

125th MAINE LEGISLATURE

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Legislative Document

No. 182

H.P. 159

House of Representatives, January 27, 2011

An Act To Prohibit the Sale of Russian Olive and Other Invasive Terrestrial Plants

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

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HEATHER J.R. PRIEST Clerk

Presented by Representative EVES of North Berwick. Cosponsored by Senator SCHNEIDER of Penobscot and Representatives: DUCHESNE of Hudson, McCABE of Skowhegan, O'BRIEN of Lincolnville.

1 Be it enacted by the People of the State of Maine as follows: 2 Sec. 1. 7 MRSA §2211, sub-§2-A is enacted to read: 3 2-A. Invasive terrestrial plant. "Invasive terrestrial plant" means any nonnative plant species, including Elaeagnus angustifolia, commonly known as Russian olive, that: 4 5 A. Has spread or has the potential to spread into native plant habitats in the State; 6 B. Has caused or has the potential to cause economic or environmental harm by developing self-sustaining populations that disrupt or threaten native plant 7 8 populations in the State; and 9 C. Is on a list of invasive terrestrial plants maintained by the commissioner in accordance with section 2218, subsection 2. 10 Sec. 2. 7 MRSA §2213, sub-§1, ¶A, as enacted by PL 1991, c. 785, §3, is 11 12 amended to read: 13 A. The State Horticulturist or an assistant shall inspect nurseries as determined 14 necessary by the State Horticulturist. Nurseries must be accessible at reasonable times for inspection. If plant pests are found at sufficient levels to pose a threat to 15 other horticultural establishments or the general public, the State Horticulturist may 16 17 issue an order to embargo or detain the nursery stock. The State Horticulturist shall issue an order for the destruction of any invasive terrestrial plants found offered for 18 sale. Upon issuing an order of embargo or, detention or destruction, the State 19 Horticulturist shall notify the owner of the nursery stock of that order. Within 10 20 days of receipt of notification, the owner may request a hearing to be held in 21 22 accordance with the Maine Administrative Procedure Act. 23 The State Horticulturist may prescribe measures designed to control the plant pests. 24 The State Horticulturist shall remove the order of embargo or detention if satisfied that the plant pests have been controlled. The State Horticulturist may prescribe 25 26 measures for the destruction of or may seize and destroy invasive terrestrial plants. 27 Sec. 3. 7 MRSA §2214, as enacted by PL 1991, c. 785, §3, is amended to read: 28 §2214. Shipments certified 29 Nursery stock shipped into this State from any other state, province or country must 30 bear a certificate on each package stating that the contents were inspected by an authorized inspecting officer and that the contents appear to be free from plant pests. The 31 32 State Horticulturist or an assistant may inspect, at the point of destination, all nursery 33 stock coming into the State. If that nursery stock is infested with any plant pests or determined to be an invasive terrestrial plant, the State Horticulturist, after notice and 34 35 opportunity for a hearing as provided in the Maine Administrative Procedure Act, may 36 order the stock destroyed or returned to the consignor at the consignor's expense. 37 Sec. 4. 7 MRSA §2216, as enacted by PL 1991, c. 785, §3, is amended to read:

1 §2216. Violations

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2 Any violation of this chapter or rules adopted pursuant to section 2217 <u>or section</u> 3 <u>2218</u> is a civil violation for which a forfeiture fine of not more than \$500 may be 4 adjudged.

- 5 Sec. 5. 7 MRSA §2218 is enacted to read:
- 6 §2218. Prohibition on sale of invasive terrestrial plants
- 7 **<u>1. Prohibition.</u>** A person may not sell invasive terrestrial plants.

8 **2.** Criteria for identifying invasive terrestrial plants; rulemaking. The 9 commissioner shall develop criteria by which to evaluate nonnative plant species for 10 possible inclusion on a list of invasive terrestrial plants. The commissioner shall adopt by 11 rule the evaluation criteria and establish a list of invasive terrestrial plants. Rules adopted 12 under this subsection are routine technical rules as defined in Title 5, chapter 375, 13 subchapter 2-A.

- **3. Penalty.** In addition to a fine imposed under section 2216, a violation of this
 section may result in the revocation of a nursery license under section 2171, subsection 2.
 - SUMMARY

17 This bill prohibits the sale of Elaeagnus angustifolia, a shrub commonly called 18 "Russian olive." It directs the Commissioner of Agriculture, Food and Rural Resources 19 to adopt rules establishing criteria for evaluating nonnative plant species for designation 20 as invasive terrestrial plants. A list of plants meeting the criteria for invasive terrestrial 21 plants would be established in rule and those plants prohibited from sale.