

HOUSE BILL NO. 269  
INTRODUCED BY D. RICE

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO WEEDS; REMOVING THE REQUIREMENT THAT AN OWNER SELLING PROPERTY PROVIDE NOTICE THAT THERE IS THE POTENTIAL EXISTENCE OF NOXIOUS WEEDS; PROVIDING THAT A COUNTY WEED BOARD MAY ESTABLISH EMBARGOES; CLARIFYING STATUTES REGARDING THE CREATION OF A NOXIOUS WEED FUND IN EACH COUNTY; REMOVING THE REQUIREMENT THAT AN INTEGRATED NOXIOUS WEED MANAGEMENT PLAN WITH STATE AGENCIES BE FOR 6 YEARS; REMOVING THE REDUNDANT STATUTE REGARDING RESPONSIBILITY FOR ASSESSMENTS AND TAXES FOR THE WEED DISTRICT; AMENDING SECTIONS 7-22-2116, 7-22-2126, 7-22-2142, AND 7-22-2151, MCA; AND REPEALING SECTIONS 7-22-2149 AND 77-6-114, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 7-22-2116, MCA, is amended to read:

**"7-22-2116. Unlawful to permit noxious weeds to propagate -- notice required in sale.** (1) It is unlawful for any person to permit any noxious weed to propagate or go to seed on the person's land, except that any person who adheres to the noxious weed management program of the person's weed management district or who has entered into and is in compliance with a noxious weed management agreement is considered to be in compliance with this section.

(2) When property is offered for sale, the person who owns the property shall notify the owner's agent and the purchaser of the ~~existence or potential existence~~ of noxious weeds on the property offered for sale."

**Section 2.** Section 7-22-2126, MCA, is amended to read:

**"7-22-2126. Embargo.** (1) The board may establish ~~voluntary~~ embargo programs to reduce the spread of noxious weeds within the district or the introduction of noxious weeds into the district.

(2) The board shall establish a special embargo program for the movement of forage, as defined in 80-7-903, into or out of the county. The board may implement an embargo upon confirmation of a violation, based upon complaint investigations, requests for investigation by the department, or through county investigations, if the forage has not been certified by the state and is being sold as noxious weed seed free, as defined in

80-7-903.

(3) A person in possession of the forage that is not in compliance with Title 80, chapter 7, part 9, may not move or dispose of the forage as noxious weed seed free that is subject to embargo until written permission is obtained from the board. If the forage that is subject to embargo is found to have met all of the requirements of the state certification program and the department verifies compliance with the program, the board shall release the embargo. The board may also release the forage under the following conditions:

- (a) verification of guaranteed delivery back to the original producer, as defined in 80-7-903;
- (b) burning or disposal of the forage in a manner acceptable to the board; or
- (c) other alternatives approved by the board.

(4) The board shall report all embargoes issued and the final resolution of an embargo imposed pursuant to a violation of Title 80, chapter 7, part 9, to the department within 48 hours.

(5) The person in possession of forage subject to embargo shall comply with the conditions approved by the board within 30 days. If resolution is not accomplished, the board may condemn the forage and implement through its employees any of the conditions set forth in this section. If the board proceeds with correction of these conditions after 30 days, all actual expenses incurred and documented by the board are payable by the producer unless the person in possession of the forage also has an interest in the forage."

**Section 3.** Section 7-22-2142, MCA, is amended to read:

**"7-22-2142. Sources of money for noxious weed fund.** ~~(1) The commissioners may create a noxious weed fund to enable the board to fulfill its duties as specified in 7-22-2109.~~

~~(2)~~(1) The commissioners may provide sufficient money in the noxious weed fund for the board to fulfill its duties, as specified in 7-22-2109, by:

- (a) appropriating money from the general fund of the county; and
- (b) subject to 15-10-420 and at any time fixed by law for levy and assessment of taxes, levying a tax of not less than 1.6 mills on the taxable value of all taxable property in the county or by contributing an equivalent amount from another source of not less than the amount received from all county sources in fiscal year 2000 or, for first-class counties, as defined in 7-1-2111, the greater of the amount received from all county sources in fiscal year 2000 or \$100,000. The tax levied under this subsection must be identified on the assessment as the tax that will be used for noxious weed control.

~~(3)~~(2) The proceeds of the noxious weed control tax or other contribution must be used solely for the purpose of managing noxious weeds in the county and must be deposited in the noxious weed fund.

~~(4)~~(3) Any proceeds from work or chemical sales must revert to the noxious weed fund and must be available for reuse within that fiscal year or any subsequent year.

~~(5)~~(4) The commissioners may accept any private, state, or federal gifts, grants, contracts, or other funds to aid in the management of noxious weeds within the district. These funds must be placed in the noxious weed fund.

~~(6)~~(5) The commissioners may impose a tax for weed control within a special management zone as provided in 7-22-2121(4). For the purposes of imposing the tax, the special management zone boundaries must be established by the board and approved by a majority of the voters within the special management zone. The amount of the tax must be approved by a majority of the voters within the special management zone, and approval of the zone and the tax may occur simultaneously. Revenue received from a special management zone tax must be spent on weed management projects within the boundaries of the special management zone."

**Section 4.** Section 7-22-2151, MCA, is amended to read:

**"7-22-2151. Cooperative agreements.** (1) A state agency that controls land within a district, including the department of transportation; the department of fish, wildlife, and parks; the department of corrections; the department of natural resources and conservation; and the university system, shall enter into a written agreement with the board. The agreement must specify mutual responsibilities for integrated noxious weed management on state-owned or state-controlled land within the district. The agreement must include the following:

(a) ~~a 6-year~~ an integrated noxious weed management plan, which must be updated biennially;

(b) a noxious weed management goals statement;

(c) a specific plan of operations for the biennium, including a budget to implement the plan; and

(d) a provision requiring a biennial performance report by the board to the state weed coordinator in the department of agriculture, on a form to be provided by the state weed coordinator, regarding the success of the plan.

(2) The board and the governing body of each incorporated municipality within the district shall enter into a written agreement and shall cooperatively plan for the management of noxious weeds within the boundaries of the municipality ~~by January 1, 2002~~. The board may implement management procedures described in the plan within the boundaries of the municipality for noxious weeds only. Control of nuisance weeds within the municipality remains the responsibility of the governing body of the municipality, as specified in 7-22-4101.

(3) A board may develop and carry out its noxious weed management program in cooperation with boards of other districts, with state and federal governments and their agencies, or with any person within the

district. The board may enter into cooperative agreements with any of these parties.

(4) Each agency or entity listed in subsection (1) shall submit a statement or summary of all noxious weed actions that are subject to the agreement required under subsection (1) to the state weed coordinator and shall post a copy of the statement or summary on a state electronic access system."

NEW SECTION. **Section 5. Repealer.** Sections 7-22-2149 and 77-6-114, MCA, are repealed.

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