

Act No. 26
Public Acts of 1994
Approved by the Governor
February 23, 1994
Filed with the Secretary of State
February 24, 1994

**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1994**

Introduced by Senator Conroy

ENROLLED SENATE BILL No. 745

AN ACT to amend the title and sections 4 and 10 of Act No. 359 of the Public Acts of 1941 entitled as amended An act for the purpose of controlling and eradicating certain noxious weeds within the state to permit townships villages and cities to have a lien for expenses incurred in controlling and eradicating such weeds to permit officials of counties and municipalities to appoint commissioners of noxious weeds to define their powers duties and compensation and to repeal certain acts and parts of acts section 4 as amended by Act No. 58 of the Public Acts of 1984 and section 10 as amended by Act No. 218 of the Public Acts of 1990 being sections 247 64 and 247 70 of the Michigan Compiled Laws

The People of the State of Michigan enact

Section 1 The title and sections 4 and 10 of Act No. 359 of the Public Acts of 1941 section 4 as amended by Act No. 58 of the Public Acts of 1984 and section 10 as amended by Act No. 218 of the Public Acts of 1990 being sections 247 64 and 247 70 of the Michigan Compiled Laws are amended to read as follows

TITLE

An act for controlling and eradicating certain noxious weeds within the state to permit townships villages and cities to have a lien for expenses incurred in controlling and eradicating such weeds to permit officials of counties and municipalities to appoint commissioners of noxious weeds to define the powers duties and compensation of commissioners to provide for sanctions and to repeal certain acts and parts of acts

Sec. 4 (1) The owner of land on which noxious weeds are found growing shall destroy the weeds before they reach a seed bearing stage and prevent their regrowth or shall prevent them from becoming a detriment to public health. The commissioner shall notify by certified mail with return receipt requested the owner agent or occupant of land on which noxious weeds are found growing. The notice shall describe methods of treating and eradicating the noxious weeds and a summary of the provisions of this section. Failure of the commissioner to give the notice does not however constitute a defense to an action to enforce the payment of a fine provided for or debt created under this act. If the owner agent or occupant refuses to destroy the noxious weeds the commissioner shall enter upon the land and destroy the noxious weeds. Expenses incurred in the destruction shall be paid by the owner of the land and the township city or village of which the commissioner is an officer shall have a lien against the land for the amount of the expense. The lien shall be enforced in the manner provided by law for the enforcement of construction liens.

(2) A village or city or a township having a population of more than 5 000 may whether or not provided in its charter provide by ordinance enacted for the purpose of controlling and eradicating noxious weeds in subdivided land that if the owner agent or occupant of subdivided land in a subdivision in which buildings have been erected on 60% of the lots or the owner agent or occupant of a lot along an improved street in common usage has failed after 10 days notice as provided in this section to destroy the weeds for a depth of 10 rods or the depth of the lot whichever is less

then an agent authorized by the governing body of the township village or city may enter upon the lot and destroy noxious weeds by cutting Mechanical equipment that will not damage the property or the adjacent sidewalk may be used to cut the noxious weeds Expenses incurred in the destruction shall be paid by the owner of the lot The township village or city shall have a lien upon the lot for the amount of the expense The lien shall be enforced in the manner prescribed by charter by the laws of the state providing for the enforcement of tax liens or by ordinance duly passed by the governing body of the township village or city

(3) An owner who refuses to destroy noxious weeds as provided for in this section is subject to a fine of not more than \$100 00 that when collected shall become a part of the noxious weed control fund of the township village or city By ordinance the township city or village may designate the refusal to destroy noxious weeds as provided in this section as a municipal civil infraction in which case the fine shall be a civil fine

(4) This act does not apply to weeds in fields devoted to growing any small grain crop such as wheat oats barley or rye In the case of an easement property such as an abandoned subdivision strip mine or gravel pit public property such as a forest preserve and all other land as to which definite ownership is not known to the commissioner and cannot be established the county board of commissioners shall cause the destruction of noxious weeds in accordance with this act

(5) If the county board of commissioners of a county passes a resolution to participate under the provisions of this act the commissioner of noxious weeds shall notify the department of natural resources which shall determine whether there is land in the county belonging to this state under the jurisdiction of the department The department of natural resources shall cut noxious weeds growing on that land within 10 rods of any privately owned improved property upon receipt of the notification If the department of natural resources fails to cut the weeds the commissioner of noxious weeds shall enter upon the land and destroy the weeds The expense shall be a charge against the department of natural resources and may be recovered in an action in the court of claims

Sec 10 (1) The county board of commissioners may make an appropriation from the county treasury to aid in destroying the noxious weeds in a town or precinct of the county The board of commissioners may assume control over the noxious weeds in all or part of the county The county board of commissioners may adopt a noxious weed ordinance that it considers necessary For each violation of the ordinance the ordinance may do either of the following

(a) Impose as a penalty for the violation a fine not exceeding \$100 00

(b) Designate the violation as a municipal civil infraction and impose a civil fine for the violation

(2) The action for imposition of the fine shall be commenced in the name and for the use of the proper county before the district or municipal court of the judicial district or municipality in which the weeds are located If the board of commissioners assumes control its jurisdiction is superior to that of the commissioner of noxious weeds so long as the board of commissioners exercises that control

Section 2 This amendatory act shall take effect May 1 1994

Section 3 This amendatory act shall not take effect unless Senate Bill No 731 of the 87th Legislature is enacted into law

This act is ordered to take immediate effect

Secretary of the Senate

Co Clerk of the House of Representatives

Approved

Governor