

ENROLLED ACT NO. 16, HOUSE OF REPRESENTATIVES

SIXTY-FIRST LEGISLATURE OF THE STATE OF WYOMING
2011 GENERAL SESSION

AN ACT relating to weed and pest control; modifying definitions; providing for emergency declarations; providing for district boards to buy and sell property and equipment; repealing provision establishing inspectors as district supervisors; modifying cost sharing with landowners; increasing the amount on surety bonds; requiring reports to the district board; increasing the criminal penalty amount; providing conforming amendments; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 11-5-101, 11-5-102(a)(i), (ii), (v), (vii), (viii), (x), (xi), (xii), (xviii), (xx), by creating a new paragraph (xxiii) and by renumbering (xxiii) as (xxiv), 11-5-104(g), 11-5-105(b)(vi) and by creating a new paragraph (vii), 11-5-106, 11-5-107(a), (b) and by creating a new subsection (d), 11-5-108(a), 11-5-115(c) and 11-5-117 are amended to read:

11-5-101. Short title; purpose of provisions.

(a) This act may be cited as the "Wyoming Weed and Pest Control Act." ~~of 1973".~~

(b) The purpose of this act is controlling designated and declared weeds and pests.

11-5-102. Definitions.

(a) As used in this act:

(i) ~~"Agricultural"~~ "Pesticide" means any material used to control or eradicate weeds or pests;

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(ii) "Authorized dealer" means ~~a resident of any pesticide dealer licensed in~~ Wyoming who sells, retails, wholesales, distributes, offers or exposes for sale, exchanges, barter or gives away any ~~agricultural~~ pesticide within this state;

(v) "Control" means the process of containing, ~~and limiting weed and pest infestations~~ preventing, identifying and mitigating weed and pest infestations by using multiple integrated management practices, including but not limited to, regulation, prevention, survey, eradication, pesticides, cultivation, competition, grazing and biological control in an adaptive management effort designed to reduce economic and ecological impacts from designated and declared species and to protect uninfested lands;

(vii) "Declared pest" means any animal or insect species which the board and the Wyoming weed and pest council have found, either by virtue of its direct or indirect effect to negatively impact management of agricultural or natural ecosystems, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within a district;

(viii) "Declared weed" means any plant species which the board and the Wyoming weed and pest council have found, either by virtue of its direct or indirect effect to negatively impact management of agricultural or natural ecosystems, or as a carrier of disease or parasites, to be detrimental to the general welfare of persons residing within a district;

(x) "Designated list" means the list of weeds and pests from time to time designated by joint resolution

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of the board and the Wyoming weed and pest council or by an emergency declaration of the director;

(xi) "~~Designated noxious weeds" means the weeds, weed~~ means plant species having seeds or other plant parts ~~that are considered detrimental, destructive, injurious or poisonous, either by virtue of their direct effect or as carriers of diseases or parasites that exist within this state, and are on the designated list;~~ determined to be detrimental to the general health or welfare of the state based upon the following:

(A) Has demonstrated the ability to aggressively invade native plant communities and agricultural crops;

(B) Is injurious or poisonous to livestock;

(C) Is a carrier of disease or parasites;

(D) Can, by virtue of either direct or indirect effect, negatively impact management of agricultural or natural ecosystems.

(xii) "~~Designated pests" means animals or insects which are on the designated list considered pest~~ means any animal or insect species that is determined to be detrimental to the health or general welfare of the state, ~~based upon the following:~~

(A) Has demonstrated the ability to aggressively invade native plant communities and agricultural crops;

(B) Is injurious or poisonous to livestock;

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(C) Is a carrier of disease or parasites;

(D) Can, by virtue of either its direct or indirect effect, negatively impact management of agricultural or natural ecosystems.

(xviii) "Farm products" means all crops, crop products, nursery stock, plants or portions thereof, but shall not mean livestock;

(xx) "Landowner" means any ~~owner or lessee of state, municipal or private land, and includes an owner of~~ person who has actual use, exclusive possession of or exercises control over the land through any lease, easement, right-of-way or estate in the land. Federal landowner means the federal agency having jurisdiction over any lands affected by this act;

(xxiii) "Emergency declaration" means the addition of a weed or pest to either the statewide designated list or to a county declared list on an emergency basis to allow for immediate control activities. An emergency declaration shall only last until formal action can be taken by the council and the board to list the species through established rules, and in any case not to exceed one (1) year;

~~(xxiii)~~ (xxiv) "This act" means W.S. 11-5-101 through 11-5-119.

11-5-104. District board of directors; appointment; terms; vacancies; compensation and expenses.

(g) At the first regular meeting in February the district board shall elect from its members a chairman and a vice-chairman, and appoint a secretary and a treasurer.

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The positions of secretary and treasurer need not be members of the district board. The treasurer shall furnish a surety bond to the district before entering upon the duties of office in an amount to be set by the district board but not less than ~~three thousand dollars (\$3,000.00)~~ fifty thousand dollars (\$50,000.00).

11-5-105. Duties; powers; supervisor compensation.

(b) The district board of each district may:

(vi) Participate in programs for the control of declared weeds and declared pests not included on the designated list; ~~Such programs do not qualify for cost sharing from the department.~~

(vii) Buy and sell real property, personal property and equipment as needed to carry out district programs.

11-5-106. Board of certification; duties.

A board of certification is established consisting of the director or his designee, a University of Wyoming weed or pest specialist appointed by the dean of the college of agriculture, two (2) certified district supervisors and a district board member appointed by the Wyoming weed and pest council. The board of certification shall promulgate rules and requirements for certification of district supervisors and shall certify all personnel meeting the established requirements. ~~All inspectors certified as of February 10, 1973 are deemed certified district supervisors without any further actions of the board of certification.~~

11-5-107. Purchase and sale of pesticides; cost share with landowner.

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(a) The district board may purchase from authorized dealers such quantities of ~~agricultural~~ pesticides ~~and equipment~~ as are necessary, and hire labor to carry out the provisions of this act. Warrants in payment shall be drawn on the weed and pest control fund.

(b) The district board may sell ~~agricultural~~ pesticides which have been registered with the department for designated or declared noxious weed and pest control.

(d) The district board may cost share with the landowner the cost of the pesticides, the cost of the application and the cost of any other integrated management practice for the control of designated or declared noxious weeds and pests.

11-5-108. Rates and application of pesticides; payment by landowner; bidding restriction.

(a) The district board may establish rates and engage in the application of ~~agricultural~~ pesticides for weed and pest control, subject to subsection (b) of this section. ~~The district board may cost share in the agricultural pesticides, and the landowner shall pay the full cost of the application.~~ If services provided are not paid for by the landowner for whom rendered as provided in W.S. 11-5-107(d), such indebtedness may be collected as provided by W.S. 11-5-107(c).

11-5-115. Program in cities and towns authorized; funding; use of monies.

(c) Monies received by the cities from the district ~~may shall~~ be used ~~in any phase of weed and pest control to control noxious weeds and pests~~ as determined by the

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governing body of the city or town. ~~The control program shall include work on designated weeds and pests as determined by the district board~~ The city or town shall provide an annual report to the district board on designated and declared weed and pest work completed within the jurisdictional limits of the city or town.

11-5-117. Criminal provision; penalty; civil penalties; limitations; necessary proof.

(a) Any person violating any provision of this act is guilty of a misdemeanor, and shall be fined not more than ~~one hundred dollars (\$100.00)~~ seven hundred fifty dollars (\$750.00) in addition to fines provided for in W.S. 11-5-109(e).

(b) In any proceeding to impose any fine or penalty for any failure to perform a remedial requirement ordered by a district board for control of a weed or pest in any infested area, the district board shall have the burden of proving:

(i) That the proposed remedial action would control the target weed or pest;

(ii) That the remedial action would be a cost effective action and would be more cost effective than any alternative action proposed or adopted by the landowner; and

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(iii) That the weed or pest to be controlled was at risk of spreading to the land of others in the area.

Section 2. This act is effective July 1, 2011.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk