

HOUSE BILL No. 5573

November 3, 2009, Introduced by Reps. Bolger, Constan, Walsh, Denby, Tyler, Wayne Schmidt, Lori, Scripps, Robert Jones and Griffin and referred to the Committee on Intergovernmental and Regional Affairs.

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 2003 PA 321.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

1 eradicating the noxious weeds and a summary of the provisions of
2 this section. Failure of the commissioner to give the notice does
3 not, however, constitute a defense to an action to enforce the
4 payment of a fine provided for or debt created under this act. If
5 the owner, agent, or occupant refuses to destroy the noxious weeds,
6 the commissioner shall enter upon the land and destroy the noxious
7 weeds. Expenses incurred in the destruction shall be paid by the
8 owner of the land, and the township, city, or village of which the
9 commissioner is an officer shall have a lien against the land for
10 the amount of the expense. The lien shall be enforced in the manner
11 provided by law for the 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 depth
21 of the lot, whichever is less, then an agent authorized by the
22 governing body of the township, village, or city may enter upon the
23 lot and destroy noxious weeds by cutting. Mechanical equipment that
24 will not damage the property or the adjacent sidewalk, may be used
25 to cut the noxious weeds. Expenses incurred in the destruction
26 shall be paid by the owner of the lot. The township, village, or
27 city shall have a lien upon the lot for the amount of the expense.

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

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

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

25 (5) If the county board of commissioners of a county passes a
26 resolution to participate under this act, the commissioner of
27 noxious weeds shall notify the department of natural resources,

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