

As Amended by House Committee

HOUSE BILL No. 2479

By Committee on Agriculture and Natural Resources

1-19

Proposed Amendments to HB 2479
Senate Committee on Natural Resources
Senator Francisco
Prepared by: Tamera Lawrence
Office of Revisor of Statutes
March 10, 2016

1 AN ACT concerning agriculture; relating to noxious weeds; amending
2 K.S.A. ~~2-1314b~~, 2-1320, 2-1323, 2-1330 and 2-1332 and K.S.A. 2015
3 Supp. 2-1314, 2-1315, 2-1316, 2-1317, 2-1318, 2-1319, 2-1322 and 2-
4 1331 and repealing the existing sections; also repealing K.S.A. 2-
5 1316a, 2-1325, 2-1326, 2-1328 and 2-1329 and K.S.A. 2015 Supp. 2-
6 1327 and 2-1334.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) The provisions of article 13 of chapter 2 of the
10 Kansas Statutes Annotated, and amendments thereto, and sections 1
11 through 5, and amendments thereto, shall be known and may be cited as
12 the noxious weed act.

13 (b) For the purposes of this act:

14 (1) "Act" means the noxious weed act;

15 (2) "article" means any material or tangible object that could harbor,
16 carry or is capable of disseminating noxious weeds;

17 (3) "certified weed free" means any unprocessed plant product that
18 has been inspected by authorized state or county officials and found to be
19 free of the reproductive parts of noxious and invasive weeds according to
20 standards set forth by the North American invasive species management
21 association;

22 (4) "control" means the removal or destruction of the reproductive
23 parts of any noxious weeds before such weeds propagate and spread or
24 whenever required by the secretary or the county weed supervisor;

25 (5) "governing body" means the board, body or persons in which the
26 powers of a political subdivision as a body corporate are vested;

27 (6) "governmental agency" means the state or any agency or political
28 subdivision thereof or the government of the United States or any agency
29 or instrumentality thereof;

30 (7) "noxious weed" means any species of plant that the secretary shall
31 determine to be a noxious weed ~~in rules and regulations adopted and~~
32 ~~promulgated by the secretary;~~

33 (8) "noxious weed plant material" means any noxious weed plant or
34 plant part that is capable of reproducing sexually or asexually;

35 (9) "political subdivision" means any agency or unit of the state
36 authorized to levy taxes or empowered to cause taxes to be levied;

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K.S.A. 2-1314, and amendments
thereto

(10) "secretary" means the secretary of agriculture or the secretary's designated representative; and

(11) "weed supervisor" means a person hired by a county, township or city and approved by the secretary to enforce the noxious weed act and to control and manage noxious weeds within the confines of the supervisor's jurisdiction.

New Sec. 2. (a) The secretary may make an emergency declaration of noxious weeds if:

(1) A new and potentially harmful noxious weed is discovered growing in the state and is verified by the secretary; or

(2) the state is facing a potential influx of noxious weeds as the result of a natural disaster.

~~(b) Once a weed has been declared noxious under this section, the secretary shall consider such weed as noxious as provided in K.S.A. 2-1314, and amendments thereto, and take every action and use any means available to control or eradicate such noxious weed species as authorized in this act.~~

(c) The secretary shall not make an emergency declaration for the same weed more than once without the recommendation of the state advisory committee.

(d) The declaration shall remain in effect for the earlier of 18 months or until action can be taken by the secretary to declare the species a noxious weed by rules and regulations.

~~(e) Within 90 days after the secretary makes an emergency declaration pursuant to this section, the secretary shall call a meeting of the state advisory committee to review and approve the emergency declaration. If the committee does not approve of such emergency declaration with such 90 days, the emergency declaration will no longer remain in effect.~~

New Sec. 3. (a) There is hereby created the state noxious weed advisory committee, referred to in this section as the state advisory committee. The state advisory committee shall consist of ~~14~~ 13 voting members and the secretary or a duly appointed representative of the secretary as a non-voting ex officio member. Representation on the state advisory committee shall reflect the different geographic areas of the state equally to the greatest extent possible. Such members shall receive no compensation for serving on such state advisory committee, but shall be paid subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto, from moneys appropriated therefor to the Kansas department of agriculture. The ~~14~~ 13 voting members shall be appointed by the secretary as follows:

(1) One member shall represent a natural resource management professional from the Kansas department of wildlife, parks and tourism;

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(1)

within

(2) The provisions of this subsection shall expire on December 15, 2019.

10

reletter subsections accordingly

(2) two members shall represent weed specialists from Kansas state university college of agriculture or the Kansas state research and extension and shall be appointed upon the recommendation of the dean of the college of agriculture and the director of Kansas state research and extension;

, at least one of which shall be an organic or specially crop producer

(3) one member shall be a county commissioner and shall be appointed upon recommendation of the Kansas association of counties;

(4) three members shall be private landowners;

(5) two members shall represent county weed directors and shall be appointed upon the recommendation of the board of directors of the county weed directors association of Kansas;

(6) one member shall represent the agricultural industries in the state and shall be appointed upon the recommendation of the board of directors of the Kansas agribusiness retailers association; and

(7) one member shall be appointed upon the recommendation of the board of directors of the Kansas cooperative council;

(8) one member shall represent a natural resource management professional from the Kansas biological survey and shall be appointed upon the recommendation of the director of the Kansas biological survey; and

(9) one member shall represent the Kansas pest control association and shall be appointed by the president of the Kansas pest control association.

(b) (1) Except as provided in this section, the term of office of each member of the committee shall be four years. The initial appointments to the committee shall be as follows:

(A) Four members shall be appointed for terms of two years;

(B) Four members shall be appointed for terms of three years; and

(C) three members shall be appointed for terms of four years.

(2) The secretary shall designate the term of office for each member appointed to the first committee. Appointees shall be limited to serving a total of two full terms each. Each state advisory committee member shall hold office until the expiration of the term for which such member is appointed or until a successor has been duly appointed.

All members of the committee shall serve for a term of three years

(3) In the event of a vacancy on the state advisory committee, the appointing body of the vacating member shall fill such vacancy for the remainder of the unexpired term before the next meeting.

(4) The secretary may remove any member of the state advisory committee for misconduct, incompetence or neglect of duty.

(5) A quorum of the state advisory committee shall be six a majority of the members duly appointed to the state advisory committee.

(6) A quorum of the state advisory committee shall elect or appoint annually a chairperson and a vice-chairperson.

(7) The state advisory committee shall meet at least quarterly.

And by redesignating subsections, paragraphs, subparagraphs and clauses accordingly

1 (c) The state advisory committee shall, among other duties assigned
2 by the secretary:

3 (1) Review the state weed management plan ~~every five years~~ and
4 recommend changes and updates to the secretary for approval;

5 (2) through the use of a ~~science-based~~ risk assessment, designated by
6 the secretary, recommend the designation and ~~classification~~ of state
7 noxious weeds. Such assessment shall consider, at a minimum:

8 (A) The impact on the natural and agricultural environment,
9 including potential toxicity to humans and livestock;

10 (B) the invasiveness of the species under consideration,
11 determined based on the rate of spread and the potential for, and
12 methods of, dispersal; and

13 (C) the potential for infestation in the state;

14 (3) review the noxious weed act and the list of species declared to be
15 noxious weeds by ~~rules and regulations of the secretary every four years~~
16 and recommend changes to the secretary;

17 (4) review the official eradication and control methods for each state
18 noxious weed and recommend changes to the secretary; and

19 (5) ~~before January 1 of each odd-numbered year report to the~~
20 ~~secretary on the expenditure of state funds on noxious weed control;~~
21 ~~specifically how such funds were spent; the status of the state and county~~
22 ~~programs; and recommendations for the continued best use of state funds~~
23 ~~for noxious weed control. The report shall include recommendations as to~~
24 the long-term needs regarding noxious weed control.

25 (d) Recommendations of the state advisory committee shall be made
26 by a majority vote of the members of the state advisory committee.

27 New Sec. 4. It shall be unlawful for any person, company or
28 corporation:

29 (a) To import, introduce, plant, sow, move or knowingly allow to
30 grow any weed declared and designated as noxious pursuant to K.S.A. 2-
31 1314, and amendments thereto, except in accordance with such conditions
32 as the secretary may prescribe by rules and regulations to prevent the
33 dissemination of such noxious weeds into this state;

34 (b) to sell, barter or give away nursery stock, plants, packing
35 materials, animal fertilizer and soil or sod for landscaping or fertilizer use
36 which contains, or is infested with, noxious weed plant material or seeds;

37 (c) to transport articles, seed, screening, grains, crops, straw, hay,
38 forage, offal material or feed of any kind containing noxious weed plant
39 material or seeds unless such materials shall have been carried or
40 transported in such vehicles or containers which prevent the leaking or
41 scattering thereof or are processed by grinding or other means adequate to
42 destroy the viability of all such noxious weed plant material or seeds,
43 except such feeds that are to be fed to livestock may be sold for

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Report to the legislature the committee's

(e) The provisions of this section shall
expire on December 15, 2019.

consumption on the same farm where grown or may be sold to commercial processors or commercial feed mixers. All common carriers shall thoroughly clean and destroy any noxious weed plant material or seeds in or on cars, trucks, vehicles or other receptacles used by them after each load was delivered to a consignee before again placing such car, truck, vehicle or receptacle into service; or

(d) to bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, field ensilage cutters or other farm vehicles or machinery into the state or from any field or farm within the state that is infested with any noxious weed without first cleaning such equipment free from any noxious weed plant material or seeds.

(e) This section shall not apply to:

(1) Research sanctioned by a state or federal agency or an accredited university or college; or

(2) activities specifically permitted by the secretary.

New Sec. 5. Any and all alfalfa, grass, hay or other forage, straw or mulch carried onto or used for any purpose within the boundaries of any lands owned or managed by the state government and of its agencies must be certified noxious weed free.

Sec. 6. K.S.A. 2015 Supp. 2-1314 is hereby amended to read as follows: 2-1314. (a) ~~The secretary shall adopt rules and regulations to declare the weeds of the state that are noxious weeds. Once a weed has been declared to be a noxious weed, it shall be considered a noxious weed in every county of the state. The secretary shall not declare any species to be a noxious weed without the recommendation of the state advisory committee, except under an emergency declaration as provided in section 2, and amendments thereto. It shall be the duty of persons, associations of persons, the secretary of transportation, the boards of county commissioners, the township boards, school boards, drainage boards, the governing body of incorporated cities, railroad companies and other transportation companies or corporations or their authorized agents and those supervising state-owned lands to control the spread of and to eradicate all weeds declared by legislative action to be noxious on all lands owned or supervised by them and to use such methods for that purpose and at such times as are approved and adopted by the Kansas department of agriculture. The term noxious weeds shall mean~~

(b) ~~The following shall be considered noxious weeds: Kudzu (Pueraria lobata), field bindweed (Convolvulus arvensis), Russian knapweed (Centaurea repens), hoary cress (Cardaria draba), Canada thistle (Cirsium arvense), quackgrass (Agropyron repens), leafy spurge (Euphorbia esula), bur ragweed (Ambrosia grayii), pignut (Hoffmannseggia densiflora), musk (nodding) thistle (Carduus nutans L.), Johnson grass (Sorghum halepense) and sericea lespedeza (Lespedeza~~

by legislative action

~~1 cuneata). The provisions of this subsection shall expire on December 31,~~
~~2 2017.~~

~~3 (c) A board of county commissioners may, with the approval of the~~
~~4 secretary, publish a list of the species of weeds to be controlled in the~~
~~5 county, in addition to those declared as noxious pursuant to this section.~~
~~6 Any species so listed shall be considered to be a noxious weed within the~~
~~7 boundaries of that county.~~

~~8 (1) The board of county commissioners shall, for any species to be~~
~~9 listed as provided in this subsection that previously has not been listed by~~
~~10 another county, submit to the secretary for approval official methods for~~
~~11 the control and eradication of such species. Any county subsequently~~
~~12 listing the same species shall adopt the official methods for the control~~
~~13 and eradication of that species as approved by the secretary.~~

~~14 (2) If any species listed by the board of county commissioners of any~~
~~15 county is later declared a noxious weed by rules and regulations of the~~
~~16 secretary, the official methods adopted by the secretary for the control and~~
~~17 eradication of such species pursuant to K.S.A. 2-1315, and amendments~~
~~18 thereto, shall control over any methods adopted by the board of county~~
~~19 commissioners.~~

~~20 (3) Cost share chemicals, in accordance with K.S.A. 2-1322, and~~
~~21 amendments thereto, shall be made available for the control and~~
~~22 eradication of any species listed by a board of county commissioners~~
~~23 pursuant to this subsection.~~

~~24 (d) Beginning on December 31, 2017, and on December 31 every~~
~~25 fourth year thereafter, the secretary shall report to the chairperson of~~
~~26 the house standing committee on agriculture and natural resources~~
~~27 and the chairperson of the senate standing committee on agriculture a~~
~~28 list of the weeds considered noxious by the rules and regulations~~
~~29 promulgated by the secretary.~~

~~30 Sec. 7. K.S.A. 2-1314b is hereby amended to read as follows: 2-~~
~~31 1314b. (a) The board of county commissioners of any county may declare~~
~~32 the multiflora rose (Rosa multiflora) or the bull thistle (Cirsium vulgare)~~
~~33 or both, to be a noxious weed within the boundaries of such county. In~~
~~34 such event, all of the provisions of article 13 of chapter 2 of the Kansas~~
~~35 Statutes Annotated, and amendments thereto, which pertain to the control~~
~~36 and eradication of noxious weeds shall apply to the control and eradication~~
~~37 of the multiflora rose or the bull thistle, or both, within any such county.~~

~~38 (b) If the board of county commissioners of any county does not~~
~~39 declare the multiflora rose or the bull thistle, or both, to be a noxious weed~~
~~40 within the boundaries of such county, a petition requesting the secretary of~~
~~41 agriculture to declare the multiflora rose or the bull thistle, or both, to be a~~
~~42 noxious weed within the boundaries of such county, signed by not less~~
~~43 than 5% of the qualified electors of the county, may be filed with the~~

recommendation of the state advisory
committee and

state advisory committee

(2)

and any recommendations as to the
long-term needs regarding noxious
weed control required by section 3(c)
(5), and amendments thereto

~~1 county election officer of the county, upon receipt of any such petition, the~~
~~2 county election officer shall certify the sufficiency of the petition and~~
~~3 submit it to the secretary of agriculture. Thereupon, the secretary of~~
~~4 agriculture may declare the multiflora rose or the bull thistle, or both, to be~~
~~5 a noxious weed within the boundaries of such county. In such event, all of~~
~~6 the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated,~~
~~7 and amendments thereto, which pertain to the control and eradication of~~
~~8 noxious weeds shall apply to the control and eradication of the multiflora~~
~~9 rose or the bull thistle, or both, within any such county. The provisions of~~
~~10 this section shall expire on December 31, 2017.~~

~~11 Sec. 8. K.S.A. 2015 Supp. 2-1315 is hereby amended to read as~~
~~12 follows: 2-1315. The secretary of agriculture is hereby empowered to~~
~~13 decide and adopt methods as official for control and eradication of noxious~~
~~14 weeds and to publish such methods, and to make and publish such rules~~
~~15 and regulations as in the secretary's judgment are necessary to carry into~~
~~16 effect the provisions of this act, and to alter or suspend such rules and~~
~~17 regulations when necessary. The secretary of agriculture may establish not~~
~~18 to exceed five noxious weed control districts within this state and define~~
~~19 the boundaries of such districts. Such districts shall be established to~~
~~20 provide for the most efficient control and eradication of noxious weeds~~
~~21 and for the most economical supervision by the state. The secretary may~~
~~22 designate any county as a serious lespedeza disaster area to provide for the~~
~~23 control and eradication of serious lespedeza within such county. The~~
~~24 secretary shall consult with the board of county commissioners of any~~
~~25 county prior to designation of such county as a serious lespedeza disaster~~
~~26 area pursuant to this subsection.~~

~~27 The secretary may consult, advise or render assistance to county and~~
~~28 city weed supervisors as to the best and most practical methods of noxious~~
~~29 weed control and eradication. It shall be the duty of the county agricultural~~
~~30 agent to cooperate with and assist the county weed supervisors in an~~
~~31 intensive educational program on weed control. The secretary of~~
~~32 agriculture is hereby authorized to enter into agreements with any agencies~~
~~33 of the federal government for cooperation in the control and eradication of~~
~~34 noxious weeds in Kansas in keeping with the provisions of this act.~~

~~35 Sec. 9. K.S.A. 2015 Supp. 2-1316 is hereby amended to read as~~
~~36 follows: 2-1316. (a) The responsibility for the enforcement of the~~
~~37 provisions of this act shall be vested in the board of county commissioners~~
~~38 as to all lands, unless otherwise provided for, within the boundaries of~~
~~39 such county. Cities and townships may enter into an agreement with the~~
~~40 board of county commissioners to take upon themselves the responsibility~~
~~41 of the enforcement of the provisions of this act. If, at any time, a board of~~
~~42 county commissioners determines that a city or township within the~~
~~43 boundaries of the county that has taken upon itself the responsibility of the~~

1 enforcement of the provisions of this act, is unable or unwilling to fulfill
2 those responsibilities, the board of county commissioners may revoke the
3 terms of the agreement and resume the responsibility for the enforcement
4 of the provisions of this act.

5 (b) The board of county commissioners of each county shall, and the
6 governing body of any incorporated city or any group of counties or cities
7 may, employ for a stated time each year, with the approval of the secretary
8 of agriculture, a competent person as county, city or district weed
9 supervisor.

10 (b) (c) The weed supervisor shall consult and cooperate with the state
11 division of noxious weeds and with the assistant weed control director
12 appointed for the supervisor's district, make annual surveys of infestations
13 (compile data on areas eradicated and under treatment), and submit an
14 annual report to the county commissioners and to the state division of
15 noxious weeds, to consult and advise upon secretary in all matters
16 pertaining to the best and most practical methods for noxious weed control
17 and eradication and to render every possible assistance and direction for
18 the most effective control and eradication within the supervisor's district;
19 investigate or aid in the investigation and prosecution of any violation of
20 this act and report violations of which the supervisor has knowledge to the
21 county attorney.

22 (c) (d) The salary of the county weed supervisor shall be borne as
23 follows: The Kansas department of agriculture to pay not more than one-
24 fourth thereof from any funds available, not less than three-fourths thereof
25 to be borne as follows: The Kansas department of agriculture to pay
26 not more than $\frac{1}{4}$ thereof from any funds available, not less than $\frac{3}{4}$,
27 thereof to be paid out of the county noxious weed fund or, if the county
28 noxious weed program is funded primarily through county general funds,
29 the salary shall be paid from the county general funds, prorated as may be
30 decided at the time of such employment by the governing body or bodies
31 employing such supervisor. If the noxious weed program is funded from
32 more than one source, the salary shall be paid from each source in
33 proportion to which it contributes to the noxious weed program.

34 (d) (e) The boards of county commissioners, governing bodies of
35 cities and township boards, with the aid of their weed supervisors, shall
36 make by February 15th each year an annual weed eradication progress
37 report to the secretary of agriculture for the preceding calendar year, on a
38 form supplied by the secretary, and such other weed reports as established
39 by rules and regulations of the secretary of agriculture. The weed
40 supervisor shall make annual surveys of infestations and ascertain the
41 approximate amount of land and highways infested with each kind of
42 noxious weed and its location in the county not later than October 31 of
43 each year. The weed supervisor shall compile data on areas eradicated