

Effective 7/1/2017

Chapter 17 Utah Noxious Weed Act

4-17-101 Title.

This chapter is known as the "Utah Noxious Weed Act."

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-102 Definitions.

As used in this chapter:

- (1) "Commission" means the county legislative body of each county of this state.
- (2) "Commissioner" means the commissioner of agriculture and food or the commissioner's representative.
- (3) "County noxious weed" means any plant that is:
 - (a) not on the state noxious weed list;
 - (b) especially troublesome in a particular county; and
 - (c) declared by the county legislative body to be a noxious weed within the county.
- (4) "Noxious weed" means any plant the commissioner determines to be especially injurious to public health, crops, livestock, land, or other property.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-103 Commissioner -- Functions, powers, and duties.

The commissioner or the commissioner's designee shall:

- (1) investigate and designate noxious weeds on a statewide basis;
- (2) compile and publish annually a list of statewide noxious weeds;
- (3) coordinate and assist in inter-county noxious weed enforcement activities;
- (4) determine whether each county complies with this chapter;
- (5) assist a county that fails to carry out the provisions of this chapter in the county's implementation of a weed control program;
- (6) prescribe the form and general substantive content of notices to the public and to individuals concerning the prevention and control of noxious weeds;
- (7) compile and publish a list of articles capable of disseminating noxious weeds or seeds and designate treatment to prevent dissemination; and
- (8) regulate the flow of contaminated articles into the state and between counties to prevent the dissemination of noxious weeds or seeds.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-104 Creation of State Weed Committee -- Membership -- Powers and duties -- Expenses.

- (1) There is created a State Weed Committee composed of eight members, with each member representing one of the following:
 - (a) the Department of Agriculture and Food;
 - (b) the Department of Natural Resources;
 - (c) the Utah State University Agricultural Experiment Station;

- (d) the Utah State University Extension Service;
 - (e) the Utah Association of Counties;
 - (f) private agricultural industry;
 - (g) the Utah Weed Control Association; and
 - (h) the Utah Weed Supervisors Association.
- (2) The commissioner shall select the members of the committee from those nominated by each of the respective groups or agencies following approval by the executive committee of the Agricultural Advisory Board.
- (3)
- (a) Except as required by Subsection (3)(b), as terms of current committee members expire, the commissioner shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
- (4)
- (a) Members may be removed by the commissioner for cause.
 - (b) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (5) The State Weed Committee shall:
- (a) confer and advise on matters pertaining to the planning, implementation, and administration of the state noxious weed program;
 - (b) recommend names for membership on the committee; and
 - (c) serve as members of the executive committee of the Utah Weed Control Association.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
 - (b) Section 63A-3-107; and
 - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Amended by Chapter 126, 2021 General Session

4-17-105 County weed control board -- Appointment -- Composition -- Terms -- Removal -- Compensation.

- (1) A county executive of a county may, with the advice and consent of the county legislative body, appoint a county weed control board comprised of not less than three nor more than five appointed members.
- (2)
- (a) If the county legislative body is the county commission, the chair of the county legislative body shall appoint one member of the county legislative body who shall act as a coordinator between the county and the county weed control board.
 - (b) If the county legislative body is a county council:
 - (i) for a county of the first class, the county executive or the county executive's designee shall serve on the county weed control board and act as coordinator between the county and the county weed control board; or
 - (ii) for a county that is not a county of the first class, the county executive shall serve on the county weed control board and act as coordinator between the county and the county weed control board.

- (3) Two members of the board shall be farmers or ranchers whose primary source of income is derived from production agriculture.
- (4) Members are appointed to four year terms of office and serve with or without compensation as determined by each county legislative body.
- (5) Members may be removed for cause and any vacancy that occurs on a county weed control board shall be filled by appointment for the unexpired term of the vacated member.

Amended by Chapter 76, 2019 General Session

4-17-106 Commissioner may require county weed control board to justify failure to enforce provisions.

If the commissioner determines that the weed control board of any county has failed to perform the board's duties under this chapter, the commissioner may require the board to justify, in writing, the board's failure to enforce these provisions within the board's county.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-107 County weed control board responsible for control of noxious weeds -- Cooperation with other county boards -- Authority to designate noxious weed -- Public hearing before removal of noxious weed from state list.

- (1) A county weed control board is responsible, under the general direction of the county executive, for the formulation and implementation of a county-wide coordinated noxious weed control program designed to prevent and control noxious weeds within the board's county.
- (2) A county weed control board is required, under the general direction of the board's commission, to cooperate with other county weed control boards to prevent and control the spread of noxious weeds.
- (3)
 - (a) A county legislative body may declare a particular weed or competitive plant, not appearing on the state noxious weed list, a county noxious weed within the board's county.
 - (b) A county executive, with the approval of the county legislative body, may petition the commissioner for removal of a particular noxious weed from the state noxious weed list.
 - (c) The county legislative body may not approve a petition of the county executive to the commissioner to remove a noxious weed unless the county legislative body has first conducted a public hearing after due notice.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-108 Weed control supervisor -- Qualification -- Appointment -- Duties.

- (1)
 - (a) Each commission may employ one or more weed control supervisors qualified to:
 - (i) detect and treat noxious weeds; and
 - (ii) direct the weed control program for the county weed control board.
 - (b) A person may be a weed control supervisor for more than one county weed control board.
 - (c) Terms and conditions of employment shall be prescribed by the commission.
- (2) A supervisor, under the direction of the local county weed control board, shall:
 - (a) examine all land under the jurisdiction of the county weed control board to determine whether this chapter and the rules adopted by the department have been met;
 - (b) compile data on infested areas;

- (c) consult and advise upon matters pertaining to the best and most practical method of noxious weed control and prevention;
- (d) render assistance and direction for the most effective control and prevention;
- (e) investigate violations of this chapter;
- (f) enforce noxious weed controls within the county; and
- (g) perform any other duties required by the county weed control board.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-109 Notice of noxious weeds to be published annually in county -- Notice to particular property owners to control noxious weeds -- Methods of prevention or control specified -- Failure to control noxious weeds considered public nuisance.

- (1) Each county weed control board before May 1 of each year shall post a general notice of the noxious weeds within the county in at least three public places within the county and publish the same notice on:
 - (a) at least three occasions in a newspaper or other publication of general circulation within the county; and
 - (b) as required in Section 45-1-101.
- (2)
 - (a) If the county weed control board determines that particular property within the county requires prompt and definite attention to prevent or control noxious weeds, the county weed control board shall serve the owner or the person in possession of the property, personally or by certified mail, a notice specifying when and what action is required to be taken on the property.
 - (b) Methods of prevention or control may include definite systems of tillage, cropping, use of chemicals, and use of livestock.
- (3) An owner or person in possession of property who fails to take action to control or prevent the spread of noxious weeds as specified in the notice is maintaining a public nuisance.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-110 Noxious weeds -- Failure to control after notice of nuisance -- Notice and hearing -- Control at county expense -- Owner liable for county costs -- Charges lien against property.

- (1) If the owner or person in possession of the property fails to take action to control or prevent the spread of noxious weeds within five working days after the property is declared a public nuisance, the county may, after reasonable notification, enter the property, without the consent of the owner or the person in possession, and perform any work necessary, consistent with sound weed prevention and control practices, to control the weeds.
- (2)
 - (a) If the county controls weeds on a piece of property, as described in Subsection (1), and seeks reimbursement from the property owner of record or the person in possession of the property, the county shall send the property owner or person in possession of the property a documented description of the expense and a demand for payment within 30 days of the day on which the weed control took place.
 - (b) The property owner of record or the person in possession of the property, as the case may be, shall reimburse the county for the county's expense within 90 days after receipt of the demand for payment, as described in Subsection (2)(a).

- (c) If the demand for payment is not paid within 90 days after receipt, the charges become a lien against the property and are collectible by the county treasurer at the time general property taxes are collected.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-111 Hearing before county weed control board -- Appeal of decision to the county legislative body -- Judicial review.

- (1) Any person served with notice to control noxious weeds may request a hearing to appeal the terms of the notice before the county weed control board within 10 days of receipt of such notice and may appeal the decision of the county weed control board to the county legislative body.
- (2) Any person served with notice to control noxious weeds who has had a hearing before both the county weed control board and the county legislative body may further appeal the decision of the county legislative body by filing written notice of appeal with a court of competent jurisdiction.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-112 Jurisdiction of state and local agencies to control weeds.

The departments or agencies of state and local governments shall develop, implement, and pursue an effective program for the control and containment of noxious weeds on all lands under the department's or agency's control or jurisdiction, including highways, roadways, rights-of-way, easements, game management areas, and state parks and recreation areas.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-113 County noxious weed control fund authorized.

A commission may establish and maintain a noxious weed control fund in each county for use in the administration of this chapter.

Renumbered and Amended by Chapter 345, 2017 General Session

4-17-114 Invasive Species Mitigation Account created.

- (1)
 - (a) As used in this section, "project" means an undertaking that:
 - (i) rehabilitates or treats an area infested with, or threatened by, an invasive species; or
 - (ii) conducts research related to invasive species.
 - (b) As used in this section, "project" includes items and processes required prior to the implementation of an undertaking described in Subsection (1)(a).
- (2)
 - (a) There is created a restricted account within the General Fund known as the "Invasive Species Mitigation Account."
 - (b) The restricted account shall consist of:
 - (i) money appropriated by the Legislature;
 - (ii) grants from the federal government; and
 - (iii) grants or donations from a person.
- (3)

- (a) The department may expend money in the restricted account:
 - (i) on a project implemented by:
 - (A) the department; or
 - (B) the Conservation Commission created in Section 4-18-104; or
 - (ii) by giving a grant for a project to a:
 - (A) state agency;
 - (B) federal agency;
 - (C) federal, state, tribal, or private landowner;
 - (D) political subdivision;
 - (E) county weed board;
 - (F) cooperative weed management area;
 - (G) nonprofit organization; or
 - (H) university.
 - (b) The department may use up to 10% of restricted account funds appropriated under Subsection (2)(b)(i) on:
 - (i) department administration; or
 - (ii) project planning, monitoring, and implementation expenses.
 - (c) A project that receives funds from the Invasive Species Mitigation Account may not spend more than 10% of an award of funds on planning and administration costs.
 - (d) A federal landowner that receives restricted account funds for a project shall match the funds received from the restricted account with an amount that is equal to or greater than the amount received from the restricted account.
- (4) In giving a grant, the department shall consider the effectiveness of a project in the rehabilitation or treatment of an area infested with, or threatened by, an invasive species.

Amended by Chapter 355, 2018 General Session

4-17-115 Cooperative agreements and grants to rehabilitate areas infested with or threatened by invasive species.

The department may:

- (1) enter into a cooperative agreement with a political subdivision, a state agency, a federal agency, a tribe, a county weed board, a cooperative weed management area, a nonprofit organization, a university, or a private landowner to:
 - (a) rehabilitate or treat an area infested with, or threatened by, an invasive species; or
 - (b) conduct research related to invasive species;
- (2) expend money from the Invasive Species Mitigation Account created in Section 4-17-114; and
- (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to:
 - (a) administer this section; and
 - (b) give grants from the Invasive Species Mitigation Account.

Amended by Chapter 355, 2018 General Session