

## **IC 15-16-8**

### **Chapter 8. Destruction of Detrimental Plants**

#### **IC 15-16-8-1**

##### **"Detrimental plant"**

Sec. 1. As used in this chapter, "detrimental plant" includes the following:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass (*Sorghum halepense*).
- (3) Columbus grass (*Sorghum almum*).
- (4) Bur cucumber (*Sicyos angulatus*).
- (5) Shattercane (*Sorghum bicolor* Moench spp. *drummondii* deWet).
- (6) In residential areas only, noxious weeds and rank vegetation.

The term does not include agricultural crops.

*As added by P.L.2-2008, SEC.7. Amended by P.L.1-2009, SEC.113.*

#### **IC 15-16-8-2**

##### **"Person"**

Sec. 2. As used in this chapter, "person" means:

- (1) an individual;
- (2) an incorporated or unincorporated organization or association;
- (3) a trustee or legal representative;
- (4) the state or an agency of the state;
- (5) a political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision; or
- (6) any combination of persons listed under subdivisions (1) through (5) acting in concert.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-3**

##### **Duty to destroy detrimental plants**

Sec. 3. A person owning or possessing real estate in Indiana shall destroy detrimental plants by:

- (1) cutting or mowing and, if necessary, by plowing, cultivating, or smothering; or
- (2) using chemicals in the bud stage of growth or earlier, to prevent detrimental plants from maturing on the person's real estate.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-4**

##### **Township trustee; investigation of detrimental plants; notice**

Sec. 4. (a) If a township trustee:

- (1) has reason to believe that detrimental plants may be on real estate; and
- (2) gives the owner or person in possession of the real estate forty-eight (48) hours notice under subsection (e);

the township trustee may enter the real estate to investigate whether there are detrimental plants on the real estate.

(b) Except as provided in subsection (d), if the township trustee determines by:

- (1) investigating real estate located in the trustee's township; or
- (2) visual inspection without entering real estate located in the trustee's township;

that a person has detrimental plants growing on real estate, the trustee shall give written notice under subsection (e) to the owner or person in possession of the real estate to destroy the detrimental plants. The owner or person in possession of the real estate shall destroy the plants in a manner provided in section 3 of this chapter not more than five (5) days after the notice is received under subsection (f).

(c) If the detrimental plants are not destroyed as provided in subsection (b), the trustee shall cause the detrimental plants to be destroyed in a manner most practical to the trustee not more than eight (8) days after notice is received by the owner or person in possession of the real estate under subsection (f). The trustee may hire a person to destroy the 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 the work, except for gross negligence or willful or wanton destruction.

(d) If the county has established a county weed control board under IC 15-16-7, 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.

(e) Notice required in subsection (a) or (b) may be given by:

- (1) certified mail; or
- (2) personal service.

(f) Notice under subsection (e) 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.

*As added by P.L.2-2008, SEC.7.*

### **IC 15-16-8-5**

#### **Certification of costs; use of power equipment**

Sec. 5. (a) The township trustee may pay the following costs incurred in cutting or destroying detrimental plants under this chapter:

- (1) Chemicals.

(2) Work.

(3) Labor, at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) If the trustee believes the infestation of the real estate with detrimental plants is so great and widespread that cutting or eradication by hand methods is impractical, the trustee shall use the necessary power machinery or equipment. The trustee may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the township trustee. When the bill has been approved, the trustee shall pay the bill out of the township fund. If there is no money available in the township fund for that purpose, the township board, upon finding an emergency exists, shall act under IC 36-6-6-14(b) or IC 36-6-6-15 to borrow money sufficient to meet the emergency.

(d) The trustee, when submitting estimates to the township board for action, shall include in the estimates an item sufficient to cover those expenditures.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-6**

##### **Cost statement; information required; notice**

Sec. 6. (a) The township trustee shall prepare a statement that contains the following:

(1) A certification of the following costs:

(A) The cost or expense of the work.

(B) The cost of the chemicals.

(C) Twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services.

(2) A description of the real estate on which the labor was performed.

(3) A request that the owner or person in possession of the real estate pay the costs under subdivision (1) to the township trustee.

(b) The certified statement prepared under subsection (a) shall be provided:

(1) to the owner or person possessing the real estate by:

(A) mail, using a certificate of mailing; or

(B) personal service; or

(2) by mailing the certified statement 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.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-7**

##### **Failure to pay for weed removal; amount collected as taxes;**

**disposition of funds**

Sec. 7. (a) If the owner or person in possession of the property does not pay the amount set forth in the certified statement under section 6(a) of this chapter within ten (10) days after receiving the notice under section 6(b) of this chapter, the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 8 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds shall be deposited in the trustee's township funds for use at the discretion of the trustee.

*As added by P.L.2-2008, SEC. 7.*

**IC 15-16-8-8**

**Cutting and destroying weeds by the board on governmental property**

Sec. 8. (a) 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 under section 6(a) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the municipality.

(c) 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 under section 6(a) of this chapter 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 department of local government finance shall deny the property tax exemption for the real estate.

*As added by P.L.2-2008, SEC. 7.*

**IC 15-16-8-9**

**Duties of the county auditor concerning certified statement of costs; disposition of amounts collected**

Sec. 9. Except as provided in sections 5 through 8 of this chapter, the county auditor, upon receiving and filing a certified statement under section 7(a) of this chapter, shall:

- (1) immediately place the amounts on the certified statement on the tax duplicate of the county; and
- (2) collect the amounts at the next tax paying time for the proper township or townships, the same as other state, county,

or township taxes are collected, including penalties, forfeitures, and sales.

After the amounts are collected, the amounts shall be paid to the proper trustee and placed in the township fund.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-10**

##### **Budget**

Sec. 10. When the annual township budget is prepared, a sufficient amount shall be appropriated to enable the township officials to comply with this chapter.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-11**

##### **Exemption of land subject to program**

Sec. 11. The director of the department of natural resources or the dean of agriculture of Purdue University may totally or partially exempt land that is subject to a program of the department or station from this chapter or any other statute concerning the destruction of detrimental plants.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-12**

##### **Assistance to township trustees**

Sec. 12. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-13**

##### **Violation; failure of trustee to perform duties**

Sec. 13. A township trustee who fails to perform the duties required of the trustee by this chapter commits a Class C infraction.

*As added by P.L.2-2008, SEC.7.*

#### **IC 15-16-8-14**

##### **Violations; failure to eradicate; selling certain seed**

Sec. 14. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;
- (2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate the plants by chemicals each year, as prescribed in this chapter;
- (3) having charge of or control over any highway:
  - (A) knowingly allows detrimental plants to grow or mature on the right-of-way of the highway; or

- (B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter;
  - (4) having charge of or control over the right-of-way of a railroad or interurban company:
    - (A) knowingly allows detrimental plants to grow and mature on the right-of-way; or
    - (B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter; or
  - (5) knowingly sells Canada thistle (*cirsium arvense*) seed;
- commits a Class C infraction. Each day this section is violated constitutes a separate infraction.
- (b) All judgments collected under this section shall be paid to the trustee and placed in the trustee's township funds for use at the discretion of the trustee.

*As added by P.L.2-2008, SEC.7.*