

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS25015-LD-96\* (03/02)

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

Sponsors: Senator Albertson.

Referred to:

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.

- 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, which fees are authorized by this  
43 Article."

44 **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 projects within North Carolina proposed by North  
31 Carolina agencies or other agencies as appropriate; and that have the  
32 potential to affect protected plants or their habitats; provided, however,  
33 that approval by the Scientific Committee or the Board shall not be  
34 required.~~
- 35       (7) To advise the Board on matters submitted to the Scientific Committee  
36 by the Board or the Commissioner which involve technical questions  
37 and the development of pertinent rules and regulations, and make any  
38 recommendations as deemed by the Scientific Committee to be worthy  
39 of the Board's consideration."

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

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

1 ~~not less than five hundred dollars (\$500.00) and not more than one thousand dollars~~  
2 ~~(\$1,000).~~ 2 misdemeanor. Each illegal movement or distribution of a protected plant  
3 shall constitute a separate violation. In addition, if any person continues to violate or  
4 further violates any provision of this Article after written notice from the Board, the  
5 court may determine that each day during which the violation continued or is repeated  
6 constitutes a separate violation subject to the foregoing penalties."

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

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

19 **SECTION 6.** This act becomes effective October 1, 2007.