

WEEDS

CHAPTER 349

H. B. No. 674
(Link and Rolfsrud)

NOXIOUS WEED COMMISSION

AN ACT

Relating to eradication of noxious weeds; and prescribing functions of the extension service of the North Dakota agricultural college with reference thereto; providing for appointment of a commissioner of noxious weeds and deputy commissioner in each county commissioner district and in a city, village, township or irrigation district; prescribing their powers and duties and fixing their compensation, providing for a tax levy to cover compensation and expenses of such commissioner and deputy commissioner of noxious weeds, providing penalties for violation of this Act; repealing chapter 63-02 of the North Dakota Revised Code of 1943 and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Commissioners Of Noxious Weeds; Appointment; Oath; Term Of Office; Removal From Office.) The board of county commissioners of any county whenever deemed advisable may, and if petitioned by at least ten percent of the freeholders of the county, shall appoint in and for each commissioner district therein a competent person commissioner of noxious weeds. Likewise the governing board of any city, village, township or irrigation district in any county may, when considered advisable, and shall when petitioned by ten percent of the freeholders thereof, submit such questions to the electors of such municipality or subdivision at the next special or general election, and if approved by a majority vote such governing board shall appoint in and for the city, village, township or irrigation district, as the case may be, a weed commissioner. A person appointed weed commissioner by a board of county commissioners or by the governing board of a city, village, township or irrigation district therein shall qualify by taking the oath of office required of civil officers and shall hold office for the term of one year and until his successor is appointed and qualified. Any weed commissioner may be removed from office by the board which appointed him and his successor appointed to serve the balance of his term.

§ 2. Compensation And Travel Expenses Of Commissioners Of Noxious Weeds.) The compensation of a commissioner of

noxious weeds for each day necessarily spent in the performance of his duties shall be fixed by the board appointing him. When travel is by motor vehicle he shall also receive seven cents for each mile necessarily traveled.

§ 3. Deputy Commissioners Of Noxious Weeds: Appointment; Term Of Office; Compensation.) Each commissioner of noxious weeds may, with the consent and approval of the board which appointed him, appoint one or more deputies. Each such deputy commissioner of noxious weeds shall serve during the pleasure of the commissioner of noxious weeds or of the board which appointed the commissioner of noxious weeds. A deputy weed commissioner shall receive such compensation for his services as shall be fixed by the board of county commissioners or the governing board of the city, village, township or irrigation district in and for which he is appointed.

§ 4. Duties And Powers Of Commissioners Of Noxious Weeds; Each Commissioner Of Noxious Weeds.)

1. Shall investigate and ascertain the best practicable methods for destroying noxious weeds;
2. Shall diligently examine and investigate the existence and introduction of such weeds in his district;
3. Shall take charge of all such weeds found growing upon highways and cultivated lands and prevent them from going to seed or otherwise spreading;
4. Shall apply persistently and at proper times such remedy or treatment as he shall deem best suited to eradicate and to prevent the spreading of such weeds;
5. Shall prosecute, on complaint to the proper authorities, any person or corporation violating any of the provisions of this chapter;
6. May enter upon the premises of any person or corporation for the purpose of carrying out the provisions of this chapter, and his deputies and employees may exercise the same rights; and
7. Shall take such action as is necessary to carry out the provisions of this Act.

§ 5. Reports Of Commissioners Of Noxious Weeds: When And Where Filed; Duty Of County Agents And Director Of Extension Service.)

1. Every commissioner of noxious weeds appointed by a board of county commissioners or the governing board of a city, village, township, or irrigation district shall report to the county extension agent of the county in which he serves as commissioner of noxious weeds, the

existence in his district, city, village or township, as the case may be, of such weeds, the varieties thereof, and his treatment of the premises infested thereby; and if a county agent is not employed in his county, he shall submit such report to the director of the extension service of the North Dakota agricultural college. It shall be the duty of each county extension agent to report to the director of the extension service the presence of noxious weeds in his county, and the varieties thereof, and what methods, if any, are employed to combat and eradicate such weeds. The director of extension shall assemble and compile the data and information contained in such reports and shall furnish such county agent or weed commissioner information, advice, and direction for the eradication of such weeds. And it shall be the duty of a county agent to advise, consult and cooperate with the commissioner of noxious weeds in his county in the work of eradicating such weeds.

2. Every commissioner of noxious weeds, on or before the first day of December in each year shall submit a written report to the governing board of the county, city, village, township or irrigation district, which appointed him. Such report shall be filed with the county auditor, or auditor of the city or clerk of the village, township or irrigation district, as the case may be. The report shall be publicly read at the regular meeting of such board following its filing and shall be subject to inspection thereafter by any person interested. Such report shall clearly state and show:
 - a. Where noxious weeds are growing in his district;
 - b. If any are growing, where and to what extent and when and how the same were introduced;
 - c. A detailed statement of his treatment of each infected tract, with the cost and result thereof;
 - d. His views on the further treatment of each infected tract and such suggestions and recommendations as he may deem proper and useful;
 - e. Such other matters as may be required by the board of county commissioners or governing board of a city, village, township, or irrigation district.

§ 6. Tax Levy To Cover Salary And Expenses Of Weed Commissioners; Appropriation; Audit And Allowance.) The board of county commissioners of any county and the governing board of a city, village, township or irrigation district may, if found necessary, levy a tax on all taxable property therein to cover the salary and expenses of each commissioner and deputy

commissioner of noxious weeds and the costs incurred in the eradication of such weeds. Such tax may be levied in excess of the mill levy limit prescribed by law for general purposes but any such excess levy must first be approved by the electors of such county, city, village, township, or irrigation district at any special or general election. Payment of salary and expenses of a commissioner of noxious weeds and of his deputy, if any, and other expenses, shall be made upon verified vouchers duly audited and approved in the manner provided for payment of ordinary expenses.

§ 7. Notice To Destroy Noxious Weeds.) If a commissioner of noxious weeds, or his deputy, finds any land within his district, city, village or township, including streets, highways, railroad rights-of-way and state school lands, he shall immediately notify in writing, the owner, lessee or occupant of such land, or the person, agent or official having the care thereof, to cause such weeds to be destroyed on or before a date stated in the notice. The date so fixed shall not be less than five days from the date of the serving or posting of such notice.

§ 8. Method Of Service And Posting Of Notice To Destroy Noxious Weeds.) The notice to destroy noxious weeds shall be served as follows:

1. If any noxious weeds are found growing upon any railroad right-of-way, the notice shall be served upon the railroad company owning such right-of-way by service upon the company's agent located nearest to the place where such weeds are growing;
2. If any such weeds are found growing upon any state road, state park or state school land, the notice should be served upon the auditor of the county, or city and upon the clerk of any township or district in which such road, park or school land is located and such notice shall also be mailed to the person or official responsible for the maintenance and care thereof;
3. If any such weeds are found growing upon any public highway which is not a state road, the notice shall be served upon the owner, lessees, occupant, agent, or other person who is in charge of the land adjoining such public highway;
4. If any such weeds are found growing upon land owned by a nonresident of the county, city, village, township or irrigation district in which the land is located and the owner has no agent known to the commissioner of noxious weeds residing in the county, city, village, township or irrigation district, the notice shall be served by posting the same in a conspicuous place upon the land where it can be seen by the traveling public; and

5. In all other cases, by personal service of the notice upon the owner, lessee, occupant, agent, or other person who is in charge of the land on which such weeds are growing.

§ 9. Destruction Of Noxious Weeds By Private Persons And Corporations Required; When.) When required to do so by a commissioner of noxious weeds by the service of notice as provided for in this Act:

1. Each person or corporation owning, occupying, or controlling any land within this state shall destroy or cause to be destroyed all noxious weeds growing on his or its land; and
2. Each owner, lessee, occupant, agent, or other person who is in charge, of any land adjoining a public highway which is not a state or county road shall cut down, pull, or destroy to the center of such road all noxious weeds growing thereon.

§ 10. Commissioner Of Noxious Weeds And His Employees To Destroy Noxious Weeds: When And How.) If, after the service upon him of a notice as provided for in this chapter, any owner, lessee, occupant, agent, or person who is in charge, of any land right-of-way, road, public highway, park, or state school land refuses or neglects to cut down, pull, or destroy the noxious weeds growing thereon, on or before the date fixed in the notice, the commissioner of noxious weeds, his deputies, or employees, shall enter upon such land, right-of-way, highway, park, or school land and cause all of such weeds to be cut down, pulled, or destroyed. If such weeds are growing upon agricultural land, they shall be cut down, pulled, or destroyed in such a manner as to cause as little damage as possible to crops that may be growing thereon.

§ 11. Expenses For Destruction Of Weeds By Commissioner; Limitations On.) Whenever a commissioner of noxious weeds, or a deputy or employee thereof, shall cut, pull, or destroy any noxious weeds pursuant to the provisions of this Act the expense thereof shall not exceed:

1. The sum of one hundred dollars in any one year for each one hundred and sixty acre tract of agricultural land when such cutting, pulling, and destroying is done on such land; and
2. The reasonable and necessary cost when such cutting, pulling, destroying is done on any state road, public highway, or railroad right-of-way.

If any such weeds are so cut, pulled, and destroyed upon any road, park, or school land, the cost and expense thereof shall be paid by the county, city, village, township or irrigation district in which such road, park, or land is located.

§ 12. Mailing Of Verified Statement Of Expenses: Contents Of Statements.) The commissioner of noxious weeds, immediately after completing the cutting, pulling, and destroying of any noxious weeds pursuant to the provisions of this Act, shall send by registered mail to the owner, lessee, occupant, agent or other person who is in charge of the land on which such weeds were cut, pulled, and destroyed a verified statement containing:

1. The sum expended in the cutting, pulling and destroying of such weeds set forth in statement form;
2. A description of the land on which such weeds were cut, pulled, and destroyed;
3. A notice requiring such person to pay the sum set forth in the statement to the treasurer of the county, city, village, township or irrigation district in which such real estate is located within twenty days after the date of the mailing of the statement; and
4. A notice that if such sum is not so paid, the same will become a lien upon such real estate.

If such person is not a resident of the county, city, district or township and his post office address cannot be ascertained by the commissioner, the statement shall be sent by registered mail to the person who last paid the taxes upon said land, and the name and address of such taxpayer shall be furnished to the commissioner by the treasurer of the county, in which such land is located.

§ 13. Liens For Expenses: How and When Perfected; How Collected; Disposition Of Proceeds From.) A copy of each verified statement, together with proof of mailing thereof, shall be filed by the commissioner of noxious weeds with the county auditor of the county, as soon as such statement has been mailed. If the sum set forth in such statement and required to be paid is not paid by the person to whom the statement is sent within the time stated, the county auditor shall spread such sum upon the tax roll prepared by him, and it shall become a lien upon the real estate described in such statement and shall be collected in the same manner as delinquent taxes are collected. When so collected, such sum shall be credited by the county treasurer to the proper county, city, district or township fund.

§ 14. Expenses Not Collected From Private Persons Payable By County, City, District Or Township.) If any owner, lessee, occupant, agent, or person who is in charge, of any land fails to make the payment demanded in any verified statement mailed to him within the time stated therein, the county auditor shall present the statement to the governing board of the county, city, village district or township as the

case may be, and the board shall allow the same and the sum so allowed shall be paid by the county, city, village, district or township treasurer out of the proper fund.

§ 15. Penalty For Violation Of Provisions Of Chapter.) Any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and shall be punished by a fine of not less than ten dollars nor more than twenty-five dollars.

§ 16. Authority Of Overseers Of Highways Over Destruction Of Noxious Weeds Suspended; When.) In any county, city, village, district or township which adopts the provisions of this chapter, the authority granted to overseers of highways under the provisions of section 63-0106 of the North Dakota Revised Code of 1943 shall be suspended with reference to noxious weeds while the provisions of this Act are in effect in such county, city, village district or township.

§ 17. Repeal.) Chapter 63-02 of the North Dakota Revised Code of 1943 be and the same is hereby repealed.

§ 18. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 11, 1955.

CHAPTER 350

H. B. No. 581
(Power and Overbo)

CUTTING WEEDS AND GRASSES ADJOINING COUNTY AND TOWNSHIP HIGHWAYS

AN ACT

To amend and reenact sections 63-0305 and 63-0306 of the 1953 Supplement to the North Dakota Revised Code of 1943, relating to the cutting of weeds and grasses adjoining county and township highways.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. Amendment.) Section 63-0305 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

63-0305. Landowners Along County And Township Highways To Destroy Noxious Weeds.) From and after the passage

and approval of this Act, it shall be the duty of landowners, owning land adjoining regularly traveled county and township highways as designated by the township board of supervisors in organized townships, the board of county commissioners in unorganized townships, and the board of county commissioners in the case of county highways, to cut and destroy all weeds and grasses along such regularly traveled highways adjoining their lands, including weeds and grasses growing within the public right of way bordering such highways and their lands, and such cutting shall be done not later than the tenth day of July of each year.

§ 2. **Amendment.)** Section 63-0306 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

63-0306. Failure To Destroy Weeds; Expense Certified As Tax Against Land.) If any landowner or his tenant shall fail to cut the weeds and grasses along township highways, as provided in section 63-0305, between September fifteenth and October first, unless by special permission from the township board of supervisors or board of county commissioners, it shall be the duty of the township board or board of county commissioners, as the case may be to cause such weeds and grasses to be cut between October first and November first of each year, and the expense of cutting such weeds and grasses in each organized township or county shall be certified to the county auditor by the clerk thereof, and all of such charges in organized and unorganized townships or counties shall be charged against the land of the landowner thus failing to cut such weeds and grasses and shall become a part of the taxes to be levied against such 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. This Act shall not apply to any state or federal highways. The amount charged against the adjoining owner shall not exceed the sum of \$15.00 per running mile, a running mile being defined as one side of such highway for a distance of one mile.

Approved March 10, 1955.