

# WEEDS

## CHAPTER 610

SENATE BILL NO. 2523  
 (Senators O'Connell, Keller, Thane)  
 (Representatives Brown, Mahoney, Nicholas)

### WEEDS

AN ACT to amend and reenact sections 63-01.1-02, 63-01.1-03, 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, 63-01.1-12.1, 63-01.1-12.2, 63-01.1-13, and 63-01.1-15 of the North Dakota Century Code, relating to noxious weed control and pest control by county weed boards; and to repeal sections 63-01.1-06.1, 63-01.1-06.2, 63-01.1-06.3, 63-01.1-06.4, 63-01.1-06.5, 63-01.1-06.6, 63-01.1-13.1, 63-01.1-16, and 63-01.1-17 of the North Dakota Century Code and sections 2, 3, 4, 6, 7, 9, and 10 of House Bill No. 1054, as approved by the fifty-third legislative assembly, relating to the leafy spurge and cannabis control programs, the control of noxious weeds on game and fish property, judicial review of rules, actions, and penalties relating to noxious weed control, and pest control by county weed boards.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 63-01.1-02 of the North Dakota Century Code is amended and reenacted as follows:

<sup>1</sup> **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. "Commissioner" means the ~~North Dakota state~~ commissioner of agriculture or the commissioner's designee.
3. "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. "Control authority" means the commissioner ~~and those he may designate to act in his behalf, and the county weed board, and, pursuant to the county weed board's authorization, the county weed control officer.~~
5. "County weed board" means members of the board of each county as appointed ~~by the county commissioners of the county~~ pursuant to section 63-01.1-04.

<sup>1</sup> NOTE: Section 63-01.1-02 was also amended by section 106 of Senate Bill No. 2223, chapter 54.

6. "County weed control officer" means the person ~~appointed or~~ 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. "Landowner" means any owner of federal, state, municipal, or private land, under statutory authority or otherwise, ~~but, The term~~ does not include a lessee, renter, tenant, operator, or an owner of any easement or right of way.
9. "Noxious weed" means any plant propagated by either seed or vegetative parts which is determined by the commissioner after consulting with the North Dakota state cooperative university extension service, or a county weed board after consulting with the county extension agent, to be injurious to public health, crops, livestock, land, or other property.
10. "Operator" means the person chiefly responsible for the farming 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, 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 ~~North Dakota~~ this state.
12. "Pest" means any pest as defined in section 4-33-01.
13. "Township road" means a public road which that is an improved road, 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 sodded road is not a township road. In order for a section line to be a township road it must be graded and drained and be an improved maintained road. A township road is a public road which that is not designated as part of a county, state, or federal-aid road system and is not located in an incorporated city.

**SECTION 2. 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 - 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. The commissioner shall cooperate with other weed control authorities.~~
2. The commissioner shall determine which weeds are noxious for the purposes of a state list of noxious weeds after consulting with the North Dakota

state ~~cooperative~~ university 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~~ The commissioner shall supply these documents ~~shall be supplied~~ to weed control officers, county, township, and city authorities, and others as needed to carry out an effective weed control program. ~~Official or, if authorized, pest control program.~~ The commissioner shall prepare notices or posters such as including 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 weed board, county weed control officers, highway patrol officers, county sheriffs, ~~the truck regulatory division,~~ and others in ~~carrying out his duties under enforcing~~ this chapter. He The commissioner shall also encourage the North Dakota state cooperative university extension service to disseminate information and to conduct educational campaigns with respect to eradication and control of noxious weeds or, if authorized, pests.
5. The commissioner upon receiving ~~complaints in writing from persons a~~ written complaint shall immediately refer the complaint to the proper weed control officer or 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, and cause to be published, such rules, regulations, and procedures as he deems necessary~~ may adopt rules to carry out the intent of this chapter.
8. The commissioner ~~shall~~ may require a ~~minimum number of~~ operational or program reports from weed control authorities or weed control officers ~~as deemed necessary to keep posted on 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 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 ~~shall~~ must be invited to attend meetings called pursuant to this subsection.

**SECTION 3. 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.**

1. The county weed board of each county ~~in the state shall be~~ is the control authority for that county.
2. ~~The board of county commissioners of each county shall hold a public meeting for appointing a county weed board prior to July 21, 1981. Prior to the meeting the board of county commissioners shall establish the number of members of the board and shall establish board member areas. Each board member area shall be contiguous. Notice of the meeting shall be given in the same manner as other election notices are posted.~~
- 3- The board of county commissioners shall establish the number of members of the board and shall establish board member areas. Each board member area must be contiguous. The board of county commissioners shall appoint a county weed board which ~~shall consist~~ 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 ~~shall~~ must be staggered so that the terms of no more than two members ~~shall~~ expire each year. Any qualified elector, in the board member area ~~he is appointed to represent,~~ is eligible for membership to represent that area on the board.
4. ~~All county weed board members shall be appointed by the board of county commissioners prior to August 5, 1981. In counties each county encompassing cities or towns a city with a population of five thousand or more, one board member shall~~ must be appointed from within the city limits of a that city ~~or town.~~
3. A board member shall assume office at the first regular meeting of the county weed board following that member's appointment.
- 5- 4. The board of county commissioners shall remove a member of the county weed board for repeated unexcused failure to attend meetings or for refusal or incapacity to act as a board member. When 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.
- 6- 5. ~~At its first regular meeting, the~~ The county weed board shall elect from its members a chairman and a vice chairman, and appoint a secretary and a treasurer. The secretary and treasurer need not be members of the board. 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 4. 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 weed board.**

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

officer for more than one county weed board. Employment ~~shall be~~ is for a tenure and at rates of compensation and reimbursement for travel expenses as the county weed board may prescribe and ~~shall be~~ is without regard to any provisions of law relating to age or dual compensation. ~~The appointment or county weed board shall certify the designation of a county weed control officer shall be certified by the county weed board to the commissioner.~~

2. The county weed board may expend 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 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 cooperative university extension service.
4. County weed boards shall cooperate with all other control authorities.
5. The county weed board shall implement and pursue an effective program for control of noxious weeds and, if authorized, pests.
6. The county weed board shall fix the time and place of regular meetings, ~~which. The board shall occur meet~~ at least once each year and ~~shall be the meeting is~~ open to the public. ~~The first regular meeting shall be held prior to August 15, 1981.~~ The board shall keep minutes of all meetings and a complete record of all official acts.
7. The county weed board shall make at least one annual inspection to determine the progress of weed control activities within the county and, if authorized, the progress of pest control activities within the county.
8. The county weed board shall control and disburse all moneys received by the county, for weed control, from any source.
9. The county weed board shall render technical assistance to any city with a population of three thousand or more which establishes a program as provided in section 63-01.1-10.1.
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 5. 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 control authorities and weed control officers, the county extension agent, county land users, the commissioner, and others in furtherance of the provisions of 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 noxious weed and, if authorized, pest control or eradication by all landowners or occupants within the county.
4. Investigate all complaints received by himself the county weed control officer, the county weed board, or the commissioner. ~~If the weed control officer determines that the complaint is justified, he shall personally serve upon the landowner written notice, or shall issue written notice by certified mail to the address of the landowner requiring the landowner to control or eradicate noxious weeds on his land within five days, unless additional time is requested from and granted by the county weed board. A copy of the written notice shall be sent by certified mail to the address of any lessee, tenant, renter, or operator of the land. If the landowner resides in another state, an additional time of not less than ten days shall be granted to the landowner for control and eradication purposes. The weed control officer may, upon failure by the landowner to do so in the time limits provided, cause noxious weeds to be controlled or eradicated and the expenses to be charged against the land of the landowner.~~

~~When noxious weeds in an area of more than three acres [1.21 hectares] in each forty acre [16.19 hectare] area, in which a crop or trees are growing, are to be controlled, or eradicated because of infestations of noxious weeds, the landowner, lessee, renter, tenant, or operator of the land may petition the county weed board to halt the controlling or eradication of the noxious weeds on the land, and the controlling or eradication shall not take place unless approved by the county weed board by a majority vote of those members present and voting at a regular or special meeting.~~

~~The expenses charged 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 shall be subject to the penalties provided in section 63-01.1-15. Complaints, subject to the approval of the weed board, may be initiated by the weed control officer, and notice served in accordance with this subsection.~~

5. Take proper enforcement action when necessary.
- ~~5-~~ 6. Cause to be posted or inserted in official newspapers those official notices the commissioner may deem necessary in the furtherance of this chapter.
- ~~6-~~ 7. Prepare reports as requested by the commissioner.
- ~~7-~~ 8. Attend area or statewide meetings called by the commissioner for the purpose of assisting in the effective execution of this chapter.

- 8- 9. Serve as county seed inspector for the purposes of enforcing the laws and regulations under the jurisdiction of the ~~North Dakota~~ state seed department as ~~shall be~~ directed by the state seed commissioner.

SECTION 6. 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 weed control officers - Extension ~~division educational program~~ service.**

1. The commissioner shall adopt rules setting ~~forth~~ 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 division, fargo service, or their respective designees. ~~The commissioner shall certify all persons meeting the established requirements.~~ All appointed ~~or~~ designated county weed control officers shall must be certified pursuant to the rules ~~and requirements~~ adopted by the commissioner before assuming their duties ~~pursuant to this chapter.~~
2. The ~~extension division of North Dakota state university of agriculture and applied science~~ extension service shall establish a program ~~designed to provide educational instruction sufficient to comply with the requirements of certification adopted by the commissioner.~~ ~~The program shall be offered to local weed control officers at reasonable times and places as determined by the director of the extension division.~~

SECTION 7. AMENDMENT. Section 63-01.1-06 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. The board of county commissioners may pay expenses from the general fund in any one year in furtherance of this chapter, including weed control along public highways in the county. 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 ~~the provisions of this chapter.~~ In addition, the county weed board, with the approval of a majority vote of the board of county commissioners, 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 ~~shall~~ may not be levied on property within the corporate limits of a city ~~which~~ that establishes a program under section 63-01.1-10.1. ~~The tax shall be levied by the board of county commissioners shall levy the tax.~~ All The county treasurer shall hold all taxes levied and collected shall be held by the county treasurer in a separate fund funds to be known as the weed control fund and the leafy spurge fund, which shall be used only to carry out the provisions of this chapter. The levy shall be made to cover the salary and expenses of the county weed board, county weed control officer, the expense of weed control along public highways in the county, and other expenses incurred in the operation of an effective weed control 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 of any legislative appropriation 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 ~~the director of the extension service and the director of the agricultural experiment station, Fargo, or their respective designees.~~ No county weed board may receive an amount under this subsection which, when added to the amount generated by a tax levy of three mills on the taxable valuation of all taxable property in the county, would exceed eighty percent of the total cost of the actual expenditures for noxious weed control county weed boards. Landowners shall contribute a minimum of twenty percent of the cost of noxious weed control on their land. No county weed board or city shall may receive an amount in excess of one-half of ~~its~~ the board's or city's actual expenditures for noxious weed control from any legislative appropriation, unless the appropriation provides assistance in noxious weed control to a board or city under subsection 3.
3. If a county weed board determines a weed is seriously endangering areas of a county or the state, assistance in control may be provided by legislative appropriation ~~for this purpose, the~~. 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. To be eligible to receive state cost share funds a county shall levy a minimum of three mills for noxious weed or leafy spurge control. The request for allocated funds pursuant to subsections 2 and 3 shall must be initiated by the 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, ~~payment shall be made by the office of management and budget shall make the payment~~ out of funds appropriated for control of weeds.

**SECTION 8. AMENDMENT.** Section 63-01.1-08 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. ~~The commissioner, any~~ Any control authority, ~~county weed control officer,~~ or anyone authorized thereby, may enter upon all land under their jurisdiction for the purpose of performing their duties and exercising their 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 is found to be infested with noxious weeds or, if authorized, pests by ~~the commissioner,~~ any control authority, ~~county weed control~~

- officer, or other authorized person, the county weed board, by resolution adopted by two thirds of its members, may confirm the fact. The board may set forth minimum remedial requirements for control of the infested property. The board shall deliver, personally or by certified mail, to the address of the landowner of the infested land:
- a. A copy of the resolution.
  - b. A statement of the cost of fulfilling the requirements for control.
  - c. A request that the requirements contained in the resolution be carried out at the landowner's expense within five days, unless additional time is requested from and granted by the board, or on a cooperative basis. If the landowner resides in another state, an additional time of not less than thirty days shall be granted to the landowner for control and eradication purposes.
3. A copy of the resolution shall be sent by certified mail to any lessee, renter, tenant, or operator of the land.
  4. A landowner who is responsible for an infestation and fails or refuses to perform the remedial requirements for the control of the weeds on the infested area within the time designated may be fined not more than fifty dollars per day for each day of violation and not more than a total of two thousand five hundred dollars per year as determined by the district court. Any person accused of failure to perform remedial requirements under this section is entitled to a trial by jury, upon request. The accumulated fines under this section are a lien against the property of the landowner from the day the resolution is delivered to the landowner by the weed board. All fines collected pursuant to this section shall be deposited with the treasurer of the political subdivision and credited to the weed board noxious weed control fund in the political subdivision in which the fine originated.
  5. When noxious weeds in an area of more than three acres [1.21 hectares] in each forty-acre [16.19 hectare] area, in which crop or trees are growing, are to be controlled or eradicated because of infestations of noxious weeds, the landowner, lessee, renter, tenant, or operator of the land may petition the county weed board to halt the controlling or eradication of the noxious weeds on the land, and the controlling or eradication shall not take place unless approved by the county weed board by a majority vote of those members present and voting at a regular or special meeting. 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 from the county weed board. The notice must specify 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 the weeds

or, if authorized, pests upon failure of the landowner to control the 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 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 the weeds or, if authorized, pests, the notice must include a statement informing the landowner that the landowner may request the county weed board not to control the weeds or, if authorized, pests. If the landowner requests the county weed board not to control the weeds or, if authorized, pests, the board may not control the weeds or, if authorized, pests until by a majority vote of the board control is authorized.

**SECTION 9. 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 - ~~Farm~~ Materials or farm products and area defined.**

1. Whenever the commissioner, the county weed board, or anyone authorized thereby finds any area of the state to be infested with noxious weeds, and it is established that 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 noxious weeds are likely to be introduced into ~~North Dakota~~ 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 quarantine when requested by resolution adopted by a two-thirds majority of the county weed board of the county in which the quarantine is to be declared.
3. For the purposes of this section, "area" means a geographical section of land as identified by the commissioner, which may include cities and counties or any portion of a city or county-
4. ~~For the purposes of this section,~~ "farm products" means all crops, crop products, plants or portions thereof, but shall not mean livestock; and "materials" means gravel or other substances that can be transported over a state highway.

**SECTION 10. AMENDMENT.** Section 63-01.1-12.2 of the 1991 Supplement to the North Dakota Century Code is amended and reenacted as follows:

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

1. The commissioner, after consultation with the ~~cooperative~~ North Dakota state university extension service, ~~shall~~ may adopt ~~standards~~ rules for certifying that gravel or sand surface mining operations and ~~hay-produced~~

- land producing hay for sale or for resale are not contaminated with noxious weeds. The ~~standards~~ rules must identify the extent noxious weeds are allowed with certification.
2. The county weed board ~~may~~, after consultation with the ~~cooperative~~ North Dakota state university extension service, may certify gravel or sand surface mining operations and ~~hay produced~~ 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 ~~cooperative~~ North Dakota state university extension service may charge for inspecting, testing, analyzing, and certifying gravel or sand surface mining operations and hay land.
  4. Certification of gravel 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, ~~including merchantability, fitness for a particular purpose, or absence of contamination of any kind location.~~ The only representation made is that a gravel or sand surface mining operation or hay produced land from which sand and gravel is surface mined or land producing hay for sale or resale has been inspected for contamination by noxious weeds under rules adopted by the commissioner.

**SECTION 11. 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 control.**

1. The commissioner shall ~~make every effort possible attempt~~ to arrange a satisfactory noxious weed and pest 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 attempt~~ to arrange a satisfactory noxious weed or, if authorized, pest 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 and pests 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~~ Upon failure of a state agency to adequately control noxious weeds or, if authorized, pests on land under its control, 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 the noxious weeds and, if authorized, pests. The state agency shall reimburse the county weed board for expenses incurred in the control of noxious weeds or, if authorized, pests pursuant to this section within thirty days after the agency receives the bill.
2. A federal agency shall develop a management program for controlling noxious weeds or, if authorized, pests on land the agency controls or over which the agency has jurisdiction. If a federal agency does not control or set up a management program to the satisfaction of the weed

control authority, 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 authorities describing the methods used by the federal agency and showing cause why the federal agency is not controlling the noxious weeds or, if authorized, pests. The commissioner may specify the forms on which the federal agency report must be submitted.

3. Upon being notified by a county of the federal agency's failure to control noxious weeds or, if authorized, pests, the commissioner may hold a public hearing under such conditions and terms as he shall deem the commissioner determines advisable, to determine the reason for such the failure or refusal.

**SECTION 12. AMENDMENT.** Section 63-01.1-15 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Custom A custom or commercial operators operator of tillage, seeding, and harvesting equipment who violate the provisions of violates subsection 2 of section 63-01.1-12 shall be is guilty of a class B misdemeanor. The weed control officers or A control authorities shall authority may institute necessary criminal actions under this subsection.
2. Persons failing to comply with the rules, regulations, and notices promulgated pursuant to the notice provisions of this chapter shall be are subject to a civil penalty not to exceed five hundred dollars. Necessary court action may be pursued by the weed control officer or authority fifty dollars per day for each day of violation, subject to a maximum penalty of two 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. All penalties collected pursuant to this section must be deposited with the treasurer of the political subdivision and credited to the weed control 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. The penalty may be adjudicated by the courts or by the county weed board after a hearing. An aggrieved landowner may appeal the imposition of a penalty by the county weed board to the board of county commissioners.

**SECTION 13. REPEAL.** Sections 63-01.1-06.1, 63-01.1-06.3, 63-01.1-06.4, 63-01.1-16, and 63-01.1-17 of the North Dakota Century Code, sections 63-01.1-06.2, 63-01.1-06.5, 63-01.1-06.6, and 63-01.1-13.1 of the 1991 Supplement to the North Dakota Century Code, and sections 2, 3, 4, 6, 7, 9, and 10 of House Bill No. 1054, as approved by the fifty-third legislative assembly, are repealed.

Approved April 15, 1993  
Filed April 15, 1993

## CHAPTER 611

HOUSE BILL NO. 1288  
(Representatives Aarsvold, Allmaras, Hagle, Johnson)  
(Senator Dotzenrod)

**WEED CUTTING SPECIFICATIONS**

AN ACT to amend and reenact section 63-05-02 of the North Dakota Century Code, relating to the cutting of weeds and grasses along county and township highways.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 63-05-02 of the North Dakota Century Code is amended and reenacted as follows:

**63-05-02. Designation of time for cutting - Notice.** The board of county commissioners of each county shall prescribe the time for cutting of the weeds and grasses, prescribe the height of stubble to be left and the minimum width of the cuts, designate the county highways along which weeds and grasses shall be cut, and request the board of township supervisors to designate township roads along which weeds and grasses shall be cut. The board of township supervisors shall make the designation, and the board of county commissioners shall publish notice of the designated highways ~~and,~~ the time for cutting, and the height of stubble to be left and the minimum width of cut in the official county newspaper at least twice, and the last publication shall appear not less than two weeks prior to the deadline date. If no official newspaper is published in the county, written notice ~~shall~~ must be given by posting, in the same manner as election notices are posted. Expenses incurred in publishing the notice ~~shall~~ must be paid from funds provided in section 63-01.1-06 by the board of county commissioners.

Approved March 15, 1993  
Filed March 16, 1993