

## LEGISLATIVE BILL 154

Approved by the Governor May 20, 1983

Introduced by Vickers, 38

AN ACT to amend sections 2-955 and 2-963, Reissue Revised Statutes of Nebraska, 1943, relating to noxious weeds; to provide duties; to provide a penalty; to harmonize provisions; and to repeal the original sections.

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

Section 1. That section 2-955, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

2-955. (1) Notices for control of noxious weeds shall consist of two kinds: General notices, on a form prescribed by the director, and individual notices, on a form prescribed by the director ~~this section~~. 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 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 or her last-known address, giving specific instructions and methods when and how certain named weeds are to be controlled. Such methods may include definite systems of tillage, cropping, management, and use of livestock.

Each control authority shall use one of the following forms for all individual notices: (i)

County Weed Control Authority

NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, 1943, places an affirmative duty upon every

person to control noxious weeds on land under such person's ownership or control. Information received by the board, including an onsite investigation by the county weed control superintendent or a deputy, indicated the existence of an uncontrolled noxious weed infestation on property owned by you at:

.....  
The method of control recommended by the control authority is as follows:

.....  
Other appropriate control methods are acceptable.

Because the stage of growth of the noxious weed infestation on the above specified property warrants immediate control, if such infestation remains uncontrolled after ten days from the date specified at the bottom of this notice, the control authority may enter upon such property for the purpose of taking the appropriate weed control measures. Costs for the control activities of the weed control authority shall be at the expense of the owner of the property and shall become a lien on the property as a special assessment levied on the date of control.

Superintendent of Weed Control Authority

.....  
Chairperson of Weed Control Board

Dated

.....  
or (ii)

County Weed Control Authority

NOTICE

Section 2-952, Reissue Revised Statutes of Nebraska, 1943, places an affirmative duty upon every person to control noxious weeds on land under such person's ownership or control. Information received by the board, including an onsite investigation by the county weed control superintendent or a deputy, indicates the existence of an uncontrolled noxious weed infestation on property owned by you at:

.....  
The method of control recommended by the control authority is as follows:

.....  
Other appropriate control methods are acceptable. If, within fifteen days from the date specified at the bottom of this notice, the noxious weed infestation on such property, as specified above, has not been brought under control, you may, upon conviction, be subject to a fine of \$50.00 per day for each day of noncompliance up to a maximum of fifteen days of noncompliance (maximum \$750).

Upon request to the board, within fifteen days from the date specified at the bottom of this notice, you are entitled to a hearing before the board to challenge the existence of a noxious weed infestation on

property owned by you at.....  
.....  
Superintendent of Weed Control Authority  
.....  
Chairperson of Weed Control Board Dated.

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. In no event shall a fine be assessed against a landowner as prescribed in subdivision (3)(a) of this section, unless the control authority has caused individual notice to be served upon the landowner as specified in this subdivision.

(2) At the request of any owner served with an individual notice pursuant to subdivision (1)(b)(ii) of this section the control authority shall hold an informal public hearing to allow such landowner opportunity to be heard on the question of the existence of an uncontrolled noxious weed infestation on such landowner's property.

(3) Whenever the owner of the land on which noxious weeds are present has neglected or failed to control 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 proceed as follows:

(a) If, within fifteen days from the date specified on the notice required by subdivision (1)(b)(iii) of this section, the owner has not taken action to control the noxious weeds on the specified property and has not requested a hearing pursuant to subsection (2) of this section, the control authority shall notify the county attorney who shall proceed against such owner as prescribed in this subdivision. A person who is responsible for an infestation of noxious weeds on particular land under his or her ownership and who refuses or fails to control the weeds on the infested area within the time designated in the notice delivered by the control authority shall, upon conviction, be guilty of an infraction pursuant to sections 29-431 to 29-438, except that the penalty shall be a fine of fifty dollars per day for each day of violation up to a total of seven hundred fifty dollars for fifteen days of noncompliance; or

(b) If within ten days from the date specified in the notice required by subdivision (1)(b)(i) of this section, the owner has not taken action to control the



noxious weeds on the specified property and the stage of growth of such noxious weeds warrants immediate control to prevent spread of the infestation to neighboring property, the control authority may cause proper control methods to be used on such infested 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 shall be at the expense of the owner. In addition the control authority shall immediately cause notice to be filed of possible unpaid weed control assessments against the property upon which the control measures were used in the register of deeds office in the county where the property is located. If unpaid for two months, the weed control authority shall certify to the county treasurer the amount of such expense and such expense shall become a lien on the property upon which the control measures were taken as a special assessment levied on the date of control. The county treasurer shall add such expense 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 subdivision (3)(b) of this section shall be deposited to the noxious weed control fund of the control authority.

Sec. 2. That section 2-963, Reissue Revised Statutes of Nebraska, 1943, 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 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 (1) 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 Class IV misdemeanor in addition to any penalty imposed pursuant to section 2-955.

(2) It shall be the duty of the county attorney of the county in which any violation of section 2-955 or this section occurs, when notified of such violation by the county board or weed control authority, to cause appropriate proceedings to be instituted and

pursued in the appropriate court without delay.

Sec. 3. That original sections 2-955 and 2-963, Reissue Revised Statutes of Nebraska, 1943, are repealed.