

LEGISLATURE OF NEBRASKA  
ONE HUNDRED EIGHTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 831**

Introduced by Blood, 3.

Read first time January 03, 2024

Committee: Agriculture

1 A BILL FOR AN ACT relating to the Noxious Weed Control Act; to amend  
2 sections 2-945.01, 2-945.02, 2-952, 2-953, 2-954, 2-961, 2-963, and  
3 2-965.01, Reissue Revised Statutes of Nebraska; to restate  
4 legislative findings and declarations; to define and redefine terms;  
5 to provide a duty for the Director of Agriculture; to provide a  
6 penalty; to provide for the control of restricted plants as  
7 prescribed; to harmonize provisions; and to repeal the original  
8 sections.

9 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 2-945.01, Reissue Revised Statutes of Nebraska,  
2 is amended to read:

3 2-945.01 Sections 2-945.01 to 2-970 and section 9 of this act shall  
4 be known and may be cited as the Noxious Weed Control Act.

5 Sec. 2. Section 2-945.02, Reissue Revised Statutes of Nebraska, is  
6 amended to read:

7 2-945.02 The Legislature finds and declares that:

8 (1) The failure to control noxious weeds and restricted plants ~~on~~  
9 ~~lands~~ in this state is a serious problem that ~~which~~ is detrimental to the  
10 production of crops and livestock, to the ecology of this state, and to  
11 the welfare of the residents of this state, all of ~~and~~ which may devalue  
12 land and reduce tax revenue;

13 (2) It is the purpose of the Noxious Weed Control Act to establish a  
14 workable framework, delineate responsibilities, encourage education of  
15 the public concerning noxious weeds and restricted plants, and provide  
16 the necessary authority to effectively control noxious weeds and  
17 restricted plants;

18 (3) It is the duty of each person who owns or controls land to  
19 effectively control noxious weeds on such land. County boards or control  
20 authorities are responsible for administration of noxious weed control  
21 laws at the county level;

22 (4) The Department of Agriculture has the ~~should have~~ responsibility  
23 for (a) ~~establishing basic standards such as~~ designating plant species  
24 that are ~~which~~ ~~plants are to be considered~~ noxious weeds and ~~which~~  
25 control measures to use ~~are to be used~~ in particular situations, (b)  
26 designating plant species that are restricted plants, and (c) ~~and (b)~~  
27 monitoring implementation of the act by the control authorities; and

28 (5) A state noxious weed and restricted plant advisory committee  
29 shall be convened by the director with broad representation to advise the  
30 director.

31 Sec. 3. Section 2-952, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 2-952 (1) It shall be the duty of every person to control the  
3 spread of noxious weeds on lands owned or controlled by him or her and to  
4 use such methods for that purpose as are specified in rules and  
5 regulations adopted and promulgated by the director.

6 (2) No person shall plant, propagate, offer for sale, sell, or  
7 otherwise distribute a restricted plant that is included on the list of  
8 restricted plants that is in the rules and regulations adopted and  
9 promulgated by the director pursuant to section 2-954. No person shall be  
10 required to destroy or otherwise control a restricted plant that is not  
11 also determined to be a noxious weed, unless the person planted or  
12 propagated the restricted plant.

13 Sec. 4. Section 2-953, Reissue Revised Statutes of Nebraska, is  
14 amended to read:

15 2-953 For purposes of the Noxious Weed Control Act:

16 ~~(1) Person means any individual, partnership, firm, limited~~  
17 ~~liability company, corporation, company, society, or association, the~~  
18 ~~state or any department, agency, or subdivision thereof, or any other~~  
19 ~~public or private entity;~~

20 (1)(a) ~~(2)(a)~~ Control, with respect to land, means the authority to  
21 operate, manage, supervise, or exercise jurisdiction over or any similar  
22 power. The state or federal government or a political subdivision shall  
23 not be deemed to control land on which it has an easement as long as it  
24 does not otherwise operate, manage, supervise, or exercise jurisdiction  
25 over the land; and

26 (b) Control, with respect to weeds, means the prevention,  
27 suppression, or limitation of the growth, spread, propagation, or  
28 development or the eradication of weeds;

29 ~~(3) County board means the county board of commissioners or~~  
30 ~~supervisors;~~

31 ~~(4) Noxious weeds means and includes any weeds designated and listed~~

1 ~~as noxious in rules and regulations adopted and promulgated by the~~  
2 ~~director;~~

3 (2) (5) Control authority means the county weed district board or  
4 the county board if it is designated as the control authority pursuant to  
5 section 2-953.01, which board shall represent all rural areas and cities,  
6 villages, and townships within the county boundaries;

7 (3) County board means the county board of commissioners or  
8 supervisors;

9 (4) (6) Director means the Director of Agriculture or his or her  
10 designated representative;~~and~~

11 (5) Noxious weed means and includes any plant species designated and  
12 listed as noxious in rules and regulations adopted and promulgated by the  
13 director;

14 (6) Person means any individual, partnership, firm, limited  
15 liability company, corporation, company, society, or association, the  
16 state or any department, agency, or subdivision thereof, or any other  
17 public or private entity;

18 (7) Restricted plant means any nonnative plant species that is  
19 designated and listed as restricted in rules and regulations adopted and  
20 promulgated by the director; and

21 (8) (7) Weed management entity means an entity recognized by the  
22 director as being established by and consisting of local stakeholders,  
23 including tribal governments, for the purpose of controlling or  
24 eradicating harmful, invasive weeds and increasing public knowledge and  
25 education concerning the need to control or eradicate harmful, invasive  
26 weeds.

27 Sec. 5. Section 2-954, Reissue Revised Statutes of Nebraska, is  
28 amended to read:

29 2-954 (1)(a)(i) (1)(a) The duty of enforcing and carrying out the  
30 Noxious Weed Control Act shall be vested in the director and the control  
31 authorities as designated in the act.

1           (ii) The director shall determine the plant species that are noxious  
2 weeds and the plant species that are restricted plants ~~what weeds are~~  
3 ~~noxious~~ for purposes of the act. A plant species may be designated as a  
4 noxious weed due to the detrimental effect of the species on crops,  
5 livestock, the ecology of this state, or the welfare of the residents of  
6 this state. A nonnative plant species may be designated as a restricted  
7 plant due to the detrimental effect of the species on crops, livestock,  
8 the ecology of this state, or the welfare of the residents of this state,  
9 or invasiveness of the species.

10           (iii) A list of the species of such noxious weeds and a list of the  
11 species of such restricted plants shall be included in the rules and  
12 regulations adopted and promulgated by the director. The director shall  
13 prepare, publish, and revise such lists as necessary ~~a list of noxious~~  
14 ~~weeds.~~ Such lists ~~The list~~ shall be distributed to the public by the  
15 director, the Cooperative Extension Service, the control authorities, and  
16 any other body the director deems appropriate.

17           (iv) The director shall, from time to time, adopt and promulgate  
18 rules and regulations on methods for control of noxious weeds and adopt  
19 and promulgate such rules and regulations as are necessary to carry out  
20 the act.

21           (v) Whenever special weed control problems exist in a county  
22 involving weeds not included in the rules and regulations, the control  
23 authority may petition the director to bring such weeds under the county  
24 control program. The petition shall contain the approval of the county  
25 board. Prior to petitioning the director, the control authority, in  
26 cooperation with the county board, shall hold a public hearing and take  
27 testimony upon the petition. Such hearing and the notice thereof shall be  
28 in the manner prescribed by the Administrative Procedure Act. A copy of  
29 the transcript of the public hearing shall accompany the petition filed  
30 with the director. The director may approve or disapprove the request. If  
31 approval is granted, the control authority may proceed under the forced

1 control provisions of sections 2-953 to 2-955 and 2-958.

2 (b) The director shall (i) investigate the subjects ~~subject~~ of  
3 noxious weeds and restricted plants, (ii) require information and reports  
4 from any control authority as to the presence of noxious weeds and  
5 restricted plants and other information relative to noxious weeds and  
6 restricted plants and the control thereof in localities where such  
7 control authority has jurisdiction, (iii) cooperate with control  
8 authorities in carrying out other laws administered by him or her, (iv)  
9 cooperate with agencies of federal and state governments and other  
10 persons in carrying out his or her duties under the Noxious Weed Control  
11 Act, (v) with the consent of the Governor, conduct investigations outside  
12 this state to protect the interest of the agricultural industry of this  
13 state from noxious weeds and restricted plants not generally distributed  
14 therein, (vi) with the consent of the federal agency involved, control  
15 noxious weeds on federal lands within this state, with reimbursement,  
16 when deemed by the director to be necessary to an effective weed control  
17 program, (vii) advise and confer as to the extent of noxious weed  
18 infestations and the methods determined best suited to the control  
19 thereof, (viii) call and attend meetings and conferences dealing with the  
20 subject of noxious weeds and restricted plants, (ix) disseminate  
21 information and conduct educational campaigns with respect to control of  
22 noxious weeds and restricted plants, (x) procure materials and equipment  
23 and employ personnel necessary to carry out the director's duties and  
24 responsibilities, and (xi) perform such other acts as may be necessary or  
25 appropriate to the administration of the act.

26 (c) The director may (i) temporarily designate a plant species weed  
27 as a noxious weed or a restricted plant for up to eighteen months if the  
28 director, in consultation with the advisory committee created under  
29 section 2-965.01, has adopted criteria for making temporary designations  
30 and (ii) apply for and accept any gift, grant, contract, or other funds  
31 or grants-in-aid from the federal government or other public and private

1 sources for noxious weed or restricted plant control purposes and account  
2 for such funds as prescribed by the Auditor of Public Accounts.

3 (d) When the director determines that a control authority has  
4 substantively failed to carry out its duties and responsibilities as a  
5 control authority or has substantively failed to implement a county weed  
6 control program, he or she shall instruct the control authority regarding  
7 the measures necessary to fulfill such duties and responsibilities. The  
8 director shall establish a reasonable date by which the control authority  
9 shall fulfill such duties and responsibilities. If the control authority  
10 fails or refuses to comply with instructions by such date, the Attorney  
11 General shall file an action as provided by law against the control  
12 authority for such failure or refusal.

13 (2)(a) Each control authority shall carry out the duties and  
14 responsibilities vested in it under the act with respect to land under  
15 its jurisdiction in accordance with rules and regulations adopted and  
16 promulgated by the director. Such duties shall include the establishment  
17 of a coordinated program for control of noxious weeds and restricted  
18 plants within the county.

19 (b) A control authority may cooperate with any person in carrying  
20 out its duties and responsibilities under the act.

21 (3)(a) Each county board shall employ one or more weed control  
22 superintendents. Each such superintendent shall, as a condition precedent  
23 to employment, be certified in writing by the federal Environmental  
24 Protection Agency as a commercial applicator under the Federal  
25 Insecticide, Fungicide, and Rodenticide Act. Each superintendent shall be  
26 bonded for such sum as the county board shall prescribe. The same person  
27 may be a weed control superintendent for more than one county. Such  
28 employment may be for such tenure and at such rates of compensation and  
29 reimbursement for travel expenses as the county board may prescribe. Such  
30 superintendent shall be reimbursed for mileage at a rate equal to or  
31 greater than the rate provided in section 81-1176.

1 (b) Under the direction of the control authority, it shall be the  
2 duty of every weed control superintendent to examine all land under the  
3 jurisdiction of the control authority for the purpose of determining  
4 whether the Noxious Weed Control Act and the rules and regulations  
5 adopted and promulgated by the director have been complied with. The weed  
6 control superintendent shall: (i) Compile such data on infested areas,  
7 ~~and controlled areas, the sale and distribution of restricted plants,~~ and  
8 such other reports as the director or the control authority may require;  
9 (ii) consult and advise upon matters pertaining to the best and most  
10 practical methods of noxious weed and restricted plant control and render  
11 assistance and direction for the most effective control; (iii)  
12 investigate or aid in the investigation and prosecution of any violation  
13 of the act; and (iv) perform such other duties as required by the control  
14 authority in the performance of its duties. Weed control superintendents  
15 shall cooperate and assist one another to the extent practicable and  
16 shall supervise the carrying out of the coordinated control program  
17 within the county.

18 (c) In cases involving counties in which municipalities have  
19 ordinances for weed control, the control authority may enter into  
20 agreements with municipal authorities for the enforcement of local weed  
21 ordinances and may follow collection procedures established by such  
22 ordinances. All money received shall be deposited in the noxious weed  
23 control fund or, if no noxious weed control fund exists, in the county  
24 general fund.

25 Sec. 6. Section 2-961, Reissue Revised Statutes of Nebraska, is  
26 amended to read:

27 2-961 The director, any control authority, any weed control  
28 superintendent, or anyone authorized thereby may enter upon all land  
29 under his, her, or its respective jurisdiction for the purpose of  
30 performing the duties and exercising the powers under the rules and  
31 regulations adopted and promulgated by the director and the Noxious Weed



1 Control Act, including the taking of specimens of weeds, restricted  
2 plants, or other materials, without the consent of the person owning or  
3 controlling such land and without being subject to any action for  
4 trespass or damages, including damages for destruction of growing crops,  
5 if reasonable care is exercised.

6 Sec. 7. Section 2-963, Reissue Revised Statutes of Nebraska, is  
7 amended to read:

8 2-963 (1) Any person who intrudes upon any land under quarantine,  
9 who moves or causes to be moved any article covered by section 2-957  
10 except as provided in such section, who prevents or threatens to prevent  
11 entry upon land as provided in section 2-961, who violates section 2-952,  
12 or who interferes with the carrying out of the Noxious Weed Control Act  
13 shall be guilty of a Class IV misdemeanor in addition to any penalty  
14 imposed pursuant to section 2-955.

15 (2) It shall be the duty of the county attorney of the county in  
16 which any violation of section 2-955 or this section occurs, when  
17 notified of such violation by the county board or control authority, to  
18 cause appropriate proceedings to be instituted and pursued in the  
19 appropriate court without delay.

20 Sec. 8. Section 2-965.01, Reissue Revised Statutes of Nebraska, is  
21 amended to read:

22 2-965.01 The director shall convene an advisory committee to advise  
23 the director concerning his or her responsibilities under the noxious  
24 weed and restricted plant control program. Representatives from the  
25 Nebraska Weed Control Association, the leafy spurge task force, state or  
26 federal agencies actively concerned with the control of noxious weeds or  
27 restricted plants, the University of Nebraska Institute of Agriculture  
28 and Natural Resources, and cities and villages of this state, persons  
29 actively involved in agriculture, and others in the public and private  
30 sector may serve on such committee at the request of the director. If an  
31 advisory committee is convened, members shall not receive any

1 reimbursement for expenses.

2       Sec. 9.    (1)(a) Notice for control of restricted plants shall  
3 consist of individual notice, which shall be on a form prescribed by this  
4 section. Failure to serve such individual notice as provided in this  
5 section shall not relieve any person from the necessity of full  
6 compliance with the Noxious Weed Control Act and rules and regulations  
7 adopted and promulgated pursuant to the act.

8       (b) Such notice shall be served in person to or to the last-known  
9 address of the person planting, propagating, offering for sale, selling,  
10 or otherwise distributing the restricted plant.

11       (2) Each control authority shall use the following form for all  
12 individual notices:

13       ..... County Weed Control Authority

14       OFFICIAL NOTICE

15       Section 2-952, Reissue Revised Statutes of Nebraska, places an  
16 affirmative duty upon every person to not plant, propagate, offer for  
17 sale, sell, or otherwise distribute restricted plants. Information  
18 received by the control authority and an investigation relating to the  
19 information indicates a violation of section 2-952.

20       The restricted plant or plants and related violation or violations  
21 are .....

22       The remedy recommended by the control authority is as  
23 follows: .....

24       Other appropriate remedies are acceptable if approved by the county  
25 weed control superintendent. If, within fifteen days from the date  
26 specified at the bottom of this notice, the remedy specified for each  
27 violation above has not been completed, you may, upon conviction, be  
28 subject to a fine of \$100.00 per day per violation for each day of  
29 noncompliance beginning on ....., up to a maximum of fifteen  
30 days of noncompliance (maximum \$1,500 per violation).

31       Upon request to the control authority, within fifteen days from the

1 date specified at the bottom of this notice, you are entitled to a  
2 hearing before the control authority to challenge the violation or  
3 violations specified in this notice.

4 ..... Weed Control Superintendent

5 Dated.....

6 (3) At the request of any person served with an individual notice  
7 pursuant to this section, the control authority shall hold an informal  
8 public hearing to allow such person an opportunity to be heard on the  
9 question of the violation or violations specified in the notice.

10 (4) Whenever the person has neglected or failed to remedy a  
11 violation specified in a notice served under this section, the control  
12 authority having jurisdiction shall proceed as follows:

13 (a) If, within fifteen days from the date specified on the notice  
14 required by this section, the person has not taken action to remedy a  
15 violation specified on the notice and has not requested a hearing  
16 pursuant to subsection (3) of this section, the control authority shall  
17 notify the county attorney who shall proceed against such person as  
18 prescribed in this subdivision. A person who is responsible for planting,  
19 propagating, offering for sale, selling, or otherwise distributing a  
20 restricted plant and who refuses or fails to remedy the violation within  
21 the time designated in the notice delivered by the control authority  
22 shall, upon conviction, be guilty of an infraction pursuant to sections  
23 29-431 to 29-438, except that the penalty shall be a fine of one hundred  
24 dollars per day per violation for each day up to a total of one thousand  
25 five hundred dollars for fifteen days of noncompliance per violation; or

26 (b) If, within ten days from the date specified in the notice  
27 required by this section, the owner has not taken action to remedy a  
28 violation in the notice and such violation warrants immediate action to  
29 prevent a restricted plant from being planted, propagated, offered for  
30 sale, sold, or otherwise distributed, the control authority may cause  
31 proper control methods to be used, and shall advise the person of the

1 cost incurred in connection with such operation. The cost of any such  
2 control shall be at the expense of the person. Additionally, the control  
3 authority shall immediately cause notice to be filed of possible unpaid  
4 restricted plant control assessments against the property upon which the  
5 control measures were used in the register of deeds office in the county  
6 where the property is located. If unpaid for two months, the control  
7 authority shall certify to the county treasurer the amount of such  
8 expense and such expense shall become a lien on the property upon which  
9 the control measures were taken as a special assessment levied on the  
10 date of control. The county treasurer shall add such expense to and it  
11 shall become and form a part of the taxes upon such land and shall bear  
12 interest at the same rate as taxes.

13 (5) Nothing contained in this section shall be construed to limit  
14 satisfaction of the obligation imposed hereby in whole or in part by tax  
15 foreclosure proceedings. The expense may be collected by suit instituted  
16 for that purpose as a debt due the county or by any other or additional  
17 remedy otherwise available. Amounts collected under subdivision (4)(b) of  
18 this section shall be deposited to the noxious weed control fund of the  
19 control authority or, if no noxious weed control fund exists, to the  
20 county general fund.

21 Sec. 10. Original sections 2-945.01, 2-945.02, 2-952, 2-953, 2-954,  
22 2-961, 2-963, and 2-965.01, Reissue Revised Statutes of Nebraska, are  
23 repealed.