

[First Reprint]

## **ASSEMBLY, No. 284**

# **STATE OF NEW JERSEY**

## **219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman VINCENT MAZZEO**

**District 2 (Atlantic)**

**Assemblyman ERIC HOUGHTALING**

**District 11 (Monmouth)**

**SYNOPSIS**

Establishes requirements for sale and planting of running bamboo; requires recordkeeping of certain violations and consideration thereof as grounds for license or registration review.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Agriculture Committee on May 17, 2021, with amendments.



**(Sponsorship Updated As Of: 6/21/2021)**

1 AN ACT concerning running bamboo and supplementing Titles 4  
 2 and 13 of the Revised Statutes, and P.L.1960, c.39 (C.56:8-1 et  
 3 seq.).  
 4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
 6 *of New Jersey:*  
 7

8 1. a. No person shall sell running bamboo in the State unless  
 9 that person is a nurseryman who possesses a certification from the  
 10 department pursuant to R.S.4:7-15 et seq. A person who violates  
 11 this subsection shall be liable to a civil penalty of \$100, to be  
 12 collected in a summary proceeding pursuant to the “Penalty  
 13 Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10 et seq.).  
 14 If the violation is of a continuing nature, each day during which it  
 15 continues shall constitute a separate and distinct offense. The  
 16 municipal court and the Superior Court shall have jurisdiction to  
 17 enforce the “Penalty Enforcement Law of 1999.”

18 b. The Department of Agriculture, the Department of  
 19 Environmental Protection, and any county or municipality shall  
 20 have the authority to enforce the provisions of this section.

21 c. As used in this section, “running bamboo” means any  
 22 bamboo in the genus *Phyllostachys*, including *Phyllostachys*  
 23 *aureosulcata*.  
 24

25 2. a. (1) No person shall plant running bamboo in the State  
 26 unless that person is a landscape architect licensed pursuant to  
 27 P.L.1983, c.337 (C.45:3A-1 et al.) or a home improvement contractor  
 28 registered with the Division of Consumer Affairs in the Department of  
 29 Law and Public Safety pursuant to P.L.2004, c.16 (C.56:8-136 et seq.),  
 30 or an employee or contractor of a licensed landscape architect or  
 31 registered home improvement contractor, and the person plants the  
 32 running bamboo in compliance with the requirements of subsection b.  
 33 of this section.

34 (2) A person who violates this subsection shall be liable to a civil  
 35 penalty of \$100, to be collected in a summary proceeding pursuant to  
 36 the “Penalty Enforcement Law of 1999,” P.L.1999, c.274 (C.2A:58-10  
 37 et seq.). If the violation is of a continuing nature, each day during  
 38 which it continues shall constitute a separate and distinct offense. The  
 39 municipal court and the Superior Court shall have jurisdiction to  
 40 enforce the “Penalty Enforcement Law of 1999.”

41 b. (1) A licensed landscape architect or registered home  
 42 improvement contractor, or employee or contractor thereof, shall not  
 43 plant running bamboo on any property within 100 feet of the property  
 44 boundary line or a public right-of-way unless: (a) the running bamboo

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
 not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AAN committee amendments adopted May 17, 2021.

1 is contained by a properly constructed barrier system that prevents the  
2 spread of roots underground; or (b) the running bamboo is planted  
3 above ground in a container or planter so that it is contained and does  
4 not come into contact with the surrounding soil.

5 (2) A licensed landscape architect or registered home  
6 improvement contractor who violates this subsection shall be <sup>1</sup>["issued  
7 a warning"] liable to a civil penalty of \$100<sup>1</sup> for the first offense <sup>1</sup>["  
8 For"] , and for<sup>1</sup> a second or subsequent offense, the licensed landscape  
9 architect or registered home improvement contractor shall be liable to  
10 a civil penalty of <sup>1</sup>["\$100"] \$250<sup>1</sup>, to be collected in a summary  
11 proceeding pursuant to the "Penalty Enforcement Law of 1999." The  
12 municipal court and the Superior Court shall have jurisdiction to  
13 enforce the "Penalty Enforcement Law of 1999 <sup>1</sup>["."] ," and in  
14 addition to imposition of the civil penalty, the court shall report the  
15 violation and offense to the Division of Consumer Affairs.

16 (3) The Division of Consumer Affairs shall maintain records of  
17 the violators and offenses reported pursuant to paragraph (2) of this  
18 subsection. Upon receiving multiple reports concerning a licensed  
19 landscape architect or registered home improvement contractor, the  
20 division may consider the reports grounds for review of the landscape  
21 architect's license or the home improvement contractor's registration  
22 for suspension or revocation. The number of reports that result in a  
23 review shall be at the discretion of the division<sup>1</sup>.

24 c. (1) A person who owns property on which running bamboo is  
25 planted pursuant to this section, or a subsequent purchaser of the  
26 property or person who takes possession of the property pursuant to a  
27 foreclosure or other legal action, shall be responsible for maintaining  
28 the running bamboo in compliance with subsection b. of this section.  
29 A person who fails to properly maintain the bamboo in compliance  
30 with this section shall be liable for any damages caused to any adjacent  
31 property by the running bamboo, including, but not limited to, the cost  
32 of removal of any running bamboo that grows on the adjacent  
33 property.

34 (2) If the spread of running bamboo onto an adjacent property is  
35 the result of improper planting of the bamboo by a licensed landscape  
36 architect or registered home improvement contractor, in violation of  
37 subsection b. of this section, the person who owns the property on  
38 which the running bamboo was planted, and who is being held liable  
39 for damages to the adjacent property, may seek indemnification from  
40 the licensed landscape architect or registered home improvement  
41 contractor.

42 d. The Department of Environmental Protection, the Department  
43 of Agriculture, and any county or municipality shall have the authority  
44 to enforce the provisions of this section.

45 e. This section shall not apply to running bamboo that was  
46 planted before the date of enactment of this section.

- 1       f. As used in this section, “running bamboo” means any bamboo  
2 in the genus *Phyllostachys*, including *Phyllostachys aureosulcata*.  
3
- 4       3. The Director of the Division of Consumer Affairs in the  
5 Department of Law and Public Safety shall require the property  
6 condition disclosure statement obtained from the seller, pursuant to  
7 paragraph (3) of subsection b. of section 1 of P.L.1999, c.76  
8 (C.56:8-19.1), to include the following question: “Are you aware of  
9 the presence of any bamboo or running bamboo (*Phyllostachys*  
10 *aureosulcata* or other bamboo in the genus *Phyllostachys*) on this  
11 property at any time in the past five years? If yes, describe the  
12 location of the running bamboo, and any action taken to remove or  
13 contain the running bamboo, if known.”  
14
- 15       4. This act shall take effect <sup>1</sup>**[immediately]** on the 60th day  
16 following the date of enactment<sup>1</sup>.