

FIRST REGULAR SESSION

HOUSE BILL NO. 653

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CAUTHORN (Sponsor) AND GUERNSEY (Co-sponsor).

1727L.02I

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, and 263.450, RSMo, and to enact in lieu thereof five new sections relating to noxious weeds, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, and 263.450, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 263.190, 263.200, 263.220, 263.240, and 263.241, to read as follows:

263.190. 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land] **As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public.**

2. It shall be the duty of every owner of lands in this state, **including but not limited to any person, association of persons, corporation, partnership, state highways and transportation commission, state department, state agency, county commission, township board, school board, drainage board, governing body of an incorporated city, railroad company or other transportation company and such company's authorized agent, and any person supervising state-owned lands** to control all [Canada, musk, or Scotch thistles] **noxious weeds** growing thereon so often in each and every year as shall be sufficient to prevent [said thistles] **such noxious weeds** from going to seed. If any owner of such land shall knowingly allow any [Canada, musk, or Scotch thistles] **noxious weeds** to grow thereon, such owner shall

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 forfeit and pay the sum of one hundred dollars to the county commission for every such offense,
17 and such sum forfeited plus court costs may be recovered by civil action instituted by **an**
18 **adjoining or aggrieved entity** or the prosecuting attorney in the name of the county commission
19 before any associate circuit judge of the county in which the offense is committed. All sums
20 recovered by virtue of this section shall be paid to **the adjoining or aggrieved entity or to the**
21 use of the county control fund.

22 3. Before initiating any civil action under this section, **the adjoining or aggrieved entity**
23 **or** the prosecuting attorney of the county in which the land, or the greater part thereof, is located
24 shall notify the owner of the land of the requirements of this law, by certified mail, return receipt
25 requested, from a list supplied by the officer who prepares the tax list, and shall allow the owner
26 of the land fifteen days from acknowledgment date of return receipt, or date of refusal of
27 acceptance, as the case may be, to **initiate control of** all such plants growing upon [his] **the**
28 **owner's** land. Failure of the owner to **initiate control of** such plants within the fifteen-day
29 period shall be prima facie evidence of the owner's knowledge that [he] **the owner** is in violation
30 of this law, and each fifteen days the violation continues after the initial fifteen-day period shall,
31 for the purpose of forfeiture and penalty herein, be considered a separate offense.

32 **4. All sales of noxious weed species are prohibited.**

263.200. 1. In addition to the remedies provided in section 263.190, when [Canada,
2 musk, or Scotch thistles] **noxious weeds** are discovered growing on any lands in the county, it
3 shall be the duty of the county commission to control such [thistles] **noxious weeds** so as to
4 prevent the seed from ripening, and for that purpose the county commission, or its agents,
5 servants, or employees shall have authority to enter on such lands without being liable to an
6 action of trespass therefor, and shall have such official immunity as exists at common law for
7 any misfeasance or damages occurring in connection with the attempt to control [Canada, musk,
8 or Scotch thistles] **noxious weeds**. Notwithstanding any provision of law to the contrary, the
9 county shall be liable for any misfeasance or actual damages caused by its agents, servants, or
10 employees in connection with the attempt to control [Canada, musk, or Scotch thistles] **noxious**
11 **weeds**. The landowner shall owe no duty of care to such persons, except that which the
12 landowner owes to trespassers. The county commission shall keep an accurate account of the
13 expenses incurred in controlling the [thistles] **noxious weeds**, and shall verify such statement
14 under seal of the county commission, and transmit the same to the officer whose duty it is or may
15 be to extend state and county taxes on tax books or bills against real estate; and such officer shall
16 extend the aggregate expenses so charged against each tract of land as a special tax, which shall
17 then become a lien on the lands, and be collected as state and county taxes are collected by law
18 and paid to the county commission and credited to the county control fund.

19 2. Before proceeding to control [Canada, musk, or Scotch thistles] **noxious weeds** as
20 provided in this section, the county commission of the county in which the land, or the greater
21 part thereof, is located shall notify the owner of the land of the requirements of this law, by
22 certified mail, return receipt requested, from a list supplied by the officer who prepares the tax
23 list, and shall allow the owner of the land fifteen days from acknowledgment date of return
24 receipt, or date of refusal of acceptance of delivery, as the case may be, to control all such
25 [plants] **noxious weeds** growing upon [his] **the owner's** land.

26 3. Any land or properties that are owned solely by a political subdivision in a city not
27 within a county shall be subject to all provisions of sections 263.190, 263.200, and 263.240.

263.220. It shall be the duty of the prosecuting attorney of the county to prosecute all
2 actions brought under [sections 263.190 to 263.240] **section 263.190**.

263.240. Any person who shall violate any of the provisions of [sections 263.210 to
2 263.240 shall, upon conviction, be] **section 263.190 is, upon conviction, guilty of a**
3 misdemeanor.

263.241. [The plant, purple loosestrife (*Lythrum salicaria*), and any hybrids thereof, is
2 hereby designated a noxious weed. No person shall buy, sell, offer for sale, distribute or plant
3 seeds, plants or parts of plants of purple loosestrife without a permit issued by the Missouri
4 department of conservation. Such permits shall be issued only for experiments to control and
5 eliminate nuisance weeds. Any person who violates the provisions of this section shall be guilty
6 of a class A misdemeanor] **The department of agriculture shall promulgate rules necessary**
7 **to implement the provisions of sections 263.190 to 263.241. Any rule or portion of a rule,**
8 **as that term is defined in section 536.010, that is created under the authority delegated in**
9 **this section shall become effective only if it complies with and is subject to all of the**
10 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536**
11 **are nonseverable and if any of the powers vested with the general assembly pursuant to**
12 **chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are**
13 **subsequently held unconstitutional, then the grant of rulemaking authority and any rule**
14 **proposed or adopted after August 28, 2011, shall be invalid and void.**

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[263.205. 1. The plant multiflora rose (*rosa multiflora*) is hereby
2 declared to be a noxious weed; except, notwithstanding any other provision of
3 this section, multiflora rose (*rosa multiflora*) shall not be considered a noxious
4 weed when cultivated for or used as understock for cultivated roses.

2. The governing body of any county of this state may opt to establish a
6 "County Noxious Weed Fund" for the purpose of making grants on a cost share
7 basis for the control of any noxious weed, as the plant may be designated under
8 this section.

9 3. Any county opting to establish a county noxious weed fund, shall
 10 establish a noxious weed control program. No resident or owner of land of any
 11 county shall be required to participate in a county noxious weed control program;
 12 however, any resident or landowner making application for cost share grants
 13 under this section shall participate in said program.

14 4. For the purpose of administering the county noxious weed fund, the
 15 county governing body shall have sole discretion of awarding cost share grants
 16 under this section.

17 5. For the purpose of funding the county noxious weed fund, the county
 18 governing body may appropriate county funds, and/or solicit municipality, state
 19 agency, state general revenue, and federal agency funds. All such funds shall be
 20 deposited in the county noxious weed fund to be expended for the sole purpose
 21 of controlling noxious weeds so designated under this section.

22 6. Any county opting to establish a county noxious weed control program
 23 under this section may make rules and regulations governing said program, and
 24 any county opting to establish a county noxious weed fund under this section
 25 shall establish a cost share ratio on an annual basis beginning with the creation
 26 of the fund.]
 27

2 [263.230. It shall be the duty of any person or persons, association of
 3 persons, corporations, partnerships, the state highways and transportation
 4 commission, the county commissions, the township boards, school boards,
 5 drainage boards, the governing bodies of incorporated cities, railroad companies
 6 and other transportation companies or their authorized agents and those
 7 supervising state-owned lands to control the spread of and to eradicate by
 8 methods approved by the state department of agriculture field bindweed
 9 (convolvulus arvensis) hereby designated as a noxious and dangerous weed to
 10 agriculture.]

2 [263.232. It shall be the duty of any person or persons, association of
 3 persons, corporations, partnerships, the state highways and transportation
 4 commission, any state department, any state agency, the county commissions, the
 5 township boards, school boards, drainage boards, the governing bodies of
 6 incorporated cities, railroad companies and other transportation companies or
 7 their authorized agents and those supervising state-owned lands:

8 (1) To control and eradicate the spread of cut-leaved teasel (*Dipsacus*
 9 *laciniatus*) and common teasel (*Dipsacus fullonum*), which are hereby designated
 10 as noxious and dangerous weeds to agriculture, by methods in compliance with
 11 the manufacturer's label instructions when chemical herbicides are used for such
 12 purposes;

13 (2) To control the spread of kudzu vine (*Pueraria lobata*), which is hereby
 designated as a noxious and dangerous weed to agriculture, by methods in

14 compliance and conformity with the manufacturer's label instructions when
15 chemical herbicides are used for such purposes; and

16 (3) To control the spread of spotted knapweed (*Centaurea stoebe* ssp.
17 *micranthos*, including all subspecies), which is hereby designated as a noxious
18 and dangerous weed to agriculture, by methods in compliance and conformity
19 with the manufacturer's label instructions when chemical herbicides are used for
20 such purposes.]

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2 [263.450. As used in sections 263.450 to 263.474, the term "noxious
3 weed" includes bindweed (*Convolvulus arvensis*), Johnson grass (*Sorghum*
4 *halepense*), multiflora rose (*Rosa multiflora*) except when cultivated for or used
5 as understock for cultivated roses, Canada thistle (*Cirsium arvense*), musk thistle
6 (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife
7 (*Lythrum salicaria*), and any other weed designated as noxious by rules and
regulations promulgated by the director of the department of agriculture.]

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