
ENGROSSED SENATE BILL No. 159

DIGEST OF SB0159 (Updated February 17, 1998 12:57 pm - DI 94)

Citations Affected: IC 15-3.

Synopsis: Weed control. Allows the township trustee to transfer responsibility for controlling detrimental plants to the county weed control board. Specifies when a notice from a township trustee is considered received by a property owner. Includes shattercane under the list of noxious weeds. Requires the weed control board to inform the township trustee when the board has notified a person to remove noxious weeds in the township. Provides that if a person fails to begin a program recommended by the weed control board to control and contain noxious weeds within five days, the weed control board may pay for the destroying of the noxious weeds. Provides the procedure for the weed control board to be reimbursed by the property owner for destroying noxious weeds.

Effective: July 1, 1998.

Gard

(HOUSE SPONSORS — ADAMS, GULLING)

January 6, 1998, read first time and referred to Committee on Governmental and Regulatory Affairs.

January 22, 1998, reported favorably — Do Pass.

January 27, 1998, read second time, amended, ordered engrossed.

January 28, 1998, engrossed.

January 29, 1998, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

February 4, 1998, read first time and referred to Committee on Local Government.

February 17, 1998, reported — Do Pass.

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Second Regular Session 110th General Assembly (1998)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1997 General Assembly.

SENATE ENROLLED ACT No. 159

AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 15-3-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. (a) A township trustee who has reason to believe that detrimental plants may be on real estate may, after giving forty-eight (48) hours notice to the owner or person in possession of the property, enter the real estate to investigate.

(b) **Except as provided in subsection (c)**, if the township trustee determines **after investigating the property or by visual inspection without entering the property** that a person has detrimental plants growing on real estate in the township that have not been destroyed as described in section 1 of this chapter, the trustee of the township in which the real estate is located shall notify, in writing, the owner or person in possession of the real estate to destroy the detrimental plants in a manner provided in section 1 of this chapter within five (5) days after the notice is given. If the detrimental plants are not destroyed as provided in section 1 of this chapter within five (5) days after notice is given, the trustee shall cause the detrimental plants to be destroyed in a manner seeming most practical to the trustee within three (3) additional days. The trustee may hire a person to destroy the

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detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants, and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out such work, except for gross negligence or willful or wanton destruction.

(c) If the county has established a county weed control board under IC 15-3-4.6 the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

~~(b)~~ **(d)** Notice required in subsection (a) or **(b)** may be given:

- (1) by mail, using ~~certificate of mailing; certified mail;~~ or
- (2) by personal service.

(e) Notice under subsection (d) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

- (A) the date of signature of receipt of the mailing; or**
- (B) three (3) business days after the date of mailing; or**

(2) if served personally, on the date of delivery.

SECTION 2. IC 15-3-4.6-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. The following are noxious weeds under this chapter:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass and Sorghum alnum (*Sorghum halepense*).
- (3) Bur cucumber (*Sicyos angulatus*).
- (4) Shattercane (*Sorghum bicolor* (L.) Moench spp. drummondii (Steud.) deWet).**

SECTION 3. IC 15-3-4.6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. **(a)** The weed control board shall require persons owning real estate located anywhere in the county and persons owning easements, rights-of-way or other similar interests in real estate located in the county to control and contain any noxious weeds growing on that property.

(b) A five (5) day written notice to remove any noxious weeds shall be issued by the board and served by certified or registered mail addressed to the latest address of the person or to ~~his~~ **the person's** resident agent. In the alternative, notice may be served personally by the county sheriff.

(c) The weed control board shall notify the township trustee

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when the board has sent a notice to a person to remove noxious weeds growing on real estate in the township.

SECTION 4. IC 15-3-4.6-5.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: **Sec. 5.4. (a) If a person fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed in section 5 of this chapter, the weed control board may pay for the chemicals, equipment, and labor performed in cutting or destroying noxious weeds under this chapter at a rate per hour to be fixed by the weed control board commensurate with local hourly wages.**

(b) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the weed control board. When the bill has been approved, the weed control board shall pay the bill from the county general fund, unless the county has established a separate fund for the weed control board. The weed control board shall certify the cost of the work, adding to the bill twenty dollars (\$20) per day for each day that a member of the weed control board or the board's agent supervises the performance of the services required under this chapter as compensation for services. The certified statement of costs must include a description of the real estate on which the labor was performed.

(c) The certified statement of costs prepared under subsection (b) must be:

- (1) sent by certified mail to; or**
- (2) personally served on;**

the owner or person possessing the real estate. The certified statement must be mailed to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality. The statement must request that the person pay the cost of performing the service under subsection (b) to the weed control board.

(d) If the owner or person in possession of the property does not pay the amount set forth in the statement within ten (10) days after receiving the notice under subsection (c), the weed control board shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(e) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in subsections (g) through (i), the amount claimed shall



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be collected as taxes are collected.

(f) After an amount described in subsection (e) is collected, the funds must be deposited in the weed control board fund, if one has been established by the county, for use at the discretion of the weed control board. If a weed control board fund has not been established by the county, the funds collected must be deposited in the county general fund.

(g) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement of costs for real estate owned by the state and shall charge the appropriate fund for the amount.

(h) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16). The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the weed control board the amount set forth in the certified statement of costs for real estate owned by the municipality.

(i) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement of costs for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the state board of tax commissioners shall deny the property tax exemption for the real estate.

SECTION 5. IC 15-3-4.6-5.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5.6. Except as provided in section 5.4 of this chapter, the county auditor, upon receiving and filing the weed control board's certified statement as prescribed in this chapter, shall:

- (1) immediately place the amounts on the tax duplicate of the county;
- (2) collect the amounts at the next tax paying time, in the same manner as other state, county, or township taxes are collected, including penalties, forfeitures, and sales; and
- (3) after the amount has been collected, place the amount in the proper fund.



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