

## LEGISLATIVE BILL 14

Approved by the Governor May 23, 1975

Introduced by Executive Board, Savage, 10, V-Chmn.;  
Stull, 49; Goodrich, 20; Kremer, 34; Schmit,  
23

AN ACT relating to agriculture; to amend sections 2-946.02, 2-952, 2-953, 2-954, 2-956, 2-959, 2-960, 2-965, and 2-966, Reissue Revised Statutes of Nebraska, 1943, and sections 2-955 and 2-963, Revised Statutes Supplement, 1974, relating to noxious weeds; to redefine terms; to provide for the reestablishment of county weed district boards; to eliminate references to eradication; to provide compensation; to change hearing provisions; to change provisions for superintendents; to change the manner for recovery of expenses; to make certain acts of pest control professionals unlawful; to provide a penalty; and to repeal the original sections, and also section 2-954.01, Reissue Revised Statutes of Nebraska, 1943.

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

Section 1. That section 2-946.02, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-946.02. All cities and villages in this state may provide for, appropriate money for and make the necessary expenditures for noxious weed control, and ~~eradication~~. The director shall cooperate with and advise such cities or villages in such noxious weed control, and ~~eradication~~. Nothing in this section, ~~however~~, shall prevent the formation of a weed ~~eradication~~ control district in cities and villages under the other provisions of this act.

Sec. 2. That section 2-952, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-952. It shall be the duty of every person to control the spread of ~~and-to-eradicate~~ noxious weeds on lands owned or controlled by him and to use such methods for that purpose and at such times as are approved and adopted by the Director of Agriculture.

Sec. 3. That section 2-953, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-953. As used in sections 2-952 to 2-965, unless the context otherwise requires:

(1) Person shall mean any individual, partnership, firm, corporation, company, society, association, the state or any department, agency, or subdivision thereof, or any other entity;

(2) Control, controlled, or controlling, shall include being in charge of or being in possession, whether as owner, lessee, renter, tenant, under statutory authority, or otherwise;

(3) Noxious weeds shall mean and include any weed designated and listed in regulations promulgated by the Director of Agriculture as noxious: bindweed-(convolvulus arvensis); puncture-vine-(tribulus-terrestris); leafy spurge-(euphorbia-esula); Canada-thistle-(cirsium arvense); perennial-peppergrass-(lepidium-draba); Russian knapweed-(centaurea-pieris); Johnson-grass-(sorghum halepense); musk-thistle-(Carduus-nutans); Scotch-thistle-(onopordum-acanthium); morning-glory-(ipomoea-spp); bur ragweed-(Franseria--discolor/Franseria--tomentosa); globepodded-hairy-cress-(Hymenophyssa-pubescens); and such other weeds of a similar character as the director shall designate as noxious weeds;

(4) Control authority shall mean the county weed district board, which shall represent all rural area and cities, villages, and townships within the county boundaries. The county board of commissioners or supervisors may, following an election in which a majority of the votes cast are in favor of such action, function as and exercise the authority and carry out the duties of the county weed district board. To initiate such an election, the county board of commissioners or supervisors may, by resolution, require the county clerk of such county to have placed upon the ballot at the election next following such resolution, the question, Shall the weed control authority board be dissolved and its duties and authority be exercised by the county board?

Yes .... No ....

If a majority of the votes cast on this question are opposed to dissolution of the weed control authority board, the county shall remain subject to the direction and authority of the elected weed control authority

board. If a majority of the votes cast on this question are in favor of the dissolution of the weed control authority board, the county board shall function as and exercise the authority and carry out the duties of the county weed district board. If, at any time following the dissolution of the county weed control authority board, county residents, representing at least ten per cent of the votes cast in the preceding general election in such county, submit a petition to the county clerk for reestablishment of the county weed control authority board as an independent elected body, the clerk shall place the following question on the next general election ballot: Shall the weed control authority board be reestablished and elected independent of other county officials?

Yes . . . . . No . . . . .

If a majority of the ballots favor reestablishment of the independent board, the county board shall appoint an initial weed control authority board and thereafter the weed control authority board members shall be elected in conformity with this section.

When the county board of commissioners or supervisors does not function as the weed district board, such board shall be composed of five members, three of whom shall be from rural areas and two of whom shall be from cities, villages or townships. The county board shall appoint members of the authority to fill any vacancy occurring on the board. The two members from cities, villages or townships shall thereafter be elected at the general election in 1966 and each four years thereafter, and the three members from rural areas shall be elected at the general election in 1968 and each four years thereafter. Persons seeking election to the authority shall be nominated and elected regardless of political affiliation. They shall file in the same manner as is provided by law for county superintendents and shall not be required to pay a filing fee. ~~The expenses of the weed district board members shall be ten cents per mile when on official business and a per diem of twelve dollars per day when on official business.~~ The members of the board shall be paid a per diem of not less than twelve dollars for each day actually and necessarily engaged in the performance of their official duties as members of such board and shall be allowed mileage reimbursement on the same basis as county officers and employees as provided in section 23-1112.01. In addition to the five member board, the chairman of the county board of supervisors or commissioners may appoint one member of the county board to serve as ex officio member of the weed control authority board to provide coordination between such boards; provided, that the

county board member or commissioner so appointed shall not be entitled to expense reimbursement allowed weed district board members. The ex officio member shall possess the same authority as other members, including the right to vote;

(5) Applicable fund shall mean the fund current at the time the work is performed or the money is received; and

(6) Director shall mean the Director of Agriculture, or his designated representative.

Sec. 4. That section 2-954, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-954. (1) (a) The duty of enforcing sections 2-952 to 2-965 and carrying out its provisions is vested in the director and the authorities designated in sections 2-952 to 2-965 acting under the supervision and direction of the director. The director shall determine what weeds are noxious for the purposes of sections 2-952 to 2-965, and shall compile and keep current a list of such noxious weeds, which list shall be published and incorporated in the rules and regulations of the director. The director shall, from time to time, adopt and publish methods as official for control and eradication of noxious weeds and make and publish such rules and regulations as in his judgment are necessary to carry out the provisions of sections 2-952 to 2-965. Whenever special weed control problems exist in a county involving weeds not covered in the noxious weed list, the weed control authority may petition the director to bring such weeds under the county control program. The petition shall contain the approval of the county board of supervisors or commissioners. Prior to petitioning the director, the control authority, in cooperation with the county board of commissioners or supervisors, shall hold a public hearing and take testimony upon the petition. Such hearing and the notice thereof shall be in the manner prescribed by Chapter 84, article 9. A copy of the transcript of the public hearing shall accompany the petition filed with the director. The director shall cause notice of public hearing to be published in a newspaper having circulation in the county named in the petition and shall thereafter hold a hearing to take testimony upon the petition. Following the hearing, the The director may approve or disapprove the request and if approval is granted, the weed control authority may proceed under the forced control provisions of sections 2-953 to 2-955 and 2-958.

(b) The director ~~is---authorized---~~ shall investigate the subject of noxious weeds; ~~to~~ require information and reports from any control authority as to the presence of noxious weeds and other information relative to noxious weeds and the control ~~and-eradication~~ thereof in localities where such control authority has jurisdiction; ~~to~~ cooperate with control authorities in carrying out other acts administered by him; ~~to~~ cooperate with agencies of federal and state governments and persons, in carrying out his duties under sections 2-952 to 2-965, and, with the consent of the Governor, in the conduct of investigations outside this state in the interest of the protection of the agricultural industry of this state from noxious weeds not generally distributed therein; with the consent of the federal agency involved, ~~to~~ control ~~and-eradicate~~ noxious weeds on federal lands within this state, with or without reimbursement, when deemed by him to be necessary to an effective weed control ~~and-eradication~~ program; ~~to~~ advise and confer as to the extent of noxious weed infestations and the methods determined best suited to the control ~~and eradication~~ thereof; ~~to~~ call and attend meetings and conferences dealing with the subject of noxious weeds; ~~to~~ disseminate information and conduct educational campaigns with respect to control ~~and-eradication~~ of noxious weeds; ~~to~~ procure materials and equipment and employ personnel necessary to carry out his duties and responsibilities; and ~~to~~ perform such other acts as may be necessary or appropriate to the administration of sections 2-952 to 2-965.

(c) When it is determined by the director that a control authority has failed to carry out any of its duties and responsibilities as a control authority, the director shall perform such duties and responsibilities in the same manner and under the same conditions except that any money collected as provided in subsections (2) and (3) of section 2-955 and the control authority's share of costs under subsection (4) of section 2-955 shall be for deposit to the applicable fund of the director.

(d) When determined by the director that a control authority has failed to control ~~or-eradicate~~ noxious weeds on land owned or controlled by it or to comply with the provisions of section 2-956 as to any article owned or controlled by it, the director shall have proper control ~~and-eradication~~ measures taken and may hold or prevent the movement of any such article, and the cost of such control ~~and-eradication~~ work shall be a charge against the owner of the land upon which the cost for control ~~and-eradication-were~~ was incurred and may be recovered by suit instituted for that purpose in the name

of the director by the Attorney General. The administrative costs incurred by the director in the administration of a control program upon the default of the weed control authority of a county may be recovered from the county. All funds thus collected shall be deposited to the applicable fund of the director.

(2) (a) Each control authority shall carry out the duties and responsibilities vested in it under sections 2-952 to 2-965 with respect to land under its jurisdiction, in accordance with rules and regulations prescribed by the director. Such duties shall include the establishment, under the general direction of the county control authority, of a coordinated program for control and-eradication of noxious weeds within such county.

(b) A control authority may cooperate with any person in carrying out its duties and responsibilities under sections 2-952 to 2-965, and may cooperate with the director in carrying out other acts administered by him.

(3) (a) Each control authority county board of supervisors or commissioners shall, within thirty days following the effective date of this act, and continually thereafter, employ one or more weed control superintendents, who shall such superintendents shall, as a condition precedent to employment and at least annually thereafter, be certified in writing by the director as a condition precedent to employment to be qualified to detect and treat noxious weeds. Each superintendent shall be bonded for such sum as the county board shall prescribe. The same person may be a weed control superintendent for more than one control authority county. Such employment may be for such tenure, and at such rates of compensation and reimbursement for travel expenses, as the control authority county board may prescribe.

(b) Under the direction of the employing control authority, it shall be the duty of every weed control superintendent to examine all land under the jurisdiction of the control authority for the purpose of determining whether the provisions of sections 2-952 to 2-965 and the regulations of the director have been complied with. He shall compile such data on infested areas and areas eradicated controlled and such other reports as the director or control authority may require; consult and advise upon matters pertaining to the best and most practical methods of noxious weed control, and eradication; and render assistance and direction for the most effective control; and-eradication; investigate or aid in the investigation and prosecution of any violation

of sections 2-952 to 2-965; and perform such other duties as required by the control authority in the performance of its duties. Weed control superintendents shall cooperate and assist one another to the extent practicable. County weed control superintendents shall supervise the carrying out of the coordinated control and eradication program within the county.

(c) In cases involving counties in which municipalities have ordinances for weed control, the weed control authority may enter into agreements with municipal authorities for the enforcement of local weed ordinances and may follow collection procedures as may be established by such ordinance or ordinances. All money received shall be deposited in the weed control authority fund.

Sec. 5. That section 2-955, Revised Statutes Supplement, 1974, be amended to read as follows:

2-955. (1) Notices for control and--~~eradication~~ of noxious weeds shall consist of two kinds: General notices and individual notices, on a form prescribed by the director. Failure to publish general weed notices or to serve individual notices as provided in this section shall not relieve any person from the necessity of full compliance with sections 2-952 to 2-965 and regulations thereunder.

(a) General notice shall be published by each control authority, in one or more legal newspapers of general circulation throughout the area over which the control authority has jurisdiction, on or before May 1 of each year and at such other times as the director may direct or the control authority may determine.

(b) Whenever any control authority finds it necessary to secure more prompt or definite control or ~~eradication~~ of weeds on particular land than is accomplished by the general published notice, it shall cause to be served individual notice upon the owner of record of such land at his last-known address, giving specific instructions and methods when and how certain named weeds are to be controlled, ~~or--eradicated.~~ Such methods may include definite systems of tillage, cropping, management, and use of livestock. In all counties having a population of three hundred thousand or more inhabitants, the control authority or the director may dispense with the individual notices and may publish general notices if published in one or more legal newspapers of general circulation throughout the area over which such control authority has jurisdiction. Such notice shall be published weekly for four successive

weeks prior to May 1 of each year or at such other times as the director or control authority deems necessary.

(2) Whenever the owner of the land on which noxious weeds are present has neglected or failed to control ~~or--eradicate~~ them as required pursuant to sections 2-952 to 2-965 and any notice given pursuant to subsection (1) of this section, the control authority having jurisdiction shall have proper control and ~~eradication~~ methods used on such land, including necessary destruction of growing crops, and shall advise the record owner of the cost incurred in connection with such operation. The cost of any such control ~~or eradication~~ shall be at the expense of the owner. If unpaid for two months, ~~or--longer,~~ the weed control authority shall certify to the county treasurer the amount of such expense ~~may and such expense shall~~ become a lien on the property upon which the control and ~~eradication~~ measures were taken as a special assessment levied on the date of control. ~~or--eradication~~ The county treasurer shall add such expense and may be added to and it shall become and form a part of the taxes upon such land and shall bear interest at the same rate as taxes. Nothing contained in this section shall be construed to limit satisfaction of the obligation imposed hereby in whole or in part by tax foreclosure proceedings. The expense may be collected by suit instituted for that purpose as a debt due the county or by any other or additional remedy otherwise available. Amounts collected under this section shall be deposited to the noxious weed control fund of the control authority.

~~(3)-When-it-appears-to-a-control--authority--that upon-any-tract-of-land-under-its-jurisdiction-there-is-an infestation-of-noxious-weeds-beyond-the--ability-of--the owner-of-such-land-to-eradicate,-the--control--authority, with-the-approval-of-the-director,-may-quarantine-such land-and-put-into-immediate-operation-the-necessary-means for-the--eradication--of--such--noxious--weeds--including necessary-destruction--of--growing--crops,-the--control authority-shall,-prior-to-the-entry-upon-such-land,-serve individual-notice-on-the-record-owner-of-such--quarantine and-entry,-and-shall-also-advise-the-same-persons-of--the completion-of-the-eradication--operation,-and--the--cost thereof,-The-expense-of-such-quarantine-and--eradication shall-be-borne-as--follows:-One-third--from--any--funds available-to--the--director--for--the--administration--of sections-2-952-to-2-965;-one-third-from-the-noxious--weed control-fund-of-the-control-authority;-and-one-third-from the-person-owning-such-land,-which-may-be-collected--and deposited-as-provided-in-subsection-(2)-of-this-section;~~



Sec. 6. That section 2-956, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-956. The cost of controlling ~~and--eradicating~~ noxious weeds on all land, including highways, roadways, streets, alleys and rights-of-way, owned or controlled by a state department, agency, commission, or board shall be paid by the state department, agency, commission, or board in control thereof out of funds appropriated to its use.

Sec. 7. That section 2-959, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-959. Control authorities, independently or in combination, may purchase or provide for needed or necessary equipment for the control ~~and--eradication~~ of weeds, whether or not declared noxious, on land under their jurisdiction and may make available the use of machinery and other equipment and operators at such cost as may be deemed sufficient to cover the actual cost of operations, including depreciation, of such machinery and equipment. All funds so received shall be deposited to the noxious weed control fund. Each control authority shall keep a record showing the procurement and rental of equipment, which record shall be open to inspection by citizens of this state.

Sec. 8. That section 2-960, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-960. If any person shall be dissatisfied with the amount of any charge made against him by a control authority for control ~~or--eradication~~ work or for the purchase of materials or use of equipment, he may, within fifteen days after being advised of the amount of the charge, file a protest with the director. The director shall hold a hearing thereon and shall have the power to adjust or affirm such charge. If any person is dissatisfied with the decision of the director, or with charges made by the director for control ~~or--eradication~~ work performed by him, such person may, within twenty days from the date of such decision or notification of the amount of such charge, file a written notice of appeal with the clerk of the district court in which his land is located and thereupon an action shall be docketed in such court and tried the same as other actions.

Sec. 9. That section 2-963, Revised Statutes Supplement, 1974, be amended to read as follows:

2-963. Any person knowing of the existence of any noxious weeds on lands owned or controlled by him who fails to control ~~or eradicate~~ such weeds in accordance with sections 2-952 to 2-965 and rules and regulations prescribed under sections 2-952 to 2-965, and any person who intrudes upon any land under quarantine or who moves or causes to be moved any article covered by section 2-957 except as provided therein, or who prevents or threatens to prevent entry upon land as provided in section 2-961, or who interferes with the carrying out of the provisions of sections 2-952 to 2-965, shall be guilty of a misdemeanor, and shall, upon conviction thereof, ~~shall~~ be fined not less than fifty dollars nor more than five hundred dollars on account of each violation.

Sec. 10. That section 2-965, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-965. Any funds standing to the credit of any weed ~~eradication~~ control district organized under the provisions of Chapter 2, article 9, on November 18, 1965 and not necessary for the payment of outstanding obligations of the district shall be paid by the district treasurer into the county treasury and there deposited to the credit of the county noxious weed control fund. If such district includes land located in more than one county, such funds shall be divided between or among such counties in proportion to the amount of land of the district in each such county.

Sec. 11. That section 2-966, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-966. Title to any real estate standing in the name of any noxious weed ~~eradication~~ control district created under the provisions of sections 2-910 to 2-951, which district was dissolved by the repeal of such sections by Laws 1965, Chapter 7, section 15, is hereby quieted in the county in which such real estate is located. Any such real estate shall be held by the county for the use of the county weed control authority created pursuant to sections 2-952 to 2-965, or may be sold and the proceeds from such sale deposited to the credit of the county noxious weed control fund as provided by section 2-965.

Sec. 12. (1) It shall be unlawful for a pest control professional, as such term is defined in section 2-2601, to apply an economic poison for a valuable consideration in a quantity or at an application rate

different from that which was represented by him to the person who is to provide the valuable consideration therefor.

(2) For the purpose of enforcing the provisions of this section, the director shall have the authority to sample, examine, and analyze any economic poison to be applied for a valuable consideration, or the remaining portion of an economic poison which has been so applied, to determine whether the economic poison is present in a quantity equal to the application rate represented by the pest control professional to the person who is to provide the valuable consideration therefor.

(3) If it shall appear from the director's analysis that an economic poison has been applied by a pest control professional at an application rate different from that which was represented by him to the person who is to provide the valuable consideration therefor, the director shall immediately advise the person who is to provide the valuable consideration and the pest control professional, in writing, of the complete results of the analysis.

(4) Any person who violates the provisions of this section or who interferes with the carrying out of the provisions of this section shall be guilty of a misdemeanor and shall, upon conviction thereof, be punished by a fine of not less than fifty dollars nor more than one thousand dollars. Before any violation is reported to any county attorney for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the director or his designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

Sec. 13. That original sections 2-946.02, 2-952, 2-953, 2-954, 2-956, 2-959, 2-960, 2-965, and 2-966, Reissue Revised Statutes of Nebraska, 1943, and sections 2-955 and 2-963, Revised Statutes Supplement, 1974, and also section 2-954.01, Reissue Revised Statutes of Nebraska, 1943, are repealed.

LB15

LEGISLATIVE BILL 15

Approved by the Governor March 19, 1975

Introduced by Savage, 10

AN ACT to adopt the official state insect.  
Be it enacted by the people of the State of Nebraska,

Section 1. The honey bee (*Apis mellifera*) is hereby adopted as the official state insect.