862*
Committee Substitute Favorable 4/4/07
Committee Substitute #2 Favorable 4/26/07

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

Sponsors:

Referred to:

March 15, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE PLANT PROTECTION AND CONSERVATION ACT.
3 The General Assembly of North Carolina enacts:

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

5 "§ 106-202.15. Powers and duties of the Board.

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

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

- 1 (5) To determine that certain plant species growing in North Carolina,
2 whether or not they are on the endangered or threatened species list,
3 are of special concern and to limit, regulate or forbid sale or collection
4 of these ~~plants;~~plants.
- 5 (6) To conduct investigations to determine whether a plant should be on
6 the protected plant lists and the requirements for survival of resident
7 species of ~~plants;~~plants.
- 8 (7) To adopt regulations to protect, conserve and enhance resident and
9 exotic species of plants on the lists, or to otherwise affect the intent of
10 this ~~Article;~~Article.
- 11 (8) To develop, establish and coordinate conservation programs for
12 endangered species and threatened species of plants, consistent with
13 the policies of the Endangered Species Act, including the acquisition
14 of rights to land or aquatic ~~habitats;~~habitats.
- 15 (9) To enter into and administer cooperative agreements through the
16 Commissioner of Agriculture, in concert with the North Carolina
17 Botanical Garden and other agencies, with the U.S. Department of
18 Interior or other federal, State or private organizations concerning
19 endangered and threatened species of plants and their conservation and
20 ~~management;~~management.
- 21 (10) To cooperate or enter into formal agreements with any agency of any
22 other state or of the federal government for the purpose of enforcing
23 any of the provisions of this ~~Article;~~Article.
- 24 (11) Through the Commissioner, to receive funds, donations, grants or
25 other moneys, issue grants, enter contracts, employ personnel and
26 purchase supplies and materials necessary to fulfill its ~~duties;~~duties.
- 27 (12) To ~~promulgate regulations~~adopt rules under which the Department of
28 Agriculture and Consumer Services may issue permits to licensed
29 nurserymen, commercial growers, scientific supply houses and
30 botanical gardens for the sale or distribution of plants on the protected
31 list provided that the plants are nursery propagated ~~and or grown~~
32 ~~horticulturally from seeds or by vegetative propagation of cuttings,~~
33 ~~meristems or other similar materials and that the plants bear the~~
34 ~~grower's permit number.~~horticulturally.
- 35 (13) To stop the sale of or to seize any endangered, threatened, or special
36 concern plant species, or part thereof possessed, transported, or moved
37 within this State or brought into this State from any place outside the
38 State if such is found by the Board or its duly authorized agent to be in
39 violation of this Article or rules adopted pursuant to this Article. Such
40 plants shall be moved or disposed of at the direction of the Board or its
41 agent or by court order.
- 42 (14) To establish fees for permits authorized in this Article."
- 43 **SECTION 2.** G.S. 106-202.17(b) reads as rewritten:

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

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

13 **"§ 106-202.18. Powers and duties of the Scientific Committee.**

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

- 15 (1) To gather and provide information and data and advise the Board with
16 respect to all aspects of the biology and ecology of endangered and
17 threatened plant ~~species;~~species.
- 18 (2) To develop and present to the Board management and conservation
19 practices for preserving endangered or threatened plant
20 ~~species;~~species.
- 21 (3) To recommend habitat areas for acquisition to the extent that funds are
22 available or ~~expected;~~expected.
- 23 (4) To investigate and make recommendations to the Board as to the status
24 of endangered, threatened plant species, or species of special
25 ~~concern;~~concern.
- 26 (5) To make recommendations to the Board concerning regulation of the
27 collection and shipment of endangered or threatened plant species
28 within North ~~Carolina;~~Carolina.
- 29 (6) To review and comment on ~~botanical aspects of~~ environmental impact
30 statements prepared by ~~North Carolina State agencies or other agencies~~
31 ~~as appropriate;~~on projects that may affect protected plants; and
- 32 (7) To advise the Board on matters submitted to the Scientific Committee
33 by the Board or the Commissioner which involve technical questions
34 and the development of pertinent rules and regulations, and make any
35 recommendations as deemed by the Scientific Committee to be worthy
36 of the Board's consideration."

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

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

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

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

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

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