

No. 1994-72

AN ACT

HB 1011

Amending the act of April 7, 1982 (P.L.228, No.74), entitled "An act relating to noxious weeds; creating a Noxious Weed Control Committee and defining its powers and duties; imposing powers and duties on the Secretary of Agriculture and municipalities; providing penalties; and making a repeal," further providing for the authority of the noxious weed control committee and for the imposition of a noxious weed control order against an individual property owner; and deleting a weed from the noxious weed control list.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Sections 3(c) and 6 of the act of April 7, 1982 (P.L.228, No.74), known as the Noxious Weed Control Law, are amended to read:

Section 3. Noxious Weed Control Committee.

* * *

(c) The committee [may amend] *shall have the authority to add plants to or delete plants from the noxious weed control list, including the noxious weed control list set forth under section 8*, but shall hold hearings before adding plants to or deleting plants from the list.

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Section 6. Publication.

(a) Every order *issued under section 5* shall be published in the Pennsylvania Bulletin pursuant to the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law.

(b) Every such order shall also be advertised in the area designated by posted notices and by advertising the order in a newspaper or newspapers of general circulation in the area as defined by Title 45 of the Pennsylvania Consolidated Statutes (relating to legal notices), covering the proposed weed control area.

Section 2. The act is amended by adding a section to read:

Section 6.1. Control order issued against an individual landowner.

(a) *The secretary may issue an order requiring an individual landowner to implement control measures for noxious weeds if he finds that noxious weeds are growing on that landowner's property.*

(b) *An order issued under this section shall be in writing and shall be served on the landowner by handing a copy of the order to him or by sending a copy of the order to the landowner by certified mail, return receipt requested.*

(c) *An order may be issued under this section without a public hearing, provided that the landowner may, within seven days of receipt, notify the*

secretary in writing that he intends to contest the order. If the landowner fails to contest the order within that seven-day period, it shall become final.

(d) Whenever a landowner notifies the secretary that he intends to contest an order issued under this section pursuant to subsection (c), the secretary shall provide the landowner with a hearing within ten days after receipt of notification that the order is being contested. After reviewing the testimony or other evidence presented at the hearing, the secretary may affirm, modify or vacate the order. If the order is affirmed or modified, it shall become a final order under this act.

Section 3. Section 7 of the act is amended to read:

Section 7. Compliance with orders.

(a) **[Every] An** affected landowner shall comply with an order **[published as required by this act beginning at least 60]** issued under section 5 within 30 days after **[such]** publication. *An affected landowner shall comply with an order issued under section 6.1 within 30 days after the order becomes final.*

(b) When an affected landowner fails to comply with an order, the secretary shall notify the landowner and the municipality within which the landowner's property is located by certified mail. Thereafter, the appropriate officials of the municipality shall take the necessary steps to carry out the order within 30 days after receipt of such notification by the secretary.

(c) A municipality which acts to control or destroy a noxious weed on a noncomplying landowner's property shall have power to recover all expenses and costs incurred in complying with the order from the noncomplying landowner.

Section 4. Section 8 of the act is amended to read:

Section 8. Noxious weed control list.

The noxious weed control list shall include but not be limited to the following weeds:

(1) Cannabis sativa, commonly known as marihuana.

[(2) Cichorium intybus, commonly known as chicory or succory or blue daisy.]

[(3)] (2) Cirsium arvense, commonly known as Canadian thistle.

[(4)] (3) Rosa multiflora, commonly known as multiflora rose.

[(5)] (4) Sorghum halepense, commonly known as Johnson grass.

Section 5. Section 10 of the act is amended to read:

Section 10. Penalties.

(a) Any landowner who fails to comply with an order of the secretary shall be guilty of a summary offense, **and upon conviction thereof, shall be sentenced to pay a fine not exceeding \$300, or undergo imprisonment for a period not exceeding 90 days, or both.**

(b) Any landowner who interferes with the agents of the secretary, or with a municipality and the discharge of its duties hereunder, shall be guilty of a misdemeanor of the third degree **[and upon conviction thereof, shall be**

sentenced to pay a fine not exceeding \$2,500, or undergo imprisonment for a period not exceeding one year, or both].

Section 6. This act shall take effect immediately.

APPROVED—The 7th day of July, A.D. 1994.

ROBERT P. CASEY