

HOUSE BILL No. 5224

November 4, 2003, Introduced by Reps. Hood, Tobocman, McConico, Gaffney, Howell and Daniels and referred to the Committee on Judiciary.

A bill to amend 1941 PA 359, entitled

"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,"

by amending section 4 (MCL 247.64), as amended by 1994 PA 26.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 4. (1) The owner of land on which noxious weeds are
2 found growing shall destroy the weeds before they reach a seed
3 bearing stage and prevent their regrowth, or shall prevent them
4 from becoming a detriment to public health. The commissioner
5 shall notify by certified mail with return receipt requested the
6 owner, agent, or occupant of land on which noxious weeds are
7 found growing. The notice shall describe methods of treating and
8 eradicating the noxious weeds and a summary of the provisions of

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1 this section. Failure of the commissioner to give the notice
2 does not, however, constitute a defense to an action to enforce
3 the payment of a fine provided for or debt created under this
4 act. If the owner, agent, or occupant refuses to destroy the
5 noxious weeds, the commissioner shall enter upon the land and
6 destroy the noxious weeds. Expenses incurred in the destruction
7 shall be paid by the owner of the land, and the township, city,
8 or village of which the commissioner is an officer shall have a
9 lien against the land for the amount of the expense. The lien
10 shall be enforced in the manner provided by law for the
11 enforcement of construction liens.

12 (2) A village or city, or a township having a population of
13 more than 5,000, may, whether or not provided in its charter,
14 provide by ordinance enacted for the purpose of controlling and
15 eradicating noxious weeds in subdivided land that if the owner,
16 agent, or occupant of subdivided land in a subdivision in which
17 buildings have been erected on 60% of the lots, or the owner,
18 agent, or occupant of a lot along an improved street in common
19 usage, has failed, after 10 days' notice as provided in this
20 section, to destroy the weeds, for a depth of 10 rods or the
21 depth of the lot, whichever is less, then an agent authorized by
22 the governing body of the township, village, or city may enter
23 upon the lot and destroy noxious weeds by cutting. Mechanical
24 equipment that will not damage the property or the adjacent
25 sidewalk, may be used to cut the noxious weeds. Expenses
26 incurred in the destruction shall be paid by the owner of the
27 lot. The township, village, or city shall have a lien upon the

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1 lot for the amount of the expense. The lien shall be enforced in
2 the manner prescribed by charter, by the laws of the state
3 providing for the enforcement of tax liens, or by ordinance
4 ~~duly~~ passed by the governing body of the township, village, or
5 city.

6 (3) An owner who refuses to destroy noxious weeds as provided
7 ~~for~~ in this section is subject to a fine of not more than
8 \$100.00. ~~—, that when~~ **When** collected, **the fine** shall become a
9 part of the "noxious weed control fund" of the township, village,
10 or city. By ordinance, the township, city, or village may
11 designate the refusal to destroy noxious weeds as provided in
12 this section as a municipal civil infraction, in which case the
13 fine shall be a civil fine. **If the township, city, or village**
14 **establishes an administrative hearings bureau pursuant to statute**
15 **to adjudicate and impose sanctions for [blight]**
16 **violations, the township, city, or village by ordinance may**
17 **designate the refusal to destroy noxious weeds as provided in**
18 **this section as a [blight] violation and any fine imposed**
19 **shall be a civil fine.**

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

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