

SENATE BILL 491

M4, L1

0lr1930

By: **Senator Kramer**

Introduced and read first time: January 29, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Regulation of Invasive Plants – Bamboo – Prohibitions**

3 FOR the purpose of prohibiting a person from allowing bamboo to grow in a certain manner
4 or spread onto certain property or rights-of-way; requiring the Secretary of
5 Agriculture to provide written notice to a certain person under certain
6 circumstances; requiring a certain person to dispose of or contain bamboo in a certain
7 manner on written notice from the Secretary; providing for certain civil penalties for
8 a certain violation; prohibiting a series of violations from resulting in penalties that
9 exceed a certain amount; establishing that a certain person is not subject to a certain
10 penalty under certain circumstances; authorizing the governing body of a county to
11 adopt rules and regulations to govern the upkeep and containment of bamboo;
12 authorizing the governing body of a county to enforce certain rules and regulations;
13 defining a certain term; altering a certain definition; and generally relating to the
14 regulation of invasive plants in the State.

15 BY repealing and reenacting, with amendments,
16 Article – Agriculture
17 Section 9.5–101, 9.5–302, 9.5–303, and 9.5–306
18 Annotated Code of Maryland
19 (2016 Replacement Volume and 2019 Supplement)

20 BY adding to
21 Article – Local Government
22 Section 13–412
23 Annotated Code of Maryland
24 (2013 Volume and 2019 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
26 That the Laws of Maryland read as follows:

27 **Article – Agriculture**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9.5–101.

2 (a) In this title the following words have the meanings indicated.

3 (B) “BAMBOO” MEANS THE TIER 1 INVASIVE PLANT THAT IS
4 CHARACTERIZED BY AGGRESSIVE SPREADING BEHAVIOR, INCLUDING BAMBOO
5 SPECIES IN THE GENUS PHYLLOSTACHYS.

6 [(b)] (C) “Committee” means the Invasive Plants Advisory Committee.

7 [(c)] (D) “Invasive plant” means a terrestrial plant species that:

8 (1) Did not evolve in the State; and

9 (2) If introduced within the State, will cause or is likely to cause, as
10 determined by the Secretary:

11 (i) Economic harm;

12 (ii) Ecological harm;

13 (iii) Environmental harm; or

14 (iv) Harm to human health.

15 [(d)] (E) “Landscaping services” includes services for ornamental horticultural
16 design, maintenance, and installation of living plants.

17 [(e)] (F) “Tier 1 invasive plant” includes [invasive]:

18 (1) INVASIVE plant species that cause or are likely to cause severe harm
19 within the State; AND

20 (2) BAMBOO.

21 [(f)] (G) “Tier 2 invasive plant” includes invasive plant species that cause or are
22 likely to cause substantial negative impact within the State.

23 9.5–302.

24 (a) (1) This subsection does not apply to the transfer, lease, sale, or purchase
25 of real property on which an invasive plant is located.

26 (2) Except as provided in paragraph (3) of this subsection and in accordance
27 with regulations adopted by the Secretary, a person may not propagate, import, transfer,

sell, purchase, transport, or introduce any living part of a tier 1 invasive plant in the State.

(3) A person may conduct an activity prohibited under paragraph (2) of this subsection if:

(i) The person receives approval from the Secretary before conducting the activity; and

(ii) The activity is for the purpose of:

1. Disposing of the invasive plant;

2. Controlling the invasive plant;

3. Using the invasive plant for research or educational purposes; or

4. Exporting the invasive plant out of the State.

(4) A PERSON MAY NOT ALLOW BAMBOO TO:

(I) GROW WITHOUT PROPER UPKEEP AND APPROPRIATE CONTAINMENT MEASURES, INCLUDING:

1. BARRIERS; OR

2. TRENCHES; OR

(II) SPREAD FROM THE PROPERTY OF THE PERSON TO:

1. THE ADJOINING PROPERTY OF ANOTHER PERSON; OR

2. A PUBLIC RIGHT-OF-WAY.

(b) In accordance with regulations adopted by the Secretary, a person may not:

(1) Sell or offer for sale at a retail outlet a tier 2 invasive plant unless the retail outlet posts in a conspicuous manner in proximity to all tier 2 plant displays, a sign identifying the plants as tier 2 plants; or

(2) Provide landscaping services to plant or supply for planting a tier 2 invasive plant unless the person provides to its customer a list of tier 2 invasive plants.

9.5–303.

(a) (1) [On] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS

1 **SUBSECTION, ON** finding a tier 1 plant in violation of § 9.5–302(a)(2) of this subtitle, the
2 Secretary may:

3 [(1)] (I) Issue a written condemnation seizure order;

4 [(2)] (II) Mark or tag the plant in a conspicuous manner; and

5 [(3)] (III) Provide written notice to the owner, tenant, or person in charge
6 of the premises.

7 (2) (I) **ON FINDING BAMBOO IN VIOLATION OF § 9.5–302(A)(4) OF**
8 **THIS SUBTITLE, THE SECRETARY SHALL PROVIDE WRITTEN NOTICE TO THE OWNER**
9 **OF THE PROPERTY ON WHICH THE BAMBOO ORIGINATED.**

10 (II) **ON WRITTEN NOTICE FROM THE SECRETARY UNDER**
11 **SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE OWNER SHALL DISPOSE OF OR**
12 **CONTAIN THE BAMBOO IN ACCORDANCE WITH REGULATIONS ADOPTED BY THE**
13 **SECRETARY.**

14 (b) (1) On notice from the Secretary, a person shall dispose of a tier 1 plant in
15 accordance with regulations adopted by the Secretary.

16 (2) If a tier 1 plant is not disposed of in accordance with paragraph (1) of
17 this subsection, the Secretary shall:

18 (i) Destroy the plant;

19 (ii) Prepare a statement of facts and a statement of the expense of
20 destruction; and

21 (iii) Provide copies of the statements to the Attorney General.

22 (c) (1) The Attorney General shall institute the appropriate proceeding to
23 collect the expenses due to the Secretary.

24 (2) A copy of the statements prepared under subsection (b)(2) of this section
25 is sufficient evidence to prove a claim under this subsection.

26 9.5–306.

27 (a) **[A] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS SECTION, A person**
28 **that violates this subtitle is subject to the penalties and fines set forth in Title 12 of this**
29 **article.**

30 (b) (1) **[Instead] EXCEPT AS PROVIDED IN SUBSECTION (C) OF THIS**
31 **SECTION, INSTEAD** of or in addition to any other penalty authorized under this article, the

Secretary may impose a civil penalty not exceeding \$500 for each violation on a person that violates:

(i) This subtitle; or

(ii) Any order issued by the Secretary under this subtitle.

(2) Penalties collected by the Secretary under this subsection shall be paid into the General Fund of the State.

(C) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION, A PERSON THAT VIOLATES § 9.5–302(A)(4) OF THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY NOT EXCEEDING:

(I) \$50 FOR A FIRST VIOLATION; AND

(II) \$200 FOR A SECOND AND SUBSEQUENT VIOLATION.

(2) A SERIES OF VIOLATIONS UNDER § 9.5–302(A)(4) OF THIS SUBTITLE MAY NOT RESULT IN CIVIL PENALTIES THAT EXCEED \$3,000 IN 1 CALENDAR YEAR.

(3) A PERSON SUBJECT TO A PENALTY FOR A VIOLATION UNDER § 13–412 OF THE LOCAL GOVERNMENT ARTICLE IS NOT SUBJECT TO A CIVIL PENALTY UNDER THIS SUBSECTION FOR THE SAME VIOLATION.

Article – Local Government

13–412.

(A) THE GOVERNING BODY OF A COUNTY MAY:

(1) ADOPT ANY RULE OR REGULATION TO GOVERN THE UPKEEP AND CONTAINMENT OF BAMBOO AS DEFINED IN § 9.5–101 OF THE AGRICULTURE ARTICLE; AND

(2) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, PROVIDE FOR THE ENFORCEMENT OF ANY RULE OR REGULATION ADOPTED UNDER THIS SECTION.

(B) A PERSON SUBJECT TO A PENALTY FOR A VIOLATION OF § 9.5–302(A)(4) OF THE AGRICULTURE ARTICLE MAY NOT BE SUBJECT TO A PENALTY UNDER THIS SECTION FOR THE SAME VIOLATION.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2020.