

WEEDS

CHAPTER 651

SENATE BILL NO. 2475
(Dotzenrod)

DEFINITION AND CONTROL OF NOXIOUS WEEDS

AN ACT to create and enact section 63-01.1-10.1; to amend and reenact subsections 4 and 5 of section 63-01.1-02 and sections 63-01.1-03, 63-01.1-04, 63-01.1-05, 63-01.1-06, subsection 2 of section 63-01.1-12, section 63-01.1-13 and subsection 1 of section 63-01.1-15 of the North Dakota Century Code; and to repeal section 63-01.1-07 of the North Dakota Century Code, all relating to the definition and control of noxious weeds.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsections 4 and 5 of section 63-01.1-02 of the 1977 Supplement to the North Dakota Century Code are hereby amended and reenacted to read as follows:

- 4. "Noxious weed" means any plant propagated by either seed or vegetative parts which is determined by the commissioner after consulting with the state cooperative extension service, or a county control authority after consulting with the county extension agent, to be injurious to public health, crops, livestock, land, or other property.
- 5. "Control authority" means the commissioner and those he may designate to act in his behalf, and the governing body of each county, organized township and city in North Dakota ~~and the governing body of each irrigation district, city, soil conservation district, or other political subdivision with a noxious weed control program organized under this chapter.~~

SECTION 2. AMENDMENT.) Section 63-01.1-03 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-03. STATE WEED CONTROL AUTHORITY - COMMISSIONER OF AGRICULTURE - POWERS AND DUTIES.)

1. The duty of enforcing this chapter and carrying out its provisions and intent is vested in the commissioner who may designate employees of his department and local weed control officers to act in his behalf, but under his supervision and direction.
2. The commissioner shall determine which weeds are noxious for the purposes of ~~this chapter~~ a state list of noxious weeds after consulting with the state cooperative extension service, and shall compile and keep current a list of such noxious weeds.
3. The commissioner shall outline procedures, prepare and supply official notices, posters, report forms, and such other documents as are needed in carrying out the provisions of this chapter. Such documents shall be supplied to weed control officers, county, township and special-control city authorities, and others as needed to carry out an effective weed control program. Official notices or posters such as the noxious weed list, rules and regulations, dates for controlling, and other compliance requirements shall be prepared by the commissioner ready for printing in official newspapers, or for posting at least annually.
4. The commissioner shall cooperate with the county, township and special-control city authorities, local weed control officers, highway patrol officers, county sheriffs, the truck regulatory division, and others in carrying out his duties under this chapter. He shall also encourage the state cooperative extension service to disseminate information and to conduct educational campaigns with respect to eradication and control of noxious weeds.
5. The commissioner upon receiving complaints in writing from persons shall immediately refer the complaint to the proper weed control officer, ~~and county~~ or ~~special~~ control authority.
6. The commissioner shall encourage the cooperation of program agencies of both the federal and state governments in furtherance of the purposes of this chapter.
7. The commissioner shall prescribe, in accordance with chapter 28-32 of the North Dakota Century Code, and cause to be published, such rules, regulations, and procedures as he deems necessary to carry out the intent of this chapter.
8. The commissioner shall require a minimum number of operational or program reports from weed control authorities or weed control officers as deemed necessary to keep posted on weed control progress and activity in the state.

9. The commissioner shall call an annual meeting of all weed control officers, either statewide or by areas, to review the intent, operation, procedures, and accomplishments under this chapter and may also request the extension service or others to present educational information on weed control practices. Weed control authority members shall be invited to attend meetings called pursuant to this subsection.

SECTION 3. AMENDMENT.) Section 63-01.1-04 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-04. ~~COUNTY~~ GOVERNING BODY AS CONTROL AUTHORITY - POWERS AND DUTIES.)

1. The board of county commissioners of each county in the state shall be the control authority for that county; the board of township supervisors in each organized township in the state shall be the control authority for that township; and the city council or board of city commissioners of each city in the state shall be the control authority for that city.
2. ~~The board--of--county--commissioners governing body shall~~ appoint or designate a ~~county~~ weed control officer who shall cooperate with the commissioner and be responsible for operation and enforcement of this chapter within the county. Such officer may be a member of the ~~board-of-county-commissioners governing body~~ or may be any other interested and able person. The same person may serve as weed control officer for more than one ~~county governing body~~. Employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses as the ~~county-commissioners governing body~~ may prescribe and shall be without regard to any provisions of law relating to age or dual compensation. ~~Compensation for the weed control officer and other necessary expenses shall--be--paid--out--of--the--general--funds--of--the--county--as provided--in--section--63-01-1-06.~~ The appointment or designation of a weed control officer shall be certified by the ~~county~~ governing authority to the commissioner.
3. The control authority of any county, city, or township may expend such funds from those sources authorized in section 63-01.1-06 for the purpose of controlling noxious weeds, in addition to any other expenditures for control authorized by this chapter, when such weeds have grown on any public or private land and the control authority finds that the extent of such weeds is so severe that their eradication would constitute an extreme financial burden upon the person otherwise liable for such expense.

4. The control authority of any county may develop and compile a county list of noxious weeds for the purposes of such county. Any such county list shall, at a minimum, contain those noxious weeds determined by the commissioner. The commissioner may remove the county noxious weed determination from the county list after consulting with the board of county commissioners and the state cooperative extension service.
5. Any control authority shall cooperate with any other control authority.

SECTION 4. AMENDMENT.) Section 63-01.1-05 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-05. DUTIES OF WEED CONTROL OFFICER.) The weed control officer shall:

1. Cooperate with ~~the other control authority~~ authorities and officers, the county extension agent, ~~township supervisors~~, county land users, the commissioner, and others in furtherance of the provisions of this chapter.
2. Become acquainted with the location of noxious weeds on all land within the ~~county~~ jurisdiction of the control authority.
3. Through personal contact, by letter, telephone, or other means, encourage noxious weed control or eradication by all landowners or occupants within the control authority area.
4. Investigate all complaints received by himself, the control authority, or the commissioner. If the control officer determines that the complaint is justified, he shall issue written notice to the person controlling the land, which notice shall require that person to control or eradicate noxious weeds on his land within five days, unless additional time is requested from and granted by the control authority. The control officer may cause such weeds and grasses to be cut or controlled and the expenses shall be charged against the land of the landowner or such persons controlling the land and shall become a part of the taxes to be levied against the land for the ensuing year and shall be collected in the same manner as other real estate taxes are collected, and placed to the credit of the respective subdivisions entitled thereto, or the landowner and such persons controlling the land shall be subject to the penalties provided in section 63-01.1-15. Complaints, subject to the approval of the control authority, may be initiated by the control officer, and notice served in accordance with this subsection.

5. Cause to be posted or inserted in official newspapers such official notices as the commissioner may deem necessary in the furtherance of this chapter.
6. Prepare reports as requested by the commissioner.
7. Attend area or statewide meetings called by the commissioner for the purpose of assisting in the effective execution of this chapter.
8. Serve as county seed inspector for the purposes of enforcing such laws and regulations under the jurisdiction of the North Dakota state seed department as shall be directed by the state seed commissioner.

SECTION 5. AMENDMENT.) Section 63-01.1-06 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-06. FUNDING COUNTY OF PROGRAMS.)

1. The board of county commissioners may pay from the general fund expenses in any one year in furtherance of this weed control chapter, including weed control along county highways.
- 2- The board of county commissioners of any county, when it deems it necessary or when petitioned by at least five percent of the voters voting in the last general election, may submit the question of whether to levy a tax, not to exceed two mills on the assessed valuation of all taxable property therein, to the electorate of the county. The levy may be made to cover the salary and expenses of the county weed control officer, the expense of weed control along county highways, and other expenses incurred in the operation of an effective weed control program in the county. Upon approval of sixty percent of the voters of the county voting on the question, the tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
2. The township board of supervisors may pay for any expenses incurred in control of noxious weeds in accordance with the provisions of this chapter in the manner provided in section 63-01.1-10. Expenses of any township may also be paid by a township tax levy made by the township board of supervisors in the manner provided for a county levy under subsection 1 of this section.
3. The governing body of any city may pay any expenses incurred by it in carrying out the provisions of this chapter from such city's general fund revenues.

SECTION 6.) Section 63-01.1-10.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

63-01.1-10.1. CITIES TO CONTROL NOXIOUS WEEDS WITHIN CITIES.) The governing body of any city, when acting as a control authority, shall eradicate or control noxious weeds as defined in this law when found within or adjacent to such city, and may act in conjunction with any other control authority or officer also required to act under this law.

SECTION 7. AMENDMENT.) Subsection 2 of section 63-01.1-12 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. ~~Custom--or--commercial~~ All operators of tillage, seeding, and harvesting equipment shall be required to clean such equipment to prevent the spread of noxious weeds by seed or other propagating parts prior to moving such equipment on public highways, airways, waterways, or by any other means of conveyance, public or otherwise. Trucks or trailers transporting grain screenings shall be constructed and covered so as to prevent weed seed dissemination. Scattering and dumping on land or in water of any material containing noxious weed seeds or propagating parts is prohibited unless such material has been processed or treated, or is buried sufficiently deep to destroy seeds and other propagating parts.

SECTION 8. AMENDMENT.) Section 63-01.1-13 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

63-01.1-13. PUBLICLY OWNED LAND - WEED CONTROL.) The commissioner shall make every effort possible to arrange a satisfactory noxious weed eradication or control program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state. Weed control officers shall make every effort possible to arrange a satisfactory noxious weed eradication or control program with cities, park boards, cemeteries, school boards, counties, and other local entities owning or controlling public land within the control authority. State agencies controlling or having jurisdiction over lands within the state shall provide for eradication or control of noxious weeds on such lands. In the event that agencies coming within the provisions of this section shall fail or refuse to eradicate or control noxious weeds in accordance with this section, the commissioner may hold a public hearing under such conditions and terms as he shall deem advisable, to determine the reason for such failure or refusal.

SECTION 9. AMENDMENT.) Subsection 1 of section 63-01.1-15 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. Any--person Custom or commercial operators of tillage, seeding, and harvesting equipment who violates the provisions of subsection 2 of section 63-01.1-12 shall be guilty of a class B misdemeanor. The weed control officers or control authorities shall institute necessary criminal actions under this subsection.

SECTION 10. REPEAL.) Section 63-01.1-07 of the North Dakota Century Code is hereby repealed.

Approved March 23, 1979