

BILL ANALYSIS

Senate Research Center
82R13798 JXC-D

H.B. 338
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Department of Agriculture (TDA) is required to publish a list regarding invasive and noxious terrestrial plants in Texas. Other state agencies, as well as municipalities and other political subdivisions, produce lists of terrestrial plant species those entities consider noxious or invasive and distribute such lists through printed materials or on the entity's Internet website. H.B. 338 seeks to require a public entity, other than TDA, that produces a list of noxious or invasive terrestrial plant species that includes a species growing in Texas for public distribution to commercial or residential landscapers to provide with the list a disclaimer stating that the list is a recommendation and has no legal effect and that is lawful to sell, distribute, import, or possess a plant on the list unless TDA labels the plant as noxious or invasive on TDA's plant list.

H.B. 338 amends current law relating to disclaimers by certain entities promulgating lists of noxious or invasive terrestrial plant species.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Department of Agriculture in SECTION 1 (Section 71.154, Agriculture Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 71, Agriculture Code, by adding Section 74.154, as follows:

Sec. 71.154. DISCLAIMER REQUIRED. (a) Requires a public entity, other than the Texas Department of Agriculture (TDA), that produces for public distribution to commercial or residential landscapers a list of noxious or invasive terrestrial plant species that includes a species growing in this state to provide with the list a disclaimer that states: "THIS PLANT LIST IS ONLY A RECOMMENDATION AND HAS NO LEGAL EFFECT IN THE STATE OF TEXAS. IT IS LAWFUL TO SELL, DISTRIBUTE, IMPORT, OR POSSESS A PLANT ON THIS LIST UNLESS THE TEXAS DEPARTMENT OF AGRICULTURE LABELS THE PLANT AS NOXIOUS OR INVASIVE ON THE DEPARTMENT'S PLANT LIST."

(b) Requires a public entity, other than TDA, that produces a list of noxious or invasive terrestrial plant species in printed material made for public distribution to commercial or residential landscapers, including a newspaper, trade publication, notice, circular, or Internet website, to post the disclaimer required by Subsection (a) in at least 12-point type in a conspicuous location readily visible by persons viewing the list.

(c) Requires TDA to adopt rules requiring a public entity to include the disclaimer required by Subsection (a) in a manner equivalent to the manner described by Subsection (b) for publication of the entity's list of noxious or invasive terrestrial plant species through media not described by Subsection (b), including billboards, radio productions, and television productions.

SECTION 2. Makes application of Section 71.154, Agriculture Code, prospective.

SECTION 3. Effective date: September 1, 2011.