

# WEEDS

## CHAPTER 601

### SENATE BILL NO. 2280

(Senators Klein, Erbele, Krauter)

(Representative Boe)

## NOXIOUS WEED AND PEST ERADICATION

AN ACT to create and enact seventeen new sections to chapter 63-01.1 of the North Dakota Century Code, relating to the control of eradication of noxious weeds and pests; to amend and reenact subsection 1 of section 4-33-11 and sections 63-01.1-01, 63-01.1-02, 63-01.1-03, 63-01.1-03.1, 63-01.1-04, 63-01.1-04.1, 63-01.1-05, 63-01.1-05.1, 63-01.1-06, 63-01.1-08, 63-01.1-09, 63-01.1-10.1, 63-01.1-12, 63-01.1-12.1, 63-01.1-12.2, 63-01.1-13, 63-01.1-14, and 63-01.1-15 of the North Dakota Century Code, relating to the control and eradication of noxious weeds and pests; to repeal section 63-01.1-04.2 of the North Dakota Century Code, relating to pest control by county weed boards; to provide for reports to the legislative council; and to provide a penalty.

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

**SECTION 1. AMENDMENT.** Subsection 1 of section 4-33-11 of the North Dakota Century Code is amended and reenacted as follows:

1. The governing body of any political subdivision may appropriate money for the control of pests under this chapter or ~~section 63-01.1-04.2~~ chapter 63-01.1. If state funds are involved, the money must be expended according to control plans approved by the commissioner. The governing body of a political subdivision shall determine the portion, if any, of control program costs that should be paid by the political subdivision. Costs of the control program may be paid by moneys in the emergency fund. If the emergency fund is not sufficient to carry out the program, the governing body may expend money from the general fund and in this event the governing body, except the governing body of a park district, upon approval of sixty percent of those voting in any special election or the next regularly scheduled primary or general election, may levy a tax during the following year upon all taxable property in the political subdivision to fully reimburse the general fund for the amount expended except that the levy may not exceed the limitation in subsection 1 of section 57-15-28.1.

**SECTION 2. AMENDMENT.** Section 63-01.1-01 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-01. Control and eradication of noxious weeds.** ~~It shall be the duty of every~~ Every person in charge of or in possession of land in this state, whether as landowner, lessee, renter, or tenant, under statutory authority or otherwise, ~~to shall control or eradicate or to control the spread~~ shall control or eradicate of noxious weeds on those lands.

**SECTION 3. AMENDMENT.** Section 63-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-02. Definitions.** As used in this chapter:

1. "Board member area" means a geographical area within the county from which a member of the weed board is appointed.
2. "City weed control officer" means an individual designated by a city weed board to be responsible for the operation and enforcement of this chapter within the city.
3. "Commissioner" means the agriculture commissioner or the commissioner's designee.
- ~~3-~~ 4. "Control" means to prevent the spread of any noxious weed, ~~designated by the commissioner or other control authority,~~ by seed or any other propagating part or, ~~if authorized,~~ to suppress, eradicate, ~~or prevent,~~ or retard the spread of a pest.
- 4- 5. "Control authority" means the commissioner, ~~the a county weed board, and, pursuant to the county weed board's authorization, the a county weed control officer,~~ a county weed board, or a city weed control officer.
- 5- "~~County weed board~~" ~~means members of the board of each county as appointed pursuant to section 63-01.1-04.~~
6. "County weed control officer" means ~~the person~~ an individual designated by the county weed board to be responsible for the operation and enforcement of this chapter within each county.
7. "Eradicate" ~~or "eradication"~~ means to destroy a plant or, ~~if authorized,~~ a pest so that it is not viable.
8. "Highway, street, or road" means a public way for purposes of vehicular travel, including the entire area within the right of way. A highway in a rural area may be called a "road" and a highway in an urban area may be called a "street".
- 9- 9. "Landowner" means any owner of federal, state, municipal, or private land, under statutory authority or otherwise. The term does not include a lessee, renter, tenant, operator, or an owner of any easement or right of way.
- 9- 10. "Noxious weed" means ~~any~~ a plant propagated by either seed or vegetative parts and which is determined by the commissioner after consulting with the North Dakota state university extension service, ~~or which is determined by~~ a county weed board after consulting with the county extension agent, to be injurious to public health, crops, livestock, land, or other property.
- 40- 11. "Operator" means the person ~~chiefly~~ responsible for ~~the~~ farming operations or other operations being performed on the land, whether for self-benefit, or for the benefit of the landowner or another.

11. "Person" means any individual, partnership, firm, corporation, limited liability company, company, society, association, the state, or any department, agency, or subdivision thereof, or any other entity which occupies or owns land or which causes noxious weed seeds or propagating parts to be disseminated or transported in this state.
12. "Pest" means any pest defined in section 4-33-01 and includes a prairie dog.
13. "Township road" means a an improved public road that is an improved road, not located in an incorporated city and not designated as part of a county, state, or federal-aid road system, but constructed, maintained, graded, and drained by the township, or county in the case of an unorganized township. A township road includes a street in an unincorporated townsite and; does not necessarily have to be surfaced. A; does not include a sodded road is not a township road. In order for; and includes a section line to be a township road it must be if that section line is graded and, drained, and be an improved a maintained road. A township road is a public road that is not designated as part of a county, state, or federal-aid road system and is not located in an incorporated city.

**SECTION 4. AMENDMENT.** Section 63-01.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-03. State weed control authority - Agriculture commissioner - Powers and duties Duties.** The commissioner shall:

1. The duty of enforcing Enforce this chapter and carrying out its provisions and intent is vested in the commissioner. The commissioner shall cooperate;
2. Cooperate with other weed control authorities-
- 2- The commissioner shall determine and law enforcement officers;
3. Determine which weeds are noxious for the purposes of a state list of noxious weeds after consulting with the North Dakota state university extension service and shall compile;
4. Compile and keep ~~current~~ a list of noxious weeds-
- 3- The commissioner shall outline;
5. Establish procedures; and prepare and supply official all notices, posters, ~~report~~ forms, and other documents needed in carrying out this chapter. The commissioner shall supply these documents to weed control officers, county, township, and city authorities, and others as needed to carry out an effective weed control program or, if authorized, pest control program. The commissioner shall prepare notices or;
6. Prepare all notices and posters including featuring the noxious weed list, rules, dates for controlling noxious weeds, and other compliance requirements, for printing in official newspapers or for posting at least annually-

4. ~~The commissioner shall cooperate with the county weed board, county weed control officers, highway patrol officers, county sheriffs, and others in enforcing this chapter. The commissioner shall also encourage;~~
7. ~~Encourage~~ the North Dakota state university extension service to disseminate information and to conduct educational campaigns with respect to the control and eradication and control of noxious weeds ~~or, if authorized, and pests.~~
5. ~~The commissioner upon receiving a written complaint shall immediately refer the complaint;~~
8. Except as otherwise provided, forward all written complaints to the proper weed control officer ~~or control authority.~~
6. ~~The commissioner shall encourage the cooperation of agencies of both the federal and state governments in furtherance of the purposes of this chapter.~~
7. ~~The commissioner may adopt rules to carry out the intent of this chapter.~~
8. ~~The commissioner may require operational or program reports from weed control authorities or weed control officers regarding weed control progress and activity in the state and, if authorized, pest control progress and activity in the state.;~~
9. ~~The commissioner shall call~~ 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 North Dakota state university extension service or others to present educational information on weed control practices or, if authorized, pest control practices. Weed control authority members must be invited to attend meetings called pursuant to this subsection invite all weed control authority members to attend; and~~
10. Encourage the cooperation of federal and state agencies in furthering this chapter.

**SECTION 5.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**State weed control authority - Agriculture commissioner - Powers.** The commissioner may require operational reports and program reports from weed control authorities regarding both noxious weed control and pest control.

**SECTION 6. AMENDMENT.** Section 63-01.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-03.1. County weed board - Jurisdiction.** All land within the boundaries of North Dakota, including all federal, state, private, and municipally owned lands, is included in the county weed board's jurisdiction within the county in which the land is located. The jurisdiction of each county weed board extends to all land within the county but does not include any land within the corporate limits of a city if that city has its own noxious weed control program under this chapter.

**SECTION 7. AMENDMENT.** Section 63-01.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-04. County weed board as control authority - Members - Terms - Compensation.**

1. ~~The county weed board of each county is the control authority for that county.~~
2. ~~The Each board of county commissioners shall establish the number of members of the board and shall establish county weed board member areas. Each county weed board member area must be contiguous.~~
2. ~~The board of county commissioners shall appoint a county weed board consisting of five or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms of members must be staggered so that the terms of no more than two members expire each year. Any qualified elector residing in the board member area subject to taxation is eligible to represent that area on the board. In each county encompassing a city with a population of five thousand or more, one board member must be appointed from within the city corporate limits of that city unless the city has established a city its own noxious weed control program pursuant to section 63-01.1-10.1 under this chapter.~~
3. ~~A board member shall assume office at the first regular meeting of the county weed board following that member's appointment.~~
4. ~~The board of county commissioners shall remove a member of the county weed board for repeated unexcused failure failures to attend meetings or, for refusal or incapacity to act as a board member. When, or for incapacity. If a vacancy occurs on a county weed board, the board of county commissioners, at its next regular meeting, shall appoint an individual, who possesses the necessary qualifications, as a board member to fill the unexpired term.~~
5. ~~The county weed board shall elect from its members a chairman and a vice chairman, and shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the county weed board.~~
6. ~~The board of county commissioners may set rates of compensation for board members. Board members are entitled to reimbursement for actual and necessary expenses and a mileage allowance at the rate established for state employees.~~

**SECTION 8. AMENDMENT.** Section 63-01.1-04.1 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-04.1. Powers and duties of county County weed board - Duties.**

1. ~~The Each county weed board shall designate a county weed control officer who shall cooperate with the board and be responsible for the operation and enforcement of this chapter within the district county. The county weed control officer may be a member of the county weed board or may be any other interested and able person. The same person. An~~

- individual may serve as a weed control officer for more than one county weed board. Employment is for a tenure and at rates of compensation and reimbursement for travel expenses as the county weed board may prescribe and is without regard to any provisions of law relating to age or dual compensation. ~~The~~ A county weed board shall certify the designation of a county weed control officer to the commissioner.
2. The county weed board may expend funds from these 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 weeds have grown on any public or private land and a control authority finds that the extent of the weeds is so severe that their eradication would constitute an extreme financial burden upon the person otherwise liable for the expense.
  3. The county weed board may develop and compile a county list of noxious weeds. Any county list shall, at a minimum, contain those noxious weeds determined by the commissioner. The commissioner may remove a county weed board noxious weed determination from the county list after consulting with the board and the North Dakota state university extension service.
  4. County weed boards Each county weed board shall cooperate with all other control authorities.
  5. ~~The~~
  3. Each county weed board shall implement and pursue an effective a program for the control of noxious weeds ~~and, if authorized, pests.~~
  6. ~~The~~
  4. Each county weed board shall fix the time and place of regular meetings. ~~The~~ Each board shall meet at least once each year ~~and the meeting is.~~ All meetings are open to the public. ~~The~~ Each board shall keep minutes of ~~all~~ its meetings and a complete record of all official acts.
  7. ~~The~~
  5. Each county weed board shall ~~make~~ conduct at least one annual inspection to determine the progress of noxious weed control activities within the county ~~and, if authorized, the progress of pest control activities within the county.~~
  8. ~~The~~
  6. Each county weed board shall control and disburse all moneys received by the county, for noxious weed control, from any source.
  9. ~~The~~
  7. Each county weed board shall ~~render~~ provide technical assistance to any city ~~with~~ that has a population of three thousand or more ~~and~~ which establishes a its own noxious weed control program ~~as provided in~~ section 63-01.1-10.1 under this chapter.

10. The county weed board may authorize the county weed control officer in cooperation with local law enforcement personnel to stop and inspect vehicles suspected of transporting noxious weed-infested materials.

**SECTION 9.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**County weed board - Powers.** A county weed board may:

1. Authorize the county weed control officer to cooperate with local law enforcement personnel in stopping and inspecting vehicles suspected of transporting noxious weed-infested materials.
2. Expend funds from all available sources if a control authority determines that the extent of noxious weed infestation on certain land is so severe that eradication would place an extreme financial burden on the person otherwise liable for the expense.
3. Employ additional personnel to assist with noxious weed control and eradication efforts.

**SECTION 10.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**County weed board - Development of county weed list.** A county weed board may develop and compile its own list of noxious weeds, provided the list includes all weeds determined to be noxious by the commissioner. The commissioner, after consulting with the county weed board and the North Dakota state university extension service, may require that a county weed board remove a noxious weed from its list.

**SECTION 11. AMENDMENT.** Section 63-01.1-05 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-05. Duties of county weed control officer.** The county weed control officer shall:

1. Cooperate with ~~the county weed board, other all weed control authorities and weed control officers, the~~ county extension agent, county agents, land users, the commissioner, and others in furtherance of ~~the provisions of~~ to further this chapter.
2. Become acquainted with the location of noxious weeds and, if authorized, ~~pests~~ on all land within the county.
3. Through personal contact, by letter, telephone, or other means, encourage Encourage noxious weed and, if authorized, ~~pest~~ control or eradication by all landowners or and land occupants within the county.
4. Investigate all complaints regarding noxious weeds received by the county weed control officer, the county weed board, or the commissioner any control authority.
5. Take ~~proper~~ enforcement action when necessary.

6. ~~Cause to be posted or inserted~~ Post or publish in official newspapers ~~these official~~ any notices the commissioner ~~may deem~~ determines necessary in the furtherance of to further noxious weed control or eradication under this chapter.
7. Prepare reports as requested by the commissioner.
8. Attend area or statewide meetings called by the commissioner ~~for the purpose of assisting in the effective execution of~~ to further noxious weed control or eradication under this chapter.
9. ~~Serve as county seed inspector for the purposes of enforcing the laws and regulations under the jurisdiction of the state seed department as directed by the state seed commissioner.~~

**SECTION 12.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board members - Terms - Compensation.**

1. If the governing body of a city elects to establish a noxious weed control program for the city, the governing body shall appoint a city weed board consisting of five or seven members. Members shall serve for a term of four years or until their successors are appointed and qualified. The terms must be staggered so that no more than two expire each year. Any qualified elector residing within the city is eligible to serve on the board.
2. A board member shall assume office at the first regular meeting of the city weed board following that member's appointment.
3. The governing body of the city shall remove a member of the city weed board for repeated unexcused failures to attend meetings, for refusal to act as a board member, or for incapacity. If a vacancy occurs on a city weed board, the governing body of the city, at its next regular meeting, shall appoint an individual who possesses the necessary qualifications to fill the unexpired term.
4. The city weed board shall elect from its members a chairman and a vice chairman and shall appoint a secretary and a treasurer. The secretary and treasurer need not be members of the city weed board.
5. The governing body of the city may set rates of compensation for city weed board members. City weed board members are entitled to reimbursement for actual and necessary expenses and a mileage allowance at the rate established for city employees.

**SECTION 13.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board - Duties.**

1. Each city weed board shall designate a city weed control officer who shall cooperate with the board and be responsible for the operation and enforcement of this chapter within the city. The city weed control officer may be a member of the city weed board. An individual may serve as a

weed control officer for more than one weed board. Employment is for a tenure and at rates of compensation and reimbursement for travel expenses as the city weed board may prescribe and is without regard to any provision of law relating to dual compensation. A city weed board shall certify the designation of a city weed control officer to the commissioner.

2. Each city weed board shall cooperate with all other control authorities.
3. Each city weed board shall implement and pursue an effective program for the control of noxious weeds.
4. Each city weed board shall fix the time and place of regular meetings. Each board shall meet at least once each year. All meetings are open to the public. Each board shall keep minutes of its meetings and a complete record of all official acts.
5. Each city weed board shall conduct at least one annual inspection to determine the progress of weed control activities within the city.
6. Each city weed board shall control and disburse all moneys received by the city from any source for noxious weed control.

**SECTION 14.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board - Powers.** A city weed board may:

1. Authorize the city weed control officer to cooperate with local law enforcement personnel in stopping and inspecting vehicles suspected of transporting noxious weed-infested materials.
2. Expend funds from all available sources if a control authority determines that the extent of noxious weed infestation on certain land is so severe that eradication would place an extreme financial burden on the person otherwise liable for the expense.
3. Employ additional personnel to assist with noxious weed control and eradication efforts.

**SECTION 15.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board - Development of city weed list.** A city weed board may develop and compile its own list of noxious weeds, provided the list includes all weeds determined to be noxious by the commissioner. The commissioner, after consulting with the city weed board and the North Dakota state university extension service, may require that a city weed board remove a noxious weed from its list.

**SECTION 16.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**Duties of city weed control officer.** The city weed control officer shall:

1. Cooperate with all weed control authorities, county extension agents, land users, and others to further this chapter.

2. Become acquainted with the location of noxious weeds on all land within the city.
3. Encourage noxious weed control or eradication by all landowners and land occupants within the city.
4. Investigate all complaints received by any control authority regarding noxious weeds within the city.
5. Take enforcement action when necessary.
6. Post or publish in the official newspaper of the city any notices the commissioner deems necessary to further noxious weed control or eradication under this chapter.
7. Prepare reports as requested by the commissioner.
8. Attend area or statewide meetings called by the commissioner to further noxious weed control or eradication under this chapter.

**SECTION 17. AMENDMENT.** Section 63-01.1-05.1 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-05.1. Certification of county and city weed control officers - Extension service.**

1. The commissioner ~~shall adopt rules setting the requirements for certification categories of county weed control officers~~, after consultation with the director of the agricultural experiment station and the director of the North Dakota state university extension service, or their ~~respective~~ designees, shall adopt rules governing certification categories for county and city weed control officers. All designated ~~Before assuming any duties, each county and city weed control officers officer~~ must be certified ~~pursuant to the~~ under rules adopted by the commissioner ~~before assuming their duties.~~
2. The North Dakota state university extension service shall establish a program to provide educational instruction to ~~local~~ county and city weed control officers.

**SECTION 18. AMENDMENT.** Section 63-01.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-06. Funding of county programs.**

1.
  - a. The board of county commissioners may pay expenses from the county general fund in any one year in furtherance of to further the county noxious weed control program under this chapter, including to provide noxious weed control or eradication along public highways in the county.
  - b. The county weed board may certify annually to the board of county commissioners a tax, not to exceed two mills on the taxable valuation of all taxable property in the county, to carry out this chapter. ~~In addition, the county weed board, with the approval of a majority vote of the~~

- c. The board of county commissioners, by majority vote may certify up to two additional mills on the taxable valuation of all taxable property in the county: If a county assesses more than three mills, at least one mill must be dedicated to leafy spurge control. However, the tax may not be levied on, except property within the corporate limits of a city that establishes a program under section 63-01.1-10.1 this chapter.
- d. The board of county commissioners shall levy the tax.
- e. The county treasurer shall hold all taxes levied and collected in a separate funds to be fund known as the noxious weed control or eradication fund and the leafy spurge fund, which shall be used to carry out this chapter. The levy shall be made to cover the salary. Moneys in the fund must be used to pay the salaries and expenses of the county weed board, and the county weed control officer, the expense expenses of noxious weed control or eradication along public highways in the county, and any other expenses incurred in the operation of an effective a county noxious weed control or eradication program in the county. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
2. The commissioner shall allocate the funds county share of any legislative appropriation for noxious weed control or eradication to the county weed boards and cities which establish a program under section 63-01.1-10.1 pursuant to a formula adopted by the commissioner, after consultation with county weed boards. Landowners shall contribute a minimum of twenty percent of the cost of noxious weed control on their land. No A county weed board or city may not receive an amount in excess of more than one-half of the board's or city's actual cost-share expenditures for noxious weed control or eradication from any legislative appropriation, unless the appropriation provides assistance in noxious weed control to a board or city under subsection 3.
3. If a commissioner in consultation with the county weed board determines a noxious weed is seriously endangering areas of a county or the state, assistance in control may be provided by legislative appropriation. The commissioner shall allocate the appropriation accordingly, and the commissioner and each affected county weed board and city which establishes a program under section 63-01.1-10.1 shall be responsible for ensuring that the funds are properly expended.
4. 3. To be eligible to receive state landowner assistance cost-share funds dollars a county shall must levy a minimum of at least three mills for noxious weed or leafy spurge control or eradication. The request for allocated funds pursuant to subsections 2 and 3 cost-share dollars must be initiated by the a county weed board or city which establishes a program under section 63-01.1-10.1 by submitting a voucher and documentation. Upon approval of the voucher and documentation by the commissioner, the office of management and budget shall make the payment out of funds appropriated for the control or eradication of noxious weeds.
4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost.

**SECTION 19.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**Funding of city programs.**

1.
  - a. The governing body of the city may pay expenses from the city general fund to further the city's noxious weed control program under this chapter, including to provide noxious weed control along public highways in the city.
  - b. The city weed board may certify annually to the governing body of the city a tax, not to exceed two mills on the taxable valuation of all taxable property in the city, to further its noxious weed control program under this chapter.
  - c. The governing body of the city may by majority vote certify up to two additional mills on the taxable valuation of all taxable property in the city to further its noxious weed control program under this chapter.
  - d. The governing body of the city shall levy the tax.
  - e. The city treasurer shall hold all taxes levied and collected under this section in a separate fund known as the noxious weed control or eradication fund. Money in the fund must be used to pay the salaries and expenses of the city weed board and the city weed control officer, the expenses of noxious weed control along public highways in the city, and any other expenses incurred in the operation of a city noxious weed control program. The tax may be levied in excess of the mill levy limit prescribed by law for general purposes.
2. The commissioner shall allocate any legislative appropriation for noxious weed control or eradication to the city weed boards, pursuant to a formula adopted by the commissioner, after consultation with city weed boards. A city weed board may not receive more than one-half of the city's actual cost-share expenditures for noxious weed control or eradication from any legislative appropriation, unless the commissioner in consultation with the city weed board determines a noxious weed is seriously endangering areas of a city.
3. To be eligible to receive state cost-share dollars, a city must levy at least three mills for noxious weed control or eradication. The request for cost-share dollars must be initiated by a city weed board by submitting a voucher and documentation to the commissioner. Upon approval of the voucher and documentation by the commissioner, the office of management and budget shall make the payment out of funds appropriated for the control or eradication of noxious weeds.
4. If a program for the control or eradication of noxious weeds involves landowner participation, the landowner must contribute an amount equal to at least twenty percent of the total cost.

**SECTION 20. AMENDMENT.** Section 63-01.1-08 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-08. Entry upon land for noxious weed control or eradication purposes - Notices - Landowner rights - Remedial requirements - Liens - Penalty.**

1. Any control authority ~~and anyone authorized thereby,~~ or its agent may enter upon ~~all land under their~~ within its jurisdiction ~~for the purpose of performing their to perform~~ duties and ~~exercising their to exercise~~ powers under this chapter, including the taking of specimens of weeds ~~or, if authorized, pests~~ or other materials, without the consent of the landowner, lessee, renter, tenant, or operator, and without being subject to any action for trespass or damages, including damages for destruction of growing crops, if reasonable care is exercised.
2. If any land within a city that has a noxious weed control or eradication program is found to be infested with noxious weeds by any control authority, the city weed control officer may serve upon the landowner written notice either personally or by certified mail, requiring the landowner to control or eradicate the noxious weeds within the time period prescribed by the city weed control officer. The landowner may request additional time from the city weed board. The notice must state that the landowner may be subject to the penalties provided in section 63-01.1-15 if the landowner fails to comply. The notice must specify minimal remedial requirements. A copy of the notice may be sent by certified mail to any tenant, lessee, or operator of the land. If the city weed board will control or eradicate the noxious weeds upon failure of the landowner to do so, the notice must include a statement of costs. If the landowner does not control or eradicate the noxious weeds within the time specified, the city weed control officer may cause the noxious weeds to be controlled or eradicated and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes. If the city weed board intends to control or eradicate the noxious weeds, the notice must include a statement informing the landowner that the landowner may request that the city weed board not control or eradicate the noxious weeds. If the landowner requests that the city weed board not control or eradicate the noxious weeds, the board may not control or eradicate the noxious weeds until control or eradication is authorized by a majority vote of the city governing body.
3. If any other land is found to be infested with noxious weeds ~~or, if authorized, pests~~ by any control authority, the county weed control officer may serve upon the landowner written notice either personally or by certified mail, requiring the landowner to control or eradicate the noxious weeds ~~or, if authorized, pests~~ within the time period prescribed by the county weed control officer. ~~If the landowner resides in another state, the landowner shall control or eradicate the noxious weeds or, if authorized, pests within the time period prescribed by the county weed control officer.~~ Additional time may be requested. The landowner may request additional time from the county weed board. The notice must specify state that the landowner may be subject to the penalties provided in section 63-01.1-15 if the landowner fails to comply. The notice must specify minimal remedial requirements. A copy of the notice may be sent by certified mail to any tenant, lessee, or operator of the land. If the county weed board will control or eradicate the noxious weeds ~~or, if authorized, pests~~ upon failure of the landowner to control or

~~eradicate the noxious weeds or, if authorized, pests, the notice must also include a statement of costs. If the landowner does not control or eradicate the noxious weeds or, if authorized, pests within the time specified time, the county weed control officer may cause the noxious weeds or, if authorized, pests to be controlled or eradicated and the expenses charged against the land of the landowner. These expenses are part of the taxes to be levied against the land for the ensuing year and must be collected in the same manner as other real estate taxes. If the county weed board intends to control or eradicate the noxious weeds or, if authorized, pests, the notice must include a statement informing the landowner that the landowner may request that the county weed board not to control or eradicate the noxious weeds or, if authorized, pests. If the landowner requests that the county weed board not to control or eradicate the noxious weeds or, if authorized, pests, the board may not control or eradicate the noxious weeds or, if authorized, pests until control or eradication is authorized by a majority vote of the board control is authorized.~~

**SECTION 21. AMENDMENT.** Section 63-01.1-09 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-09. County weed board to control or eradicate noxious weeds and pests along county and township roads and highways.** The county weed board shall control or eradicate ~~or control~~ noxious weeds ~~or, for purposes of section 63-01.1-04.2, pests as defined in this chapter~~ along county and township roads and highways ~~within the county~~ and the expense incurred for noxious weed control or eradication must be paid from funds as provided in section 63-01.1-06.

**SECTION 22. AMENDMENT.** Section 63-01.1-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-10.1. Cities to control Control of noxious weeds within cities.**

- 1- The governing body of any city, ~~with having~~ a population of three thousand or more, may act as a control authority, and may establish and administer a program for the control or eradication of noxious weeds within the jurisdictional limits of the city. If a program is not established, the county weed board shall administer a program for the city.
- 2- The governing body of any city with a population of three thousand or more may levy a tax, ~~not to exceed two mills on the taxable valuation of property within the corporate limits of the city, to establish and administer the program.~~
- 3- Moneys received by the cities from the levy may be used in any phase of weed control as determined by the governing body of the city. The control program shall include work on weeds included on any county or state noxious weed list.
- 4- The governing body of a city which establishes a control program may petition the agriculture commissioner for special assistance in funding authorized by section 63-01.1-06.
- 5- The governing body of any city may act in conjunction with any other control authority or officer also required to act under this chapter.

**SECTION 23. AMENDMENT.** Section 63-01.1-12 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-12. Preventing dissemination of noxious weeds.**

1. To prevent the dissemination of noxious weeds by machinery, trucks, harvesting, or other farm equipment, ~~or and to prevent the dissemination of noxious weeds during transportation of plants, forage, screenings, dirt, and other articles which may be transported by any means, the commissioner shall; from time to time,~~ publish a list of the possible methods of disseminating the by which noxious weeds or their propagating parts of such weeds can be disseminated.
2. All operators of tillage, seeding, and harvesting equipment shall ~~be required to clean such their~~ equipment to prevent the spread of noxious weeds by seed or other propagating parts prior to moving such their equipment on public highways, airways, waterways, or by any other means of conveyance, public or otherwise. Trucks or trailers transporting grain screenings ~~shall must~~ be constructed and covered so as to prevent noxious 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 the material has been processed or treated, or unless it is buried sufficiently deep deeply enough to destroy the seeds and other propagating parts.

**SECTION 24. AMENDMENT.** Section 63-01.1-12.1 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-12.1. Quarantine period - Materials or farm products and area defined.**

1. ~~Whenever the commissioner, the county weed board, or anyone authorized thereby finds any~~ If a control authority determines that an area of the state to be is infested with noxious weeds, and it is established that if materials or farm products from that area are liable to spread noxious weeds into other areas to the injury of others, the commissioner shall; without unnecessary delay, declare a quarantine against the area to prevent the transfer of materials or farm products from the quarantined area. ~~When it is ascertained that~~ If noxious weeds are likely to be introduced into this state by the importation of materials or farm products, the commissioner shall declare a quarantine against the importation of those materials or farm products.
2. The commissioner shall declare ~~an individual county~~ a quarantine when requested by to do so through a resolution adopted by a two-thirds majority of the county weed board of the county having jurisdiction over the area in which the quarantine is to be declared.
3. For the purposes of this section, ~~"area";~~
  - a. "Area" means a geographical section of land as identified by the commissioner, which and may include cities and counties or any portion of a city or county; "farm products";

- b. "Farm products" means ~~all~~ crops, crop products, plants or portions thereof, ~~but shall not mean~~ of plants, but does not include livestock; ~~and "materials"~~.
- c. "Materials" means gravel or other substances that can be transported over a state highway, street, or road.

**SECTION 25. AMENDMENT.** Section 63-01.1-12.2 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-12.2. ~~Noxious weed~~ Weed-free certification - Gravel and sand pits and hay land.**

1. The commissioner, after ~~consultation~~ consulting with the North Dakota state university extension service, may adopt rules for certifying that gravel, scoria, or sand surface mining operations and land producing hay for sale or for resale are not contaminated with ~~noxious~~ weeds. The rules must identify the extent ~~noxious~~ to which weeds are allowed with certification.
2. The ~~county~~ weed board, after ~~consultation~~ consulting with the North Dakota state university extension service, may certify gravel, scoria, or sand surface mining operations and land producing hay for sale or for resale as not contaminated with ~~noxious~~ weeds.
3. The commissioner shall adopt a schedule of fees that ~~county~~ weed boards and the North Dakota state university extension service may charge for inspecting, testing, analyzing, and certifying gravel, scoria, or sand surface mining operations and hay land.
4. Certification of gravel, scoria, ~~or~~ sand surface mining operations, or hay land is not a warranty of any kind as to the quality of the gravel, sand, or hay produced from an inspected and certified location. The only representation made is that land from which sand and gravel is surface mined or land producing hay for sale or resale has been inspected for weed contamination ~~by noxious weeds~~ under rules adopted by the commissioner.

**SECTION 26. AMENDMENT.** Section 63-01.1-13 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-13. Publicly owned land - ~~Weed and pest~~ Noxious weed control or eradication.**

1. The commissioner shall attempt to arrange a ~~satisfactory~~ noxious weed ~~and pest eradication or control~~ or eradication program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state. ~~Weed~~
2. Weed control officers shall attempt to arrange a ~~satisfactory~~ noxious weed ~~or, if authorized, pest eradication or control~~ or eradication program with ~~cities, park boards, cemeteries, school boards, counties, and other local entities~~ political subdivisions owning or controlling public land within ~~the control authority~~ each weed control officer's jurisdiction. ~~State agencies controlling or having jurisdiction over lands within the~~

3. Each state agency shall provide for eradication or the control or eradication of noxious weeds and pests on such lands. Upon failure of any land within its jurisdiction. If a state agency fails to adequately control or eradicate noxious weeds or, if authorized, pests on land under its control jurisdiction, the county weed board for the county in which all or a portion of the land is located, upon approval of the commissioner, may enter upon the land to control or eradicate the noxious weeds and, if authorized, pests. The state agency shall reimburse the county weed board for expenses incurred in the control or eradication of the noxious weeds or, if authorized, pests pursuant to this section within thirty days after the agency receives the bill.
- 2- 4. A Each federal agency shall develop a management program plan for controlling or eradicating noxious weeds or, if authorized, pests on land the agency controls or over which the agency has under the agency's jurisdiction. If a federal agency does not control or set up a management program to the satisfaction of the weed control authority, the eradicate the noxious weeds and does not develop a management plan for controlling or eradicating the noxious weeds, the weed control office shall notify the agency as provided in section 63-01.1-08. The federal agency shall provide a report to the commissioner and the county weed control authorities describing detailing the methods used by the federal agency and showing cause why the federal agency is not controlling or eradicating the noxious weeds or, if authorized, pests. The commissioner may specify the forms on which the federal agency report must be submitted.
- 3- 5. Upon being notified by a county weed board of the federal agency's failure to control or eradicate noxious weeds or, if authorized, pests, the commissioner may hold a public hearing under such conditions and terms as the commissioner determines advisable, to determine the reason for the failure or refusal.

**SECTION 27. AMENDMENT.** Section 63-01.1-14 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-14. Weed Noxious weed control enforcement responsibilities of other agencies.** The state highway patrol, county sheriffs, and the truck regulatory division shall, when requested to do so by a local weed control officer or a weed control authority, shall cooperate with local weed control officers and the commissioner, a weed control authority and shall have the authority to may enforce subsection 2 of section 63-01.1-12 where if machinery, commodities, or articles are being moved on state and federal highways or on county or township roads and may be are contributing to the dissemination of noxious weeds.

**SECTION 28.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**Investigation by agriculture commissioner - Conflict of interest.** If an individual who provided written notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the weed board within twenty-one days from the date of the complaint, the individual may provide written notification to the local governing authority. If the individual who provided notice of an alleged failure to eradicate or control noxious weeds believes that the matter has not been addressed satisfactorily by the local governing authority within twenty-one days from the date of the notice to the local governing authority,

the individual may provide written notification to the agriculture commissioner. Upon receiving such notification, the agriculture commissioner shall investigate the matter. If the commissioner determines that a weed board has not addressed the matter satisfactorily within the twenty-one day period, the commissioner may act to enforce this chapter. A weed board may request that the agriculture commissioner investigate any complaint received by the board if the board determines that its ability to enforce this chapter is compromised because of a conflict of interest.

**SECTION 29.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**County weed board - Pest control - Authorization.**

1. The board of county commissioners, in consultation with the county weed board, may authorize the county weed board to control or eradicate pests on public lands within the county and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the county.
2. A county weed board that has been authorized to control or eradicate pests under this section may:
  - a. Expend funds made available from state or federal sources for pest control or eradication purposes;
  - b. Direct the county weed control officer to encourage landowners and occupants in the county to control or eradicate pests; and
  - c. Employ additional personnel to assist with pest control and eradication efforts under this section.

**SECTION 30.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**County weed control officer - Pest control or eradication.** If a county weed board is authorized to control or eradicate pests under section 29 of this Act, the county weed control officer shall:

1. Cooperate with all control authorities, county extension agents, landowners, and others to further pest control or eradication under this chapter.
2. Become acquainted with the location of pests on all land within the county.
3. Encourage pest control or eradication by all landowners and land occupants within the county.
4. Investigate all complaints regarding pests received by any control authority.
5. Post or publish in official newspapers any notices the commissioner determines necessary to further pest control or eradication under this chapter.
6. Prepare reports as requested by the commissioner.

7. Attend area or statewide meetings called by the commissioner to further pest control or eradication under this chapter.

**SECTION 31.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**County weed board - Pest control or eradication - Roads and highways.**

The county weed board shall control or eradicate pests along county and township roads and highways within the county and any expenses incurred in the control or eradication must be paid from funds as provided in section 63-01.1-06.

**SECTION 32.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board - Pest control - Authorization.**

1. The governing body of a city, in consultation with the city weed board, may authorize the city weed board to control or eradicate pests on land within the corporate boundaries of the city and to cooperate with landowners for the purpose of controlling or eradicating pests on private land within the city.
2. A city weed board that has been authorized to control or eradicate pests under this section may:
  - a. Expend funds made available from state or federal sources for pest control or eradication purposes;
  - b. Direct the city weed control officer to encourage landowners and occupants in the city to control or eradicate pests; and
  - c. Employ additional personnel to assist with pest control and eradication efforts under this section.

**SECTION 33.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed control officer - Pest control or eradication.** If a city weed board is authorized to control or eradicate pests under section 32 of this Act, the city weed control officer shall:

1. Cooperate with all control authorities, county extension agents, landowners, and others to further pest control or eradication under this chapter.
2. Become acquainted with the location of pests on all land within the city.
3. Encourage pest control or eradication by all landowners and land occupants within the city.
4. Investigate all complaints regarding pests received by any control authority.
5. Post or publish in the official newspaper of the city any notices the commissioner determines necessary to further pest control or eradication under this chapter.

6. Prepare reports as requested by the commissioner.
7. Attend area or statewide meetings called by the commissioner to further pest control or eradication under this chapter.

**SECTION 34.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**City weed board - Pest control or eradication - Roads and highways.**

The city weed board shall control or eradicate pests along streets, roads, and highways within the city and any expenses incurred in the control or eradication must be paid from funds as provided in section 19 of this Act.

**SECTION 35.** A new section to chapter 63-01.1 of the North Dakota Century Code is created and enacted as follows:

**Publicly owned land - Pest control or eradication.**

1. The commissioner shall attempt to arrange a pest control or eradication program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state.
2. Except as provided in subsection 3, a county weed control officer shall attempt to arrange a pest control or eradication program with all political subdivisions owning or controlling public land within the county weed control officer's jurisdiction.
3. If a city has a pest control or eradication program, the city weed control officer shall attempt to arrange a pest control or eradication program with all political subdivisions owning or controlling public land within the corporate limits of the city.
4. Each state agency shall provide for the control or eradication of pests on any land within the agency's jurisdiction. If a state agency fails to control or eradicate pests on land under its jurisdiction, the weed board having jurisdiction over the area in which all or a portion of the land is located, upon approval of the commissioner, may enter upon the land to control or eradicate the pests. The state agency shall reimburse the weed board for expenses incurred in the control or eradication of pests within thirty days after the agency receives the bill.
5. Each federal agency shall develop a management plan for controlling or eradicating pests on land within the agency's jurisdiction. If a federal agency does not control or eradicate pests and does not develop a management plan for controlling or eradicating pests, the weed control officer shall notify the agency as provided in section 63-01.1-08. The federal agency shall provide a report to the control authority detailing the methods used by the federal agency and showing cause why the federal agency is not controlling or eradicating the pests. The commissioner may specify the forms on which the federal agency report must be submitted.
6. Upon being notified by a weed board of a federal agency's failure to control or eradicate pests, the commissioner may hold a public hearing to determine the reason for the agency's failure.

**SECTION 36. AMENDMENT.** Section 63-01.1-15 of the North Dakota Century Code is amended and reenacted as follows:

**63-01.1-15. Penalties.**

1. A custom or commercial operator of tillage, seeding, and harvesting equipment who violates subsection 2 of section 63-01.1-12 is guilty of a class B misdemeanor. A control authority may institute necessary criminal actions under this subsection.
2. Persons failing to comply with the rules and notice provisions of this chapter are subject to a civil penalty not to exceed ~~fifty eighty~~ dollars per day for each day of violation, subject to a maximum penalty of ~~two four~~ thousand ~~five hundred~~ dollars per year. The accumulated penalties under this section are a lien against the property of the landowner from the day the notice is delivered to the landowner under section 63-01.1-08.
3. All penalties collected pursuant to this section must be deposited with the treasurer of the political subdivision and credited to the weed control and eradication fund in the political subdivision in which the penalty originated. ~~Penalties collected pursuant to this section for failure or refusal to perform remedial requirements for the control of pests on an infested area must be credited to the weed control fund in the political subdivision in which the penalty originated but dedicated for use by the county weed board to control pests.~~
4. The penalty may be adjudicated by ~~the courts~~ a court or by ~~the~~ a county or a city weed board after a hearing.
5. An aggrieved landowner may appeal the imposition of a penalty by ~~the~~ a county weed board to the board of county commissioners and may appeal the imposition of a penalty by a city weed board to the governing body of the city.

**SECTION 37. AGRICULTURE COMMISSIONER - REPORTS TO LEGISLATIVE COUNCIL.** In November 2005 and June 2006, the agriculture commissioner shall report to the legislative council all notifications and requests for assistance under section 28 of this Act. The reports must include the commissioner's response to each notification and request.

**SECTION 38. REPEAL.** Section 63-01.1-04.2 of the North Dakota Century Code is repealed.

Approved April 8, 2005  
Filed April 12, 2005