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Kansas Noxious Weed Act

Article 13. – WEEDS

Kansas Statutes Annotated

2-1313a. Definitions. (a) The provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, and K.S.A. 2018 Supp. 2-1313a, [2-1314c](#), [2-1314d](#) and [2-1319a](#), and amendments thereto, shall be known and may be cited as the noxious weed act.

(b) For the purposes of this act:

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

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

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

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

(5) "governmental agency" means the state or any agency or political subdivision thereof or the government of the United States or any agency or instrumentality thereof;

(6) "noxious weed" means any species of plant that the secretary shall declare to be a noxious weed in rules and regulations adopted and promulgated pursuant to this act;

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

(8) "person" means an individual, associations of persons, companies, corporations, the secretary of transportation, boards of county commissioners, township boards, school boards, drainage boards, governing bodies of cities, railroad companies and other transportation companies or corporations or their authorized agents and those supervising state-owned lands;

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

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

(11) "state advisory committee" means the state noxious weed advisory committee consisting of 13 voting members and the secretary; and

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

History: L. 2018, ch. 77, § 1; July 1.

2-1314. Declaring plants as noxious weeds; control and eradication. (a) The secretary shall adopt rules and regulations to declare species of plants as noxious weeds in the state. Once a species of plant 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 of plant to be a noxious weed without the recommendation of the state advisory committee, except under an emergency declaration as provided in K.S.A. 2018 Supp. [2-1314c](#), and amendments thereto. It shall be the duty of persons to control the spread of and to eradicate all species of plants declared to be noxious weeds on all lands owned or supervised by them and to use such official methods for the control and eradication, and at such times as are approved and adopted by the secretary.

(b) The following species of plants 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 cuneata*). The provisions of this subsection shall expire on December 31, 2020.

(c) Prior to adopting rules and regulations declaring species of plants noxious weeds in the state, the secretary shall prepare a report discussing the proposed changes to the official list of noxious weeds promulgated by the secretary. The report shall include information regarding the secretary's proposed addition of any noxious weeds to the official list and the secretary's proposed removal of any noxious weeds from the official list. The secretary shall submit such report to the legislature prior to adopting rules and regulations declaring species of plants noxious weeds in the state.

(d) (1) In addition to those species of plants declared as noxious weeds pursuant to this act, a board of county commissioners may, with the approval of the secretary, publish a list of the species of plants to be controlled in the county. Any species of plant so listed shall be considered a noxious weed within the boundaries of that county.

(2) The board of county commissioners shall, for any species of plant to be listed as provided in this section that previously has not been listed by another county, submit to the secretary for approval official methods for the control and eradication of such species of plant. Any county subsequently listing the same species of plant shall adopt the official methods for the control and eradication of that species of plant as approved by the secretary or submit additional control methods to the secretary for approval. If the secretary approves the additional control methods, such methods shall be made part of the official control methods available to all counties.

(3) If any species of plant listed by a board of county commissioners of any county is later declared a noxious weed by rules and regulations adopted by the secretary, the official methods for the control and eradication adopted by the secretary for the control and eradication of such species of plant pursuant to K.S.A. [2-1315](#), and amendments thereto, shall control over any methods previously adopted by the board of county commissioners.

(4) Chemical materials shall be made available in accordance with K.S.A. [2-1322](#), and amendments thereto, for the control and eradication of any species of plant listed by a board of county commissioners and approved by the secretary pursuant to this subsection.

History: L. 1937, ch. 1, § 1; L. 1945, ch. 3, § 1; L. 1961, ch. 4, § 1; L. 1963, ch. 6, § 1; L. 1972, ch. 4, § 1; L. 1975, ch. 427, § 1; L. 1981, ch. 8, § 1; L. 1998, ch. 85, § 2; L. 1998, ch. 85, § 3; L. 2004, ch. 101, § 189; L. 2018, ch. 77, § 5; July 1.

2-1314b. Noxious weeds; declaration of multiflora rose, bull thistle as noxious

authorized. (a) The board of county commissioners of any county may declare the multiflora rose (*Rosa multiflora*) or the bull thistle (*Cirsium vulgare*), or both, to be a noxious weed within the boundaries of such county. In such event, all of the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, that pertain to the control and eradication of noxious weeds shall apply to the control and eradication of the multiflora rose or the bull thistle, or both, within any such county.

(b) If the board of county commissioners of any county does not declare the multiflora rose or the bull thistle, or both, to be a noxious weed within the boundaries of such county, a petition requesting the secretary of agriculture to declare the multiflora rose or the bull thistle, or both, to be a noxious weed within the boundaries of such county, signed by not less than 5% of the qualified electors of the county, may be filed with the county election officer of the county. Upon receipt of any such petition, the county election officer shall certify the sufficiency of the petition and submit it to the secretary of agriculture. Thereupon, the secretary of agriculture may declare the multiflora rose or the bull thistle, or both, to be a noxious weed within the boundaries of such county. In such event, all of the provisions of article 13 of chapter 2 of the Kansas Statutes Annotated, and amendments thereto, that pertain to the control and eradication of noxious weeds shall apply to the control and eradication of the multiflora rose or the bull thistle, or both, within any such county.

(c) The provisions of this section shall expire on December 1 [31], 2020.

History: L. 1982, ch. 2, § 1; L. 1988, ch. 3, § 3; L. 1998, ch. 85, § 4; L. 1998, ch. 85, § 5; L. 2018, ch. 77, § 6; July 1.

2-1314c. Emergency declarations of noxious weeds. (a) The secretary may, by order, make an emergency declaration of noxious weeds if:

(1) A new and potentially harmful species of plant is discovered growing in the state and is verified by the secretary; or

(2) the state is facing a potential influx of harmful species of plant as the result of a natural disaster.

(b) Once a species of plant has been declared a noxious weed under this section, the secretary shall consider such species of plant 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 as authorized in this act.

(c) The secretary shall not make an emergency declaration for the same species of plant more than once in a five-year period without the recommendation of the state advisory committee.

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

History: L. 2018, ch. 77, § 2; July 1.

2-1314d. State noxious weed advisory committee; organization; duties. (a) There is hereby created the state noxious weed advisory committee, referred to in this act as the state advisory committee. The state advisory committee shall consist of 13 voting members and the secretary as a non-voting ex officio member. The state advisory committee membership shall reflect the different geographic areas of the state equally to the greatest extent possible. Members of the state advisory committee shall receive no compensation for serving on the 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 13 voting members shall be appointed by the secretary as follows:

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

(2) two members shall be weed specialists from Kansas state university college of agriculture or Kansas state research and extension, with one such member having knowledge of non-chemical methods of weed control, and shall be appointed upon the recommendation of the dean of the college of agriculture and the director of Kansas state research and extension;

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

(4) four members shall be private landowners involved in agricultural production, one of whom shall be a Kansas producer who grows traditional Kansas crops, which, for the purposes of this paragraph, means wheat, corn, soybeans, milo, peanuts, cotton, hay or oats, one of whom shall be a Kansas producer who grows non-traditional Kansas crops, and one of whom shall be a certified organic producer;

(5) two members shall be weed supervisors and shall be appointed upon the recommendation of the board of directors of the county weed director's 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;

(7) one member shall be appointed upon the recommendation of the Kansas biological survey; and

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

(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) Six members shall be appointed for a term of two years;

(B) four members shall be appointed for a term of three years; and

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

(2) The secretary shall designate the initial term of office for each member appointed to the first committee.

(3) Each member shall be limited to serving a total of two full terms and shall hold office until the expiration of the term for which such member is appointed or until a successor has been duly appointed.

(4) In the event of a vacancy on the state advisory committee, the recommending body of the vacating member shall make a recommendation to the secretary as prescribed in this section. The secretary shall, as soon as is reasonably possible, appoint a member to fill such vacancy for the remainder of the unexpired term.

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

(c) (1) A quorum of the state advisory committee shall be a majority of the members duly appointed to the state advisory committee.

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

(d) The state advisory committee shall meet at least once per year, but not more than four times per year.

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

(1) Review the state weed management plan every five years and recommend changes and updates to the secretary;

(2) recommend the designation and classification of noxious weeds in the state through the use of a risk assessment designated by the secretary;

(3) review the noxious weed act and the rules and regulations of the secretary declaring species of plants to be noxious weeds at least every four years and recommend changes to the secretary;

(4) review the official methods for the control and eradication for each species of plant declared a noxious weed and recommend changes to the secretary that include both chemical and non-chemical options for such control and eradication; and

(5) before January 1 of each odd-numbered year, report to the secretary on: (A) The expenditure of state funds on noxious weed control and how such funds were spent; (B) the status of the state and county noxious weed control programs; (C) recommendations for the continued best use of state funds for noxious weed control; and (D) recommendations on long-term noxious weed control needs.

(f) The state advisory committee shall only make recommendations approved by a majority vote of the members.

History: L. 2018, ch. 77, § 3; July 1.

2-1315. Adoption of official methods for the control of noxious weeds; control districts; duties of secretary; cooperation of secretary, county agents and weed supervisors; rules and regulations.

(a) The secretary is hereby empowered to: (1) Establish and adopt official methods for the control and eradication of noxious weeds and to publish such methods; (2) adopt such rules and regulations as in the secretary's judgment are necessary to carry out the provisions of this act; and (3) alter or suspend such rules and regulations when necessary.

(b) The secretary may establish not to exceed five noxious weed control districts within this state and define the boundaries of such districts. Such districts shall be established to provide for the most efficient control and eradication of noxious weeds and for the most economical supervision by the state.

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

History: L. 1937, ch. 1, § 2; L. 1957, ch. 7, § 1; L. 1965, ch. 435, § 3; L. 2002, ch. 37, § 1; L. 2004, ch. 96, § 1; L. 2018, ch. 77, § 7; July 1.

2-1316. Responsibility for enforcement; weed supervisors; duties; salary; annual surveys, progress report and submission of a prospective management plan.

(a) The responsibility for the enforcement of the provisions of this act shall be vested in the board of county commissioners as to all lands within the boundaries of such county, unless otherwise provided for. Cities and townships may enter into an agreement with the board of county commissioners to take upon themselves the responsibility of the enforcement of the provisions of this act. If, at any time, a board of county commissioners determines that a city or township within the boundaries of the county that has taken upon itself the responsibility of the enforcement of the provisions of this act is unable or unwilling to fulfill those responsibilities, the board of county commissioners may revoke the agreement and resume the responsibility for the enforcement of the provisions of this act.

(b) The board of county commissioners of each county shall, and the governing body of any incorporated city, township board, or any group of counties or cities may, employ with the approval of the secretary, a county, township, city or district weed supervisor.

(c) The weed supervisor shall: (1) Consult and cooperate with the secretary in all matters pertaining to the best and most practical methods for noxious weed control and eradication; (2) render every possible assistance and direction for the most effective control and eradication of noxious weeds within the weed supervisor's jurisdiction; (3) investigate or aid in the investigation and prosecution of any violation of this act and report violations of which the weed supervisor has knowledge to the county attorney; and (4) before applying any chemical control of noxious weeds to any public or private lands, determine if such lands or adjacent lands are registered on the registry or registries identified by the secretary to provide location information about organic, sensitive or specialty crops.

(d) The salary of the county weed supervisor shall be paid out of the county noxious weed fund or, if the noxious weed program is funded primarily through county general funds, the

salary shall be paid from the county general funds, prorated as may be decided at the time of such employment by the governing body or bodies employing such supervisor. If the noxious weed program is funded from more than one source, the salary shall be paid from each source in proportion to its contribution to the noxious weed program.

(e) The weed supervisor shall make annual surveys of noxious weed infestations and ascertain the approximate amount of land and highway or any kind of right-of-way infested with each kind of noxious weed and its location in the county not later than October 31 of each year. The weed supervisor shall compile data on areas eradicated and under treatment and any other data the secretary may deem necessary and submit, by March 15 of each year, an annual weed eradication progress report for the preceding calendar year to the board of county commissioners for their approval and then to the secretary for review. By March 15 of each year, the weed supervisor shall prepare and submit a management plan for the coming year to the board of county commissioners for approval and to the secretary for review.

History: L. 1937, ch. 1, § 3; L. 1945, ch. 3, § 3; L. 1957, ch. 7, § 2; L. 1995, ch. 32, § 1; L. 2004, ch. 101, § 27; L. 2018, ch. 77, § 8; July 1.

Attorney General's Opinions:

Appointment of deputy county appraiser as noxious weed supervisor. 81-156.

2-1317. Weed supervisors, cooperation with certain entities. The secretary and the weed supervisor shall confer, at such time or times as seems necessary and advisable, with the secretary of transportation, boards of county commissioners, township boards, school boards, drainage boards, governing bodies of cities, railroad companies and other transportation companies or other corporations, or their authorized agents, and those supervising state-owned lands, as to the extent of noxious weed infestation on their lands, and the control methods deemed best suited to the control and eradication of each kind of noxious weeds within their respective jurisdictions.

History: L. 1937, ch. 1, § 4; L. 1957, ch. 7, § 3; L. 1967, ch. 4, § 1; L. 1975, ch. 427, § 2; L. 2004, ch. 101, § 28; L. 2018, ch. 77, § 9; July 1.

2-1318. Tax levies by counties, townships and cities; budgeting through township or city general operating fund; use of proceeds; retention of records. (a) On the basis of the annual surveys of infestation required by K.S.A. [2-1316](#), and amendments thereto, the tax levying body of each county, township or incorporated city shall either make a tax levy each year for the purpose of paying the cost of control and eradication thereof as provided in this act or set aside a portion of the county general fund equivalent to the budget of the noxious weed program. In the case of cities and counties, a portion of the tax [tax] levy may be used to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. [12-1774](#), and amendments thereto, by cities located in the county. Each county, city, and township, separately, shall make a levy each year for such purpose. Any township or city may budget expenditures for noxious weed control within its general operating fund in lieu of levying a special tax therefor or maintaining a separate noxious weed eradication fund. Moneys collected from such levy, except for an amount to pay a portion of the principal and interest on bonds issued under the authority of K.S.A. [12-1774](#), and amendments thereto, by cities located in the county, shall be set apart as a noxious weed eradication fund and warrants duly verified by the weed supervisor or city supervisor, if such is employed, or, if no such supervisor is employed, then by the county, township or city clerk, as the case may be, may be drawn against this fund for all items of expense incident to control of noxious weeds in such jurisdiction respectively. Any moneys remaining in the noxious weed eradication fund at the end of any year for which a levy is made under this section shall either be transferred to the noxious weed capital outlay fund for making of capital expenditures incident to the control of noxious weeds or remain in the noxious weed eradication fund for use in the next year.

(b) All records relating to funds received into and spent from both the noxious weed eradication fund and the noxious weed capital outlay fund shall be retained by the county for at least five years and shall be made available to the secretary upon request.

History: L. 1937, ch. 1, § 5; L. 1957, ch. 7, § 4; L. 1969, ch. 7, § 1; L. 1970, ch. 69, § 1; L. 1973, ch. 3, § 1; L. 1975, ch. 3, § 1; L. 1979, ch. 52, § 22; L. 1982, ch. 5, § 1; L. 1988, ch. 3, § 1; L. 1990, ch. 66, § 12; L. 1999, ch. 154, § 27; L. 2004, ch. 101, § 29; L. 2018, ch. 77, § 10; July 1.

2-1319. State political subdivision land; control and eradication of noxious weeds; failure by political subdivision to control; payment of costs.

(a) (1) The cost of controlling and eradicating noxious weeds on all lands or right-of-ways owned or supervised by a state agency, department or commission shall be paid by the state agency, department or commission supervising such lands or right-of-ways from funds appropriated to its use; on county lands and county right-of-ways, on township lands and township right-of-ways, on city lands and right-of-ways by the county, township or city in which such lands and right-of-ways are located, and from funds made available for that purpose; on drainage districts, irrigation districts, cemetery associations and other political subdivisions of the state, the costs shall be paid from their respective funds made available for the purpose.

(2) If the governing body of any political subdivision owning or supervising lands infested with noxious weeds within their jurisdiction fails to control such noxious weeds, the county shall provide 15 days' notice to the political subdivision directing such political subdivision to submit a plan and timeline for controlling such noxious weeds to the board of county commissioners or control such noxious weeds. If the plan and timeline is deemed unacceptable, the board of county commissioners shall notify the political subdivision of requested changes to its plan and timeline required for the board of county commissioners to approve such plan and timeline. If the political subdivision fails to control such noxious weeds or fails to submit an accepted plan and timeline within such 15 days' notice, the board of county commissioners shall proceed to have official methods for the control and eradication used upon such lands, and shall notify the governing body of the political subdivision by certified mail of the costs of such operations, with a demand for payment. The governing body of the political subdivision shall pay such costs from its noxious weed fund, or if no such fund is available, from its general fund or from any other funds available for such purpose. A copy of the statement, together with proof of notification, shall at the same time be filed with the county clerk, and if the amount is not paid within 30 days, such clerk shall spread the amount upon the tax roll of the political subdivision, and such amount shall become a lien against the entire territory located within the particular political subdivision, and shall be collected as other taxes are collected.

(b) All moneys collected pursuant to this section shall be paid into the county noxious weed eradication fund, or if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program.

History: L. 1937, ch. 1, § 6; L. 1957, ch. 7, § 5; L. 1976, ch. 6, § 1; L. 1979, ch. 5, § 1; L. 1991, ch. 4, § 1; L. 1999, ch. 154, § 29; L. 2004, ch. 101, § 30; L. 2018, ch. 77, § 11; July 1.

2-1319a. Certification of forage, straw or mulch carried onto state land as weed free. 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 and its agencies must be certified weed free.

History: L. 2018, ch. 77, § 4; July 1.

Attorney General's Opinions:

Political subdivisions defined; eligibility to receive federal surplus property. 82-71.

Sale of chemicals for use on private property for noxious weed control; price. 83-106.

An authority organized pursuant to 12-2901 *et seq.* is not a municipality. 97-42.

2-1320. Unpaid costs of labor or material; itemized statement and notice to owner; penalties and interest; liens; copy of notice to register of deeds and county or city clerk; lien payable upon sale or transfer of ownership. In case the weed supervisor enters upon land or furnishes weed control materials pursuant to a contract or an agreement with an owner, operator or supervising agent of noxious weed infested land for the control of such noxious weeds and, as a result of such weed control methods, there are any unpaid accounts outstanding by December 31 of each year, the board of county commissioners or governing body of the city shall immediately notify or cause to be notified, such owner with an itemized statement as to the cost of material, labor and use of equipment and further stating that if the amount of such statement is not paid to the county or city treasurer wherein such real estate is located within 30 days from the date of such notice, a penalty charge of 10% of the amount remaining unpaid shall be added to the account and the total amount thereof shall become a lien upon such real estate. The unpaid balance of such account and such penalty charge shall draw interest from the date of entering into such contract at the rate prescribed for delinquent taxes pursuant to K.S.A. [79-2004](#), and amendments thereto. A copy of the statement, together with proof of notification, shall at the same time be filed with the register of deeds in such county and the county or city clerk, as the case may be, and if such amount is not paid within the next 30 days the county or city clerk, as the case may be, shall spread the amount of such statement upon the tax roll prepared by the clerk and such amount shall become a lien against the entire contiguous tract of land owned by such person or persons of which the portion so treated is all or a part, and shall be collected as other taxes are collected, and all moneys so collected shall be paid into the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program. If any land subject to a lien imposed under this section is sold or transferred, the entire remaining unpaid balance of such account plus any accrued interest and penalties shall become due and payable prior to the sale or transfer of ownership of the property, and upon collection shall be paid to the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program.

History: L. 1937, ch. 1, § 7; L. 1945, ch. 3, § 4; L. 1957, ch. 7, § 6; L. 1967, ch. 4, § 2; L. 1973, ch. 4, § 3; L. 1982, ch. 5, § 2; L. 1987, ch. 8, § 1; L. 1992, ch. 319, § 10; L. 2018, ch. 77, § 12; July 1.

2-1321. Filing of protests; hearings; appeals. If any person shall be dissatisfied with the charge made for material or rent of equipment used in the control and eradication of noxious weeds, said person shall, within ten days from the mailing of the account showing such charge, file a protest with the board of county commissioners, who shall hold a hearing thereon and shall have the power to either adjust or affirm such charge. If any person shall be dissatisfied with the decision rendered by the board of county commissioners said person shall within thirty days file a written notice of appeal with the clerk of the district court of the county and thereupon an action shall be docketed in the district court and be tried the same as other actions. Upon the final determination of any change in the account, if any, the county or city clerk shall correct the records in his or her office in accordance therewith.

History: L. 1937, ch. 1, § 8; Feb. 26.

2-1322. Purchase and use of equipment and chemicals; sale of chemicals, price; charges for use of machinery and equipment; record of purchases, sales and charges. (a) The

board of county commissioners, or the governing body of incorporated cities, cooperating with the secretary, shall purchase or provide for needed and necessary equipment and necessary chemical materials for the control and eradication of noxious weeds. The board of county commissioners of any county or the governing body of any city may use any equipment or apply any chemical materials purchased as provided for in this section, upon the right-of-ways and county-owned or managed property, for the treatment and eradication of species of plants that have not been declared noxious weeds.

(b) Except as provided in K.S.A. [2-1333](#), and amendments thereto, the board of county commissioners shall sell chemical materials to the landowners in its jurisdiction who have been assessed a tax by the county at a price fixed by the board of county commissioners in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials used in the control and eradication of noxious weeds, and may make such charge for the use of machines or other equipment and operators as may be deemed by the board of country [county] commissioners sufficient to cover the actual cost of operation. However, once the tax levying body of a county, city or township has appropriated a budget equivalent to 1.5 mills or more, the board of county commissioners may collect from the landowners in their jurisdiction an amount equal to 75% but not more than 100% of the total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds.

(c) The board of county commissioners of a county that funds its noxious weed program from the county general fund shall sell chemical materials to the landowners in its jurisdiction who have been assessed a tax by the county at a price fixed by the board of county commissioners in an amount equal to not less than 50% nor more than 75% of the total cost incurred by the county in purchasing, storing and handling such chemical materials used in the control and eradication of noxious weeds, and may make such charge for the use of machines or other equipment and the operators as may be deemed by the board of county commissioners sufficient to cover the actual cost of operation. However, once the tax levying body of a county, city or township has appropriated a budget equivalent to 1.5 mills or more, the board of county commissioners may collect from the landowners in its jurisdiction an amount equal to 75% but not more than 100% of the total cost incurred by the county in purchasing, storing and handling of chemical materials used in the control and eradication of noxious weeds.

(d) Whenever official methods for the control and eradication of noxious weeds adopted by the secretary are not used in applying the chemical materials purchased, the board of county commissioners may collect the remaining portion of the total cost thereof from the landowner.

(e) The board of county commissioners, township boards, and the governing body of cities shall keep a record showing purchases of chemical materials and equipment for the control and eradication of noxious weeds. The board of county commissioners and the governing body of cities shall also keep a complete itemized record showing sales for cash or charge sales of chemical materials and shall maintain a record of charges and receipts for use of equipment owned by each county or city on public and private land. Such records shall be open to inspection by citizens of Kansas at all times.

(f) All moneys collected from the sales of chemical materials and the charges for the use of machines shall be deposited into the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program for the purpose of paying for the purchase of additional chemical materials as provided in this section and for the cost of the control and eradication of noxious weeds as provided in this act.

History: L. 1937, ch. 1, § 9; L. 1945, ch. 3, § 5; L. 1957, ch. 7, § 7; L. 1976, ch. 6, § 2; L. 1979, ch. 5, § 2; L. 1988, ch. 3, § 2; L. 1991, ch. 4, § 2; L. 1999, ch. 154, § 30; L. 2004, ch. 101, § 31; L. 2018, ch. 77, § 13; July 1.

Attorney General's Opinion:

Sale of chemicals for use on private property for noxious weed control; price. 83-106.

Duty of counties to provide or sell chemicals; liability for damages. 86-173.

Weeds; record of purchase, sales and charges of chemicals and machinery; cost-sharing certificates. 90-40.

2-1323. Penalty for violations. Any person, association of persons, corporation, county or city or other official who shall violate or fail to comply with any of the provisions of this act or the rules and regulations adopted pursuant to this act shall be deemed guilty of a class C nonperson misdemeanor and, upon conviction, shall be punished by a fine of \$100 per day for each day of noncompliance up to a maximum fine of \$1,500.

History: L. 1937, ch. 1, § 10; L. 1957, ch. 7, § 8; L. 1995, ch. 215, § 1; L. 2018, ch. 77, § 14; July 1.

2-1324. Invalidity of part. Should it be decided upon final judicial hearing that any section or clause of this act is invalid such decision shall only apply to the section or clause so found to be invalid and shall not invalidate the entire act.

History: L. 1937, ch. 1, § 11; Feb. 26.

2-1325. Unlawful acts; disposal of screenings and materials. It shall be unlawful for any person, company or corporation to sell, offer for sale, barter, give away or otherwise dispose of any screening or offal material containing seeds of weeds mentioned in K.S.A. 2-1314 unless such screenings and materials shall first have been processed by grinding or other adequate means, and the viability of all such weed seeds therein destroyed provided, unprocessed screenings or offal materials may be sold to a commercial processor or commercial feed mixer for processing.

History: L. 1945, ch. 3, § 6; March 20.

2-1326. Same; disposal of infested plants, materials or fertilizers. It shall be unlawful for any person, company or corporation to sell, barter or give away nursery stock, plants, packing materials, animal fertilizer and soil or sod for landscaping or fertilizer uses which contains or is infested with noxious weed plant material or seeds.

History: L. 1945, ch. 3, § 7; March 20.

2-1327. Same; harvesting and other machines; labeling. It shall be unlawful for any person, company or corporation to (1) bring any harvesting or threshing machinery, portable feed grinders, portable seed cleaners, or field ensilage cutters or other farm vehicles or machinery into the state without first cleaning such equipment free from all weed seed and litter, or (2) to move any harvesting or threshing machines, portable feed grinders, portable seed cleaners or field ensilage cutters from any field or farm infested with any noxious weed without first cleaning such equipment free from all weed seed and litter. Each such machine operated by a person doing work for another shall be labeled with an appropriate label on a form provided by the state board of agriculture containing this section of the law.

History: L. 1945, ch. 3, § 8; L. 1957, ch. 7, § 9; L. 2004, ch. 101, § 32; July 1.

2-1328. Same; infested livestock feed material. It shall be unlawful for any person, company or corporation to sell or offer for sale, barter or give away any livestock feed material which is infested with seeds of noxious weeds unless such feed material shall first have been processed and the viability of all noxious weed seeds present therein destroyed, except such feeds (1) may be sold for consumption on the same farm where grown or (2) may be sold to commercial processors or commercial feed mixers.

History: L. 1945, ch. 3, § 9; March 20.

2-1329. Same; unprocessed livestock feed. It shall be unlawful for any person, company or corporation to feed to livestock, except on the premises where grown or when purchased from a grower or dealer within the state, any grains, crops or other material containing the seeds of noxious weeds, without first having processed same as to destroy the viability of all such weed seeds.

History: L. 1945, ch. 3, § 10; March 20.

2-1330. Entry upon and inspection of property. (a) Subject to subsection (b), the boards of county commissioners, township boards, state and city officials, weed supervisors or any city, township, county or state employee so authorized shall have at all reasonable times, free access to enter upon such premises, without interference or obstruction to inspect property, both real and personal, regardless of location, in connection with the administration of this act. Entry upon such premises in accordance with this act shall not be deemed a trespass.

(b) Any individual conducting an inspection pursuant to subsection (a) upon private property shall, before or immediately upon entering any such premises:

(1) Attempt to notify, if practicable, the owner, operator or lessee of the premises of the purpose for the inspection; and

(2) allow any such present and notified owner, operator or lessee of the premises, or any representative thereof, to accompany the individual conducting the inspection.

History: L. 1945, ch. 3, § 11; L. 1957, ch. 7, § 10; L. 2018, ch. 77, § 15; July 1.

2-1331. Notification of owner of lands infested with noxious weeds; inspection; initial general or official notice; subsequent legal notice. (a) When a weed supervisor has knowledge that any land in the weed supervisor's jurisdiction is infested, in any current year, with any noxious weed, the weed supervisor shall give notice, by publication of a general notice in the official county newspaper pursuant to subsection (b) or an official notice by mail, of such infestation to the person, association of persons, governmental agency, corporation or agent thereof, that owns the land. In the event the land is under the control or supervision of an operator or supervising agent, the notice shall also be mailed to the operator or supervising agent. Such notice shall contain the official methods adopted by the secretary for the control and eradication of the noxious weeds that the weed supervisor found on the land and shall also contain a specified time within which the owner, operator or supervising agent shall complete the required treatment for the control or eradication of any such noxious weed.

(b) On or before April 1 of each year, the county weed supervisor may publish in the official county newspaper the general notice of noxious weed infestation, which shall remain in effect until March 31 of the following year. The cost of such publication shall be paid from the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, the cost shall be paid from the county general fund. If the noxious weed program is funded from more than once [one] source, the cost shall be paid from each source in proportion to its contribution to the noxious weed program.

(c) If an inspection by the weed supervisor, made on or after the completion date stated in the official notice prescribed under subsection (a) or publication of the general notice under subsection (b), reveals satisfactory treatment progress has not been made, the weed supervisor may send, by certified mail, to the owner and to the operator or supervising agent of the noxious weed infested land, a legal notice as described in subsection (e).

(d) In the event the weed supervisor determines that musk thistle plants that are found on land in the weed supervisor's jurisdiction have reached a stage of maturity where the official methods for control and eradication would not give satisfactory results, the supervisor may give legal notice requiring fall treatment to be performed in the current year. The provisions of this subsection shall expire on December 31, 2020.

(e) The secretary shall adopt rules and regulations establishing requirements for the legal notice to be given to the owner and to the operator or supervising agent of any noxious weed infested land.

(f) Prior to issuing any legal notice pursuant to subsection (c) or (d), the weed supervisor shall notify the owner, operator or supervising agent by telephone call, personal contact, first class mail or by electronic means of the noxious weed infestation.

History: L. 1973, ch. 4, § 1; L. 1986, ch. 6, § 1; L. 1995, ch. 32, § 2; L. 2004, ch. 101, § 33; L. 2018, ch. 77, § 16; July 1.

2-1332. Notice of the costs of treatment; itemized statement, contents; filing with register of deeds and county clerk; payment plans; liens, payable on sale or transfer of ownership.

In the event the weed supervisor enters or causes entry upon land to control any noxious weed infestation, after service of legal notice, such supervisor shall immediately, after completion of the control operation, notify or cause to be notified, by certified mail, the owner of such land with an itemized statement of the costs of treatment. Such costs of treatment shall include the total cost of chemical materials, labor and use of equipment. Such statement shall include a penalty charge of 10% of the total amount of treatment costs. The unpaid balance of any such treatment costs including such penalty charge shall draw interest from the date of treatment at the rate prescribed for delinquent taxes pursuant to K.S.A. [79-2004](#), and amendments thereto. A copy of such statement, together with proof of notification, shall at the same time be filed with the register of deeds in such county and the county clerk, and if such amount is not paid within 30 days from the date of mailing of such notice, the county clerk shall record the amount of such statement upon the tax roll prepared by such county clerk and such amount shall become a lien against the entire contiguous tract of land owned by such person or persons of which the portion so treated is all or a part, and shall be collected as other taxes are collected and all moneys so collected shall be paid into the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program, except that not more than 25% of the cost of treating the portion of the entire contiguous tract of land so treated, as described and defined in the legal notice as provided in K.S.A. [2-1331](#), and amendments thereto, shall be recorded on the tax rolls against such land in any one year. The board of county commissioners may, after discussion with the landowner in question, develop a payment plan for the payment of the full amount of the lien over time. If, for any reason, the landowner should fail to fulfill the terms of such agreement, the board of county commissioners may collect the remainder of the amount owed as provided in K.S.A. [2-1320](#), and amendments thereto. All moneys collected through a payment plan shall be deposited with the county treasurer for credit to the county noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program. If any land subject to a lien imposed under this section is sold or transferred, the entire remaining unpaid balance of such account plus any accrued interest and penalties shall become due and payable prior to the sale or transfer of ownership of the property, and upon collection shall be paid to the noxious weed eradication fund or, if the noxious weed program is funded primarily through the county general fund, such moneys shall be paid into the county general fund. If the noxious weed program is funded from more than one source, all moneys collected pursuant to this section shall be paid into each source in proportion to its contribution to the noxious weed program.

History: L. 1973, ch. 4, § 2; L. 1982, ch. 5, § 3; L. 1987, ch. 8, § 2; L. 1992, ch. 319, § 11; L. 2018, ch. 77, § 17; July 1.

2-1333. County option for discount program to control noxious weeds; petition to establish program, election and procedures. (a) The board of county commissioners may adopt a resolution to authorize the establishment of a program to provide chemical materials

used in the control and eradication of noxious weeds to landowners through chemical dealers on a discount basis.

(b) If such program is authorized, the county weed supervisor shall issue discount certificates, prior to the chemicals being purchased from the chemical dealers, to the landowners. Such certificate shall be taken to a chemical dealer and be presented for the purchase of the chemical material. The chemical dealer shall issue an invoice showing the credit amount of the discount certificate. The dealer shall send the certificate and a copy of the invoice to the county weed supervisor. The certificates and invoices shall be turned over to the board of county commissioners, and no more than the stated amount on the certificate shall be reimbursed to the chemical dealers. The discount certificates shall be paid from the noxious weed fund.

(c) If such program is authorized, on January 1 of each year, the board of county commissioners shall determine the amount of money that may be used from the noxious weed fund to provide for the control and eradication of noxious weeds on privately owned land. The board shall state the dollar amount the county shall pay per unit for the purchase of chemical materials used on privately owned lands. Whenever official methods of eradication, adopted by the secretary of agriculture, are not followed in applying the chemical materials, the board of county commissioners may refuse to pay the discount certificate and the total cost shall be paid by the private landowner.

(d)(1) If a board of county commissioners does not issue discount certificates as provided in subsection (b), a petition to submit a proposition calling for an election to establish the program to provide chemical materials used in the control and eradication of noxious weeds to landowners through chemical dealers on a discount basis may be filed with the county election officer. Such petition shall be signed by qualified voters of the county equal in number to not less than 5% of the voters of the county who voted for the office of secretary of state at the last preceding general election at which such officer was elected.

(2) Upon the submission of a valid petition calling for an election pursuant to this subsection, the county election officer shall submit the question of whether the program as provided in this section shall be established in such county at the next state or county-wide regular or special election which occurs more than 60 days after the petition is filed with the county election officer.

(3) If a majority of the votes cast and counted are in opposition to establishing the program as provided in this section in such county, the county election officer shall transmit a copy of the result to the secretary of state who shall publish in the Kansas register the result of such election and the program as provided in this section shall not be established in such county.

(4) If a majority of the votes cast and counted are in favor of the proposition, the county election officer shall transmit a copy of the results to the secretary of state who shall publish in the Kansas register the result of such election and that the program as provided in this section shall be established in such county within 18 months.

(5) The election provided for by this section shall be conducted, and the votes counted and canvassed, in the manner provided by law for question submitted elections of the county, except that the county election officer shall publish in the official county newspaper a notice of such election once each week for two consecutive weeks, the first publication to be not less than 21 days before the election, and such notice shall state the date and time of the election and the proposition that will appear on the ballot.

History: L. 1991, ch. 4, § 3; L. 2002, ch. 78, § 1; L. 2004, ch. 101, § 34; July 1.