INSECT PESTS AND PLANT DISEASES
Act 72 of 1945

AN ACT to prevent the importation from other states, and the spread within this state, of all serious insect pests and contagious plant diseases and to provide for their repression and control, imposing certain powers and duties on the commissioner of agriculture; to prescribe penalties for the violation of the provisions of this act; and to repeal certain acts and parts of acts.

History: 1945, Act 72, Eff. Sept. 6, 1945;—Am. 2005, Act 52, Imd. Eff. June 27, 2005.

The People of the State of Michigan enact:

286.251 Examinations for insects or infectious diseases; marking; notice to destroy, posting; appeals.

Sec. 1. It shall be the duty of the commissioner of agriculture whenever it comes to his attention that any of the dangerous insects or infectious diseases exist or are supposed to exist within this state to proceed without delay to examine the trees, shrubs, vines, plants, or fruits supposed to be infested or infected and all other such trees, shrubs, vines, plants, or fruit as he may deem advisable. If upon examination destructive insects or dangerously infectious diseases are found to exist, a distinguishing mark shall be placed on the trees, shrubs, vines, or plants and a written notice shall be served upon the owner or his agent with recommendations. When the owner or his agents cannot be found it shall be the duty of the commissioner of agriculture or his deputies to give general notice in the following manner to every owner, possessor, or occupier of land and to every person or persons, firm or corporation having charge of any land in this state, whereon neglected, abandoned, or semi-abandoned fruit trees are growing, to cut and destroy such plants; 4 notices each not less than 1 foot square shall be printed in clear readable type and posted 1 in each of 4 conspicuous places in the area, at least 1 to be on the property. The posting of such notices shall take place at least 15 days prior to the date upon which the trees must be cut. At the time of posting said notices a copy of the same shall be mailed to every owner, possessor or occupant or occupier of land and to every person or persons, firm or corporation financially interested therein, or having charge of any lands in this state, whereon neglected or abandoned trees are growing, whose postoffice address is known.

In case the owner refuses to accept the opinion of the inspector or inspectors, regarding the nature of an insect or a disease, or the remedy that shall be employed he may appeal, within 10 days, to the commissioner of agriculture by serving a written notice of such appeal. The commissioner of agriculture shall as soon as practicable investigate the matter and order the proper treatment, and his opinion or orders shall be final. In cases where the owner appeals to the commissioner of agriculture, and the findings of the original inspector or inspectors are approved, the expense incurred as a result of appeal shall be paid by the owner.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.251.

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286.252 Orders of commissioner; refusal to carry out.

Sec. 2. In case the owner, or person in charge of the trees, shrubs, vines or plants, infested with a destructive insect or dangerously contagious disease, refuses or neglects to carry out the orders of the commissioner of agriculture within the period stated in the notice served upon him, the commissioner of agriculture shall employ such aid as may be necessary to carry out his own orders.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.252.

286.253 Declaration as public nuisances.

Sec. 3. Any and all neglected or abandoned trees, vines, shrubs, plants or parts thereof, which because of the existence therein or thereon of injurious or destructive insect pests, or plant diseases or other conditions which may constitute a menace to the horticulture or agriculture of the county, district, or vicinity or which are host plants of or provide a favorable and likely harbor for such pests or diseases, which, if they become established upon such neglected or abandoned host plants or crops, would be a menace to agriculture or horticulture, are hereby expressly declared to be public nuisances, and it shall be unlawful to maintain the same, and all remedies which are or may be given for the prevention or abatement of the nuisance shall apply thereto.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.253.

286.254 Report of inspections.

Sec. 4. Whenever the commissioner of agriculture shall determine by inspection that there exists on any property or premises within his jurisdiction any trees, vines, shrubs, plants, or parts thereof, which are or have

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been neglected or abandoned, which because of the existence therein or thereon of injurious or destructive insect pests or plant diseases, or other conditions constitute a menace to the horticulture or agriculture of the county, district, or vicinity, he shall make a complete report of his inspection, setting forth in such report a description of the property or premises upon which the neglected or abandoned pest host exists, naming the pest or pests or other conditions which in his opinion are dangerous to the horticulture or agriculture of the county, district, or vicinity and, if in his judgment the findings justify, he shall state in such report that the removal or destruction of the neglected or abandoned trees, vines, shrubs, plants, or parts thereof, will provide the best means for the elimination of such menace to the horticulture and agriculture of the county, district or vicinity.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.254.

286.255 Authority to enter upon premises; treatment to prevent spread of disease; owners recompensed for loss.

Sec. 5. The director of the department of agriculture and his or her inspectors, deputies, assistants, and employees may enter upon any premises in the state for the purpose of examining trees, shrubs, vines, and plants for the presence of destructive insects or diseases, and, if any such insects or diseases are found, may, under the provisions of this act, take the steps as may be necessary to exterminate them. No damage shall be awarded for the destruction of any trees, shrubs, vines, plants, or fruit or for injury to same if done by the director of the department of agriculture or his or her authorized inspectors and assistants, in accordance with the provisions of this act, and the director considers it necessary in order to suppress dangerous insects and diseases, when the trees, shrubs, vines, and plants have already been attacked by dangerous insects or diseases. Whenever any dangerous plant disease, or destructive insect, which is new to or which has not become widely prevalent or distributed through or within the state is found upon any trees, shrubs, vines, or plants, in case it is considered necessary in order to prevent the spread and the dissemination of said insect, or disease, the director of the department of agriculture may cause any tree, shrub, vine, or plant likely to be attacked by such insect or disease, and which are growing within 3,000 feet of where the dangerous insect or disease has been found, to be treated with approved remedies, or, if this is not feasible, to be destroyed. However, if it becomes necessary to destroy any trees, shrubs, vines, or plants which have not already become attacked by said new and dangerous insect or disease, the owner shall be recompensed for their actual value, the amount to be fixed by 3 parties, 1 to be selected by the owner, another by the director of the department of agriculture, and the third party to be selected by the other 2 so selected. The amount awarded, when approved by the director of the department of agriculture, shall be certified to the state treasurer, who shall draw a warrant on the state treasurer for the payment of the same from the general fund of the state.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.255;—Am. 2002, Act 175, Imd. Eff. Apr. 23, 2002.

286.256 Commissioner may make rules and regulations; quarantines.

Sec. 6. The commissioner of agriculture is hereby authorized to make such rules and regulations and establish such quarantines as he shall deem necessary for the proper enforcement of this act, and all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to the act shall have the force and effect of law.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.256.

Administrative rules: R 285.613.1 et seq. and R 285.620.1 of the Michigan Administrative Code.

286.257 Liability of agent.

Sec. 7. In construing and enforcing provisions of this act, the act, omission or failure of any official, agent, or other person acting for, or employed by, any association, partnership or corporation within the scope of his employment or office, shall in every case also be deemed the act, omission or failure of such association, partnership or corporation, as well as of the person.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.257.

286.259 Violation of act; misdemeanor; penalty; applicability of subsection (1).

Sec. 9. (1) Subject to subsection (2), a person who maintains a public nuisance in violation of section 3 or otherwise violates this act is guilty of a misdemeanor punishable by a fine of not less than $25.00 or more than $100.00 or by imprisonment for not more than 90 days, or both.

(2) Beginning September 1, 2005, subsection (1) does not apply to a violation described in section 10.

History: 1945, Act 72, Eff. Sept. 6, 1945;—CL 1948, 286.259;—Am. 2005, Act 52, Imd. Eff. June 27, 2005.

286.260 Violation of rule or order; civil infraction; fine; misdemeanor; felony; penalties;

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liability.

Sec. 10. (1) A person who violates a rule promulgated or order issued under this act that requires the destruction of plants is responsible for a state civil infraction and shall be fined not more than $1,000.00 plus expenses incurred by the department in destroying the plants.

(2) A person who violates a quarantine rule promulgated or quarantine order issued under this act is responsible for a state civil infraction and shall be fined not less than $1,000.00 or more than $10,000.00. However, if the person voluntarily reported the violation to the department before it was otherwise known to the department or the person had reason to believe the violation was about to become known to the department, the person shall be fined not more than $500.00.

(3) Beginning September 1, 2005, a person who knowingly violates a quarantine rule promulgated or quarantine order issued under this act is guilty of a misdemeanor and may be imprisoned for not more than 1 year and shall be fined not less than $1,000.00 or more than $10,000.00.

(4) Beginning September 1, 2005, a person who intentionally violates a quarantine rule promulgated or quarantine order issued under this act, for the purpose of causing damage to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than $250,000.00, or both.

(5) A person who violates a quarantine rule promulgated or quarantine order issued under this act is liable for any damages to plants, natural resources, or agricultural, silvicultural, or horticultural products or resources resulting from the violation, including, but not limited to, costs incurred to investigate, monitor, prevent, or minimize such damages.

History: Add. 2005, Act 52, Imd. Eff. June 27, 2005.

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