

1 House BILL NO. 620
2 INTRODUCED BY Diasomitto

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO REQUIRE NOTICE OF A
5 LANDOWNER'S RIGHT TO A HEARING IN A DISPUTE OVER WEED
6 CONTROL RESPONSIBILITY; TO PREVENT IMPLEMENTATION OF WEED
7 CONTROL MEASURES BY THE COUNTY WEED BOARD IN SUCH A CASE,
8 EXCEPT IN AN EMERGENCY; TO PROVIDE FOR DETERMINATION OF
9 LIABILITY FOR THE COST OF EMERGENCY MEASURES; AND AMENDING
10 SECTIONS 7-22-2123 AND 7-22-2124, MCA."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 7-22-2123, MCA, is amended to read:

14 "7-22-2123. Procedure in case of noncompliance. (1)
15 Where complaint has been made or the board has reason to
16 believe that noxious weeds described in this part are
17 present upon a person's land within the district in
18 violation of the law, that person must be notified by mail
19 or telephone of the complaint and the board may request
20 inspection of such land. The board or its authorized agent
21 and the landowner or his representative shall inspect the
22 land at an agreeable time, within 10 days of notification of
23 the landowner. If after reasonable effort the board is
24 unable to gain cooperation of the person, the board or its
25 authorized agent may enter and inspect the land to determine

1 if the complaint is valid.

2 (2) If noxious weeds are found, the board or
3 supervisor shall notify the person or his representative and
4 seek voluntary compliance with the district weed control
5 program. If voluntary compliance is not possible, notice of
6 noncompliance must be sent to the person by certified mail.

7 (3) The notice must specify:

8 (a) the basis for the determination of noncompliance;

9 (b) the geographic location of the area of
10 noncompliance, by legal description or other reasonably
11 identifiable description;

12 (c) measures to be undertaken in order to comply with
13 the district's management criteria; and

14 (d) a reasonable period of time, not less than 10
15 days, in which compliance measures must be initiated; and

16 (e) the right of the person to request, within the
17 time specified in subsection (3)(d), an administrative
18 hearing as provided by 7-22-2110.

19 (4) A person is considered in compliance if he submits
20 and the board accepts a proposal to undertake specified
21 control measures and is in compliance for so long as he
22 performs according to the terms of the proposal. If the
23 measures proposed to be taken extend beyond the current
24 growing season, the proposal and acceptance must be in
25 writing.



1 (5) In accepting or rejecting a proposal, the board
 2 shall consider the economic impact on the person and his
 3 neighbors, practical biological and environmental
 4 limitations, and alternative control methods to be used."

5 Section 2. Section 7-22-2124, MCA, is amended to read:

6 *7-22-2124. Destruction of weeds by board. (1) If
 7 corrective action is not taken and no proposal is made and
 8 accepted or no request for an administrative hearing is made
 9 within the time specified in the notice, the board may
 10 forthwith enter upon the person's land and institute
 11 appropriate control measures. In such case the board shall
 12 submit a bill to the person, itemizing man-hours of labor,
 13 material, and equipment time, together with a penalty not
 14 exceeding 10% of the total cost incurred. Labor and
 15 equipment must be valued at the current rate paid for
 16 commercial management operations in the district. The bill
 17 must specify and order a payment due date of 30 days from
 18 the date the bill is sent.

19 (2) A copy of the bill must also be submitted by the
 20 board to the county clerk and recorder.

21 (3) If a person receiving an order to take corrective
 22 action requests an administrative hearing, the board may not
 23 institute control measures until the matter is finally
 24 resolved, except in case of an emergency. In such a case,
 25 the person is liable for costs as provided in subsection (1)

1 only to the extent determined appropriate by the board,
 2 commissioners, or court that finally resolves the matter."

-End-

APPROVED BY COMMITTEE
ON AGRICULTURE LIVESTOCK
& IRRIGATION

1 House BILL NO. 620
2 INTRODUCED BY E. J. Jaramila

3
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