

- SUBJECT:** Prohibiting local restrictions on noxious and invasive plants
- COMMITTEE:** Agriculture and Livestock — favorable, without amendment
- VOTE:** 5 ayes — Hardcastle, Anderson, B. Brown, Farrar, Herrero
1 nay — Burnam
1 absent — Olivo
- WITNESSES:** For — James K. Presnal, Texas Nursery and Landscape Association
Against — None
On — Dana Price, Texas Parks and Wildlife Department, Wildlife Diversity Branch
- BACKGROUND:** Agriculture Code, ch. 71, subch. D, applies to noxious plants. Under sec. 71.151(a), the Texas Department of Agriculture (TDA) is required to publish a list of noxious plants that have serious potential to cause economic or ecological harm to the state. TDA can organize the published lists by region.

It is a class C misdemeanor (maximum fine of \$500) to sell, distribute, or import into the state a noxious plant species included on the list. It is a separate offense for each noxious plant sold, distributed, or imported.
- DIGEST:** HB 2313 would prohibit political subdivisions from adopting an ordinance or rule restricting the planting, sale, or distribution of noxious or invasive plant species.

HB 2313 also would apply the provisions of Agriculture Code, ch. 71, subch. D to “invasive” plants as well as noxious plants.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

HB 2313 is necessary for the state to avoid a patchwork of local prohibitions on certain types of plants that unnecessarily can inhibit commerce and make compliance almost impossible. Currently, local areas can pass ordinances and rules prohibiting the importation of invasive plant species. These rules vary from county to county or even city to city, which can make it difficult for nursery operators or others to know what they can transport and can be expensive for commercial plant sellers if plants have to be destroyed upon arriving in a locality.

The bill would address this situation by allowing TDA to develop an invasive plant list similar to its noxious plant list. This list could help prevent the importation, distribution, and sale of invasive plants such as nut grass that can cause serious economic harm or ecological damage. A statewide list, developed with input from industry and academia, would allow nursery operators and other plant importers to be informed about what they could transport and distribute and would help protect Texas from these plants.

HB 2313 would not harm the ability of local areas to protect themselves from invasive plants. If a locality wanted to have a plant placed on the statewide list, it could request that TDA do so. TDA would gather input, and, if appropriate, propose a rule to put the plant on the statewide invasive plant list, something that could happen in as short a period as 90 days. This time frame would be comparable to — if not shorter than — the time it takes to pass a local ordinance banning an invasive plant. In the biological world, three months or so should not make a significant difference in the ability of a locality to deal with invasive plants. In addition, TDA could publish lists of invasive plants organized by region.

TDA would be able to work with any state agency, such as the Texas Parks and Wildlife Department (TPWD), to resolve problems harmonizing that agency's aquatic plant list with the statewide invasive plant list.

**OPPONENTS
SAY:**

HB 2313 negatively could affect the ability of local areas to deal with invasive nuisance plants before they became a statewide problem. Because the bill would prohibit political subdivisions from adopting ordinances that restrict invasive plants locally, municipalities might have to wait until a plant was recognized as a statewide problem before it could be banned from their areas. Getting something on the TDA statewide list could be cumbersome and time consuming.

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OTHER
OPPONENTS
SAY:

HB 2313 should contain a mechanism for state agencies to coordinate work on invasive plants. TPWD currently has a statewide invasive aquatic plant list and HB 2313 includes no assurances that these plants would appear on TDA's list.

NOTES:

The companion bill, SB 1091 by Madla, passed the Senate on April 21 on the Local and Uncontested Calendar.