

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON AGRICULTURE

Call to Order: By Chairman Beck, on January 30, 1989, at
1:00 p.m.

ROLL CALL

Members Present: Senators: Hubert Abrams, Gary Aklestad,
Gerry Devlin, Jack Galt, Greg Jergeson, Gene Thayer,
Bob Williams, Chairman Beck

Members Excused: None

Members Absent: Esther Bengtson

Staff Present: Doug Sternberg, Legislative Council

Announcements/Discussion: Doug Sternberg explained why the
language of the resolution was limited to rodenticide
registrations.

HEARING ON SENATE BILL 254

Presentation and Opening Statement by Sponsor: Senator
Hofman, District 38, stated SB 254 is an act to provide
civil liability for failure to notify a purchaser of
real property of the presence of noxious weeds on the
property.

List of Testifying Proponents and What Group they Represent:

Barbra Mullin representing herself
Reeves Petroff representing Gallatin County Weed control
Pete Fay representing Montana Weed Control Association
Walter Steingruber representing himself

List of Testifying Opponents and What Group They Represent:

Tom Hopgood representing Montana Association of Realtors

Testimony:
Proponents:

Barbra Mullin is the weed coordinator for the Department of
Agriculture. Ms. Mullin explained that the Department
of Agriculture did not take a stand on SB 254 and that

she was testifying on their behalf. Ms. Mullin stated, "I feel the importance of this bill is that it's kind of a truth in advertising piece of legislation that will allow people to realize the potential of noxious weeds on land before they buy it, as opposed to buying some severe problem in the middle of winter and finding out next spring they have something that possibly the cost is greater than the land value itself. The way this legislation is written there are two set of noxious weeds in the state-see exhibit 1. This legislation would apply to those weeds that are on the list."

Reeves Petroff-see exhibit 2.

Pete Fay-"I think this bill is a development of the frustration that Sam (Hofman) has felt and weed boards all over the state have felt. The Montana Weed Control Association sees this as an educational tool in terms of a weed enforcement law."

Walter Steingruber-"If this law comes in, I'm going to have to tell the buyer (that he has weeds on his land). I think this is my moral obligation, really. I don't like weeds; I think nobody does. I've had some relatives buy a little place in western Montana and they didn't know that was knapweed out there and I think this would kind of alleviate that problem."

Testimony:

Opponents:

Tom Hoppood-"The realtors association supports the free and unencumbered right to transfer real property. With all respect to Senator Hofman, we feel that this bill is a step away from that principle. I think that you should consider who's the proper person to bear those costs. If I'm a perspective land purchaser in Montana, I think I'd have to be deaf, dumb, and blind not to know the fact that there's a severe noxious weed problem in this state. And I think as a buyer it should be up to me to inquire as to the existence of the weeds on those lands."

Questions From Committee Members: Senator Williams-"If I were selling a piece of property and I told the realtor that it was weed infested and he didn't convey that message to the buyer, where would that put the realtor?" Senator Hofman-"A person or entity that sells real property-that includes the realtor. Ultimately the owner would be responsible if he didn't tell the realtor, but if the realtor didn't convey that

message then he would be responsible. It would have to be done in a court of law. This is not an automatic fine that would come about."

Senator Devlin-"Who gets the \$10,000?" Senator Hofman-"The buyer."

Senator Galt-"Sam, I would like to pursue that a little further. If the broker doesn't say anything... It doesn't say anything here about an agent who's responsible at all. It's going to be the landowner according to the language in this bill that's responsible for that." Senator Hofman-"Mr. Cogley downstairs who drafted the bill, thought this language would address the problem and take care of it. As I understand it, the real estate agent would be the agent then who is selling the property and he would then be responsible."

Senator Beck-"If you sign a document saying that you do have weeds on your property then you're not liable to the exposure to the \$10,000." Senator Hofman-"That is absolutely right."

Senator Beck-"Then wouldn't it be more feasible to go the other way on this bill then? To certify a noxious weed-free piece of property? Because I don't hardly think there is a piece of property in the state of Montana that would qualify not having some kind of a noxious weed on it." Senator Hofman-"You're absolutely right. Because Canadian thistle is involved here and that is a state-wide weed problem. We just feel that it wouldn't hurt a bit for this seller to transfer a document and it can be a very simple document, to the buyer of the existing problem of the weeds on his place. And he can cover himself by stating in very general terms that there may be this and this weed on there."

Senator Thayer-"What's to prevent all of the realtors in the state to simply require that as a document? You would almost be forcing the seller to sign a piece of paper to protect himself from the \$10,000 fine. If that were to happen, you really haven't accomplished that." Senator Hofman-"I think we have. We don't have this problem with people in the state. Our biggest problem is people who live in Oregon or Arizona or California or somebody who buys a piece of property over the telephone. If that realtor doesn't tell him about his problem, then it takes us awhile to trace this thing down. To who owns the property. It's quite a shock to some people because that's the first inclination that

they even have a weed problem."

Senator Aklestad-"I'm having a little problem with this bill as far as the true seller, the owner of the property; The real estate agent not transferring that on even if he puts that in writing and not delivering that document. As I read this, I think the true seller, not the agent, would be liable. Actually the real estate person is just the middleman...So I think the owner of the land would be liable. So on page 1, on line 10, where it says "a person or agent that sells". What would you think about putting in there "or represents real property"...I mean person or entity?" Senator Hofman-"I certainly wouldn't have a problem with that. I think it would be better."

Closing by Sponsor: Senator Hofman-"The people that we are really trying to get to are the outside buyers. We would like them to know some of these things before they come in. It would help our problem a lot. I think there is a moral obligation to let this guy know what is involved in the purchase of that property... Some of the things that he's going to face, particularly when we have the kind of noxious weed problem that we have in the state of Montana. We would urge you to look favorably on this bill."

ADJOURNMENT

Adjournment At: 1:34 p.m.



TOM BECK, Chairman

TB/jj

ROLL CALL

AGRICULTURE COMMITTEE

DATE 1/30/89

51st LEGISLATIVE SESSION 1989

NAME	PRESENT	ABSENT	EXCUSED
SENATOR HUBERT ABRAMS	✓		
SENATOR GARY AKLESTAD	✓		
SENATOR ESTHER BENGTSO		✓	
SENATOR GERRY DEVLIN	✓		
SENATOR JACK GALT	✓		
SENATOR GREG JERGESON	✓		
SENATOR GENE THAYER	✓		
SENATOR BOB WILLIAMS	✓		
SENATOR TOM BECK	✓		

Each day attach to minutes.

R U L E S

COUNTY NOXIOUS WEED LIST
Sub-Chapter 2
Designation of Noxious Weeds

4.5.201 DESIGNATION OF NOXIOUS WEEDS (1) The department designates certain exotic plants listed in these rules as statewide noxious weeds under the County Weed Control Act 7-22-2101 (5), MCA. All counties must implement management standards for these noxious weeds consistent with weed management criteria developed under 7-22-2109 (2) (b) of the Act. The department established two categories of the noxious weeds. (History: Sec. 7-22-2101 MCA; IMP, Sec. 7-22-2101 MCA; NEW 1986, p. 337, Eff. 3/14/86.)

4.5.202 CATEGORY 1 (1) Category 1 noxious weeds are weeds that are currently established in many counties of the state. Management criteria for control of these weeds is necessary in all counties to contain or suppress existing infestations or to prevent, through eradication or other appropriate measures, new infestations of these weeds. All of these weeds render land unfit or greatly limit the beneficial uses.

(2) The following are designated as category 1 noxious weeds:

- (a) Canada Thistle (Cirsium arvense)
- (b) Field Bindweed (Convolvulus arvensis)
- (c) Whitetop (Cardaria draba)
- (d) Leafy Spurge (Euphorbia esula)
- (e) Russian Knapweed (Centaurea repens)
- (f) Spotted Knapweed (Centaurea maculosa)
- (g) Diffuse Knapweed (Centaurea diffusa)
- (h) Dalmation Toadflax (Linaria dalmatica)
- (i) St. Johnswort (Hypericum perforatum). (History: Sec. 7-22-2101 MCA; IMP, Sec. 7-22-2101 MCA; NEW 1986, p. 337, Eff. 3/14/86.)

4.5.203 CATEGORY 2 (1) Category 2 noxious weeds are weeds that have not been detected in the State of Montana or have recently been introduced into the State of Montana. These weeds have the potential for rapid spread and invasion of lands, thereby rendering them unfit for beneficial uses. County planning to prevent the spread or introduction of these weeds is necessary. Management criteria for detection and immediate action to eradicate or contain these weeds is necessary in all counties.

(2) The following are designated as category 2 noxious weeds:

- (a) Dyers Woad (Isatis tinctoria)
 - (b) Yellow Starthistle (Centaurea solstitialis)
 - (c) Common Crupina (Crupina vulgaris)
 - (d) Tansy Ragwort (Senecio jacobaea)
 - (e) Rush Skeletonweed (Chondrilla juncea). (History: Sec. 7-22-2101 MCA; IMP, Sec. 7-22-2101 MCA; NEW 1986, p. 337, Eff. 3/14/86.)
- Subdivisions, Title 76, Chapter 2 and 3.



30 January 1989

GALLATIN COUNTY WEED BOARD ENDORSES SB 254

The Gallatin County Weed Control Board encourages the passage of Senate Bill 254.

As a weed control supervisor for Gallatin County, I have often heard the phrase, "I would have never bought the place if I had known it had leafy spurge. I have also heard the same about spotted knapweed."

What's more disturbing is that I often get questions on what is the cheapest way to knock the weeds down and get them out of sight so that the land can be sold. Is this right? Is this fair to the seller?

There must be some responsibility on the part of the seller/broker of property concerning the fair disclosure of noxious weeds on the property being sold. Yes, there are laws on the books detailing that the landowner is responsible for the control of noxious weeds on their property. This is fine if that law is enforced before the property is sold. But what happens after the land is sold? Is it fair to fully enforce the Montana Weed Management Act on the buyer if the buyer is unaware that a noxious weed problem exist.

What if you were sold a house and the seller knew there were leaky pipes or an unsafe heating system. Granted, the buyer must assume some risk especially if that house is being bought sight unseen. But shouldn't there be some standards adopted toward land management and land sales?

It is unfortunate that laws must be passed to force people to become better managers of the land. The passage of this bill would make people more aware of the noxious weed problem in Montana. I also believe that it would make people more familiar with the property that they own. In addition, this bill would open a constructive dialogue between the county weed districts and Montana land brokers concerning land that has noxious weeds. In this manner, a cooperative and concerted effort can be made to lessen the effects of noxious weeds on Montana's natural resources.

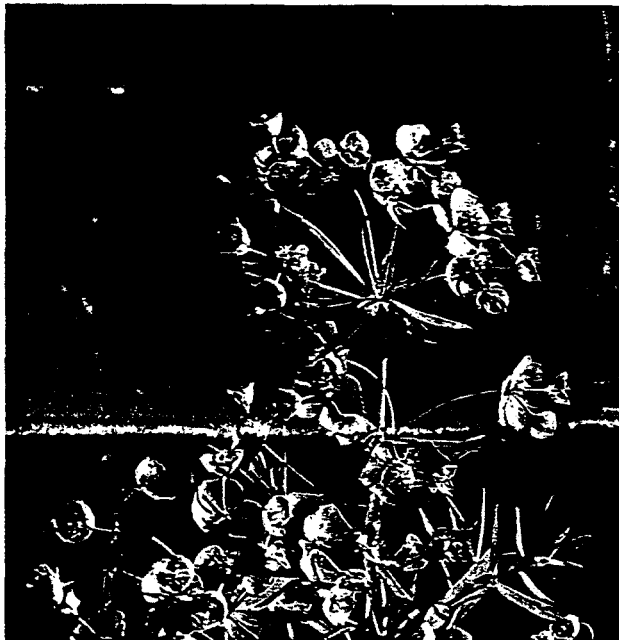
Reeves Petroff
Supervisor

Exhibit 2

1/30/89

SB 254

PS 2



THIS IS LEAFY SPURGE

Do you know...

- Leafy spurge is a state-declared noxious weed that is destroying Montana's rangeland resource.
- Leafy spurge competes with native vegetation, decreases cattle carrying capacity by 50 to 75 percent, and lowers the quality of wildlife habitat.
- Once established, leafy spurge is **EXTREMELY** difficult and expensive to control.
- Leafy spurge can lower property values and make resale more difficult.

Join forces with other Montanans in combating this non-native plant pest. Call or write to:

Gallatin County Weed District
Room 304, Courthouse
Bozeman, MT 59715

Exhibit 2

1/30/89

SB 254

PS 3

Controlling Spotted Knapweed

The most cost effective method of controlling spotted knapweed is determined by the size and location of infested areas. Small patches of the weed can be eradicated by persistent methods such as herbicides and handpulling.

Limiting the amount of seed that is produced by knapweed is the key to any control program. Seed habits of knapweed indicate that eradication cannot be achieved by a single herbicide treatment. Control programs must be continued until seed reserves in the soil are exhausted.

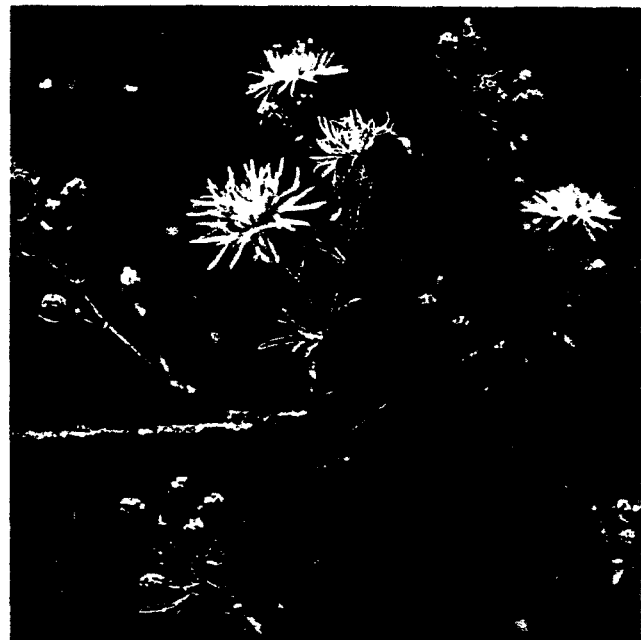
HERBICIDES

Tordon is the most effective herbicide for controlling knapweed. Tordon is generally applied in early June when the plant is 6 to 8 inches tall. Tordon is usually applied at 1 pint to 1 quart per acre. Tordon will generally give 100% control for a period of 2 to 3 years. An additional treatment may be necessary after the Tordon has dissipated in order to control emerging seedlings. Tordon can only be bought by individuals that possess a Restricted Use license. Check with your county agent about getting this license.

Spraying knapweed in the rosette stage with 1 to 2 quarts of 2,4-D per acre will give immediate control of the knapweed and will limit seed production. Banvel can also be used to control knapweed. Use Banvel at a 1 quart per acre rate. Control with 2,4-D and Banvel is inconsistent and does not provide for long term control of emerging seedlings. For effective control, Banvel and 2,4-D treatments must be applied annually until no viable seed remains in the soil.

MECHANICAL CONTROL

Mowing and handpulling can be used to control knapweed but must be continued so that no seed production is allowed.



THIS IS SPOTTED KNAPWEED

Do you know...

- Spotted knapweed is a state-declared noxious weed that is destroying Montana's valuable rangelands.
- Spotted knapweed emits a toxin that poisons other vegetation which in turn leads to loss of valuable wildlife habitat and increased soil erosion.
- Spotted knapweed can lower property values, making resale more difficult.
- You have a legal responsibility under Montana law to control spotted knapweed.

Join forces with other Montanans in combating this non-native plant pest. Call or write to:

Gallatin County Weed Control District

Room 304, Courthouse

Bozeman, MT 59715

(406) 585-1259

Exhibit 2

SB254

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