

HB 1743 - H AMD 160

By Representative Kretz

ADOPTED 03/09/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 17.10.010 and 1997 c 353 s 2 are each amended to read
4 as follows:

5 The definitions in this section apply throughout this chapter
6 unless the context clearly requires otherwise:

7 (1) "Noxious weed" means a plant that when established is highly
8 destructive, competitive, or difficult to control by cultural or
9 chemical practices.

10 (2) "State noxious weed list" means a list of noxious weeds adopted
11 by the state noxious weed control board. The list is divided into
12 three classes:

13 (a) Class A consists of those noxious weeds not native to the state
14 that are of limited distribution or are unrecorded in the state and
15 that pose a serious threat to the state;

16 (b) Class B consists of those noxious weeds not native to the state
17 that are of limited distribution or are unrecorded in a region of the
18 state and that pose a serious threat to that region;

19 (c) Class C consists of any other noxious weeds.

20 (3) "Person" means any individual, partnership, corporation, firm,
21 the state or any department, agency, or subdivision thereof, or any
22 other entity.

23 (4) "Owner" means the person in actual control of property, or his
24 or her agent, whether the control is based on legal or equitable title
25 or on any other interest entitling the holder to possession and, for
26 purposes of liability, pursuant to RCW 17.10.170 or 17.10.210, means
27 the possessor of legal or equitable title or the possessor of an
28 easement: PROVIDED, That when the possessor of an easement has the
29 right to control or limit the growth of vegetation within the

1 boundaries of an easement, only the possessor of the easement is
2 deemed, for the purpose of this chapter, an "owner" of the property
3 within the boundaries of the easement.

4 (5) As pertains to the duty of an owner, the words "control",
5 "contain", "eradicate", and the term "prevent the spread of noxious
6 weeds" means conforming to the standards of noxious weed control or
7 prevention in this chapter or as adopted by rule in chapter 16-750 WAC
8 by the state noxious weed control board and (~~an activated~~) a county
9 noxious weed control board.

10 (6) "Agent" means any occupant or any other person acting for the
11 owner and working or in charge of the land.

12 (7) "Agricultural purposes" are those that are intended to provide
13 for the growth and harvest of food and fiber.

14 (8) "Director" means the director of the department of agriculture
15 or the director's appointed representative.

16 (9) "Weed district" means a weed district as defined in chapters
17 17.04 and 17.06 RCW.

18 (10) "Aquatic noxious weed" means an aquatic plant species that is
19 listed on the state weed list under RCW 17.10.080.

20 (11) "Screenings" means a mixture of mill or elevator run mixture
21 or a combination of varying amounts of materials obtained in the
22 process of cleaning either grain or seeds, or both, such as light or
23 broken grain or seed, weed seeds, hulls, chaff, joints, straw, elevator
24 dust, floor sweepings, sand, and dirt.

25 **Sec. 2.** RCW 17.10.020 and 1997 c 353 s 3 are each amended to read
26 as follows:

27 (1) In each county of the state there is created a noxious weed
28 control board, bearing the name of the county within which it is
29 located. The jurisdictional boundaries of each board are the
30 boundaries of the county within which it is located.

31 (2) (~~Each noxious weed control board is inactive until activated~~
32 ~~pursuant to the provisions of RCW 17.10.040~~) Beginning January 1,
33 2008, and thereafter, each county must have a noxious weed control
34 board in place, appointed in the manner provided in RCW 17.10.050.

35 **Sec. 3.** RCW 17.10.030 and 1997 c 353 s 4 are each amended to read
36 as follows:

1 There is created a state noxious weed control board comprised of
2 nine voting members and three nonvoting members. Four of the voting
3 members shall be ~~((elected by the members of the various activated
4 county noxious weed control boards, and shall be residents of a county
5 in which a county noxious weed control board has been activated and a
6 member of said board, and those qualifications shall continue through
7 their term of office))~~ members of county noxious weed control boards
8 and that qualification must continue through their terms of office.
9 They shall be elected by the members of various county noxious weed
10 control boards under rules adopted by the state noxious weed control
11 board as provided in this section. Two of these members shall be
12 elected from the west side of the state, the crest of the Cascades
13 being the dividing line, and two from the east side of the state. The
14 director of agriculture is a voting member of the board. One voting
15 member shall be elected by the directors of the various active weed
16 districts formed under chapter 17.04 or 17.06 RCW. The Washington
17 state association of counties appoints one voting member who shall be
18 a member of a county legislative authority. The director shall appoint
19 two voting members to represent the public interest, one from the west
20 side and one from the east side of the state. The director shall also
21 appoint three nonvoting members representing scientific disciplines
22 relating to weed control. The term of office for all members of the
23 board is three years from the date of election or appointment.

24 The board, by rule, shall establish a position number for each
25 elected position of the board and shall designate which county noxious
26 weed control board members are eligible to vote for each elected
27 position. The elected members serve staggered terms. Elections for
28 the elected members of the board shall be held thirty days prior to the
29 expiration date of their respective terms. Nominations and elections
30 shall be by mail and conducted by the board.

31 The board shall conduct its first meeting within thirty days after
32 all its members have been elected. The board shall elect from its
33 members a chair and other officers as may be necessary. A majority of
34 the voting members of the board constitutes a quorum for the
35 transaction of business and is necessary for any action taken by the
36 board. The members of the board serve without salary, but shall be
37 reimbursed for travel expenses incurred in the performance of their

1 duties under this chapter in accordance with RCW 43.03.050 and
2 43.03.060.

3 **Sec. 4.** RCW 17.10.050 and 1997 c 353 s 6 are each amended to read
4 as follows:

5 (1) Each (~~(activated)~~) county noxious weed control board consists
6 of five voting members appointed by the county legislative authority.
7 In appointing the voting members, the county legislative authority
8 shall divide the county into five geographical areas that best
9 represent the county's interests, and appoint a voting member from each
10 geographical area. At least four of the voting members shall be
11 engaged in the primary production of agricultural products. There is
12 one nonvoting member on the board who is the chair of the county
13 extension office or an extension agent appointed by the chair of the
14 county extension office. Each voting member of the board serves a term
15 of four years, except that the county legislative authority shall, when
16 a board is first (~~(activated)~~) appointed under this chapter, designate
17 two voting members to serve terms of two years. The board members
18 shall not receive a salary but shall be compensated for actual and
19 necessary expenses incurred in the performance of their official
20 duties.

21 (2)(a) The voting members of the board serve until their
22 replacements are appointed. New members of the board shall be
23 appointed at least thirty days prior to the expiration of any board
24 member's term of office.

25 (b) Notice of expiration of a term of office shall be published at
26 least twice in a weekly or daily newspaper of general circulation in
27 the (~~(section [geographical area])~~) geographical area with last
28 publication occurring at least ten days prior to the nomination. All
29 persons interested in appointment to the board and residing in the
30 geographical area with a pending nomination shall make a written
31 application that includes the signatures of at least ten registered
32 voters residing in the geographical area supporting the nomination to
33 the county noxious weed control board. After nominations close, the
34 county noxious weed control board shall, after a hearing, send the
35 applications to the county legislative authority recommending the names
36 of the most qualified candidates, and post the names of those nominees
37 in the county courthouse and publish in at least one newspaper of

1 general circulation in the county. The county legislative authority,
2 within ten days of receiving the list of nominees, shall appoint one of
3 those nominees to the county noxious weed control board to represent
4 that geographical area during that term of office.

5 (3) Within thirty days after all the members have been appointed,
6 the board shall conduct its first meeting. A majority of the voting
7 members of the board constitutes a quorum for the transaction of
8 business and is necessary for any action taken by the board. The board
9 shall elect from its members a chair and other officers as may be
10 necessary.

11 (4) In case of a vacancy occurring in any voting position on a
12 county noxious weed control board, the county legislative authority of
13 the county in which the board is located shall appoint a qualified
14 person to fill the vacancy for the unexpired term.

15 **Sec. 5.** RCW 17.10.060 and 1997 c 353 s 7 are each amended to read
16 as follows:

17 (1) Each (~~activated~~) county noxious weed control board shall
18 employ or otherwise provide a weed coordinator whose duties are fixed
19 by the board but which shall include inspecting land to determine the
20 presence of noxious weeds, offering technical assistance and education,
21 and developing a program to achieve compliance with the weed law. The
22 weed coordinator may be employed full time, part time, or seasonally by
23 the county noxious weed control board. County weed board employment
24 practices shall comply with county personnel policies. Within sixty
25 days from initial employment the weed coordinator shall obtain a pest
26 control consultant license, a pesticide operator license, and the
27 necessary endorsements on the licenses as required by law. Each board
28 may purchase, rent, or lease equipment, facilities, or products and may
29 hire additional persons as it deems necessary for the administration of
30 the county's noxious weed control program.

31 (2) Each (~~activated~~) county noxious weed control board has the
32 power to adopt rules and regulations, subject to notice and hearing as
33 provided in chapters 42.30 and 42.32 RCW, as are necessary for an
34 effective county weed control or eradication program.

35 (3) Each (~~activated~~) county noxious weed control board shall meet
36 with a quorum at least quarterly.

1 **Sec. 6.** RCW 17.10.074 and 1997 c 353 s 9 are each amended to read
2 as follows:

3 (1) In addition to the powers conferred on the director under other
4 provisions of this chapter, the director, with the advice of the state
5 noxious weed control board, has power to:

6 (a) Require the county legislative authority or the noxious weed
7 control board of any county or any weed district to report to (~~it~~)
8 the director concerning the presence, absence, or estimated amount of
9 noxious weeds and measures, if any, taken or planned for the control
10 thereof;

11 (b) Employ staff as may be necessary in the administration of this
12 chapter;

13 (c) Adopt, amend, or repeal rules, pursuant to the administrative
14 procedure act, chapter 34.05 RCW, as may be necessary to carry out this
15 chapter;

16 (d) Do such things as may be necessary and incidental to the
17 administration of its functions pursuant to this chapter including but
18 not limited to surveying for and detecting noxious weed infestations;

19 (e) Upon receipt of a complaint signed by a majority of the members
20 of an adjacent county noxious weed control board or weed district, or
21 by one hundred registered voters that are land owners within the
22 county, require the county legislative authority or noxious weed
23 control board of the county or weed district that is the subject of the
24 complaint to respond to the complaint within forty-five days with a
25 plan for the control of the noxious weeds cited in the complaint;

26 (f) If the complaint in (e) of this subsection involves a class A
27 or class B noxious weed, order the county legislative authority,
28 noxious weed control board, or weed district to take immediate action
29 to eradicate or control the noxious weed infestation. If the county or
30 the weed district does not take action to control the noxious weed
31 infestation in accordance with the order, the director may control it
32 or cause it to be controlled. The county or weed district is liable
33 for payment of the expense of the control work including necessary
34 costs and expenses for attorneys' fees incurred by the director in
35 securing payment from the county or weed district. The director may
36 bring a civil action in a court of competent jurisdiction to collect
37 the expenses of the control work, costs, and attorneys' fees;

1 (g) Until January 1, 2008, in counties without ((an activated)) a
2 noxious weed control board, enter upon any property as provided for in
3 RCW 17.10.160, issue or cause to be issued notices and citations and
4 take the necessary action to control noxious weeds as provided in RCW
5 17.10.170, hold hearings on any charge or cost of control action taken
6 as provided for in RCW 17.10.180, issue a notice of civil infraction as
7 provided for in RCW 17.10.230 and 17.10.310 through ~~((and))~~ and
8 17.10.350, and place a lien on any property pursuant to RCW 17.10.280,
9 17.10.290, and 17.10.300 with the same authorities and responsibilities
10 imposed by these sections on county noxious weed control boards;

11 (h) Adopt a list of noxious weed seeds and toxic weeds which shall
12 be controlled in designated articles, products, or feed stuffs as
13 provided for in RCW 17.10.235.

14 (2) The moneys appropriated for noxious weed control to the
15 department shall be used for administration of the state noxious weed
16 control board, the administration of the director's powers under this
17 chapter, the purchase of materials for controlling, containing, or
18 eradicating noxious weeds, the purchase or collection of biological
19 control agents for controlling noxious weeds, and the contracting for
20 services to carry out the purposes of this chapter. ~~((In a county with
21 an activated noxious weed control board,))~~ The director shall make
22 every effort to contract with ~~((that))~~ county noxious weed control
23 boards for the needed services.

24 (3) If the director determines the need to reallocate funds
25 previously designated for county use, the director shall convene a
26 meeting of the state noxious weed control board to seek its advice
27 concerning any reallocation.

28 **Sec. 7.** RCW 17.10.080 and 1997 c 353 s 10 are each amended to read
29 as follows:

30 (1) The state noxious weed control board shall each year or more
31 often, following a hearing, adopt a state noxious weed list.

32 (2) Any person may request during a comment period established by
33 the state weed board the inclusion, deletion, or designation change of
34 any plant to the state noxious weed list.

35 (3) The state noxious weed control board shall send a copy of the
36 list to each ~~((activated))~~ county noxious weed control board~~((,))~~ and

1 to each weed district(~~(, and to the county legislative authority of~~
2 ~~each county with an inactive noxious weed control board)~~)).

3 (4) The record of rule making must include the written findings of
4 the board for the inclusion of each plant on the list. The findings
5 shall be made available upon request to any interested person.

6 **Sec. 8.** RCW 17.10.190 and 1997 c 353 s 23 are each amended to read
7 as follows:

8 Each (~~(activated)~~) county noxious weed control board must publish
9 annually, and at other times as may be appropriate, in at least one
10 newspaper of general circulation within its area, a general notice.
11 The notice shall direct attention to the need for noxious weed control
12 and give other information concerning noxious weed control requirements
13 as may be appropriate, or indicate where such information may be
14 secured. In addition to the general notice required, the county
15 noxious weed control board may use any appropriate media for the
16 dissemination of information to the public as may be calculated to
17 bring the need for noxious weed control to the attention of owners.
18 The board may consult with individual owners concerning their problems
19 of noxious weed control and may provide them with information and
20 advice, including giving specific instructions and methods when and how
21 certain named weeds are to be controlled. The methods may include some
22 combination of physical, mechanical, cultural, chemical, and/or
23 biological methods, including livestock. Publication of a notice as
24 required by this section is not a condition precedent to the
25 enforcement of this chapter.

26 **Sec. 9.** RCW 17.10.205 and 1997 c 353 s 24 are each amended to read
27 as follows:

28 Open areas subject to the spread of noxious weeds, including but
29 not limited to subdivisions, school grounds, playgrounds, parks, and
30 rights of way shall be subject to regulation by (~~(activated)~~) county
31 noxious weed control boards in the same manner and to the same extent
32 as is provided for all terrestrial and aquatic lands of the state.

33 **Sec. 10.** RCW 17.10.240 and 1997 c 353 s 27 are each amended to
34 read as follows:

35 (1) (~~(The activated)~~) Each county noxious weed control board (~~(of~~

1 ~~each county~~) shall annually submit a budget to the county legislative
2 authority for the operating cost of the county's weed program for the
3 ensuing fiscal year(~~(: PROVIDED, That if the board finds the budget~~
4 ~~approved by the legislative authority is insufficient for an effective~~
5 ~~county noxious weed control program it shall petition the county~~
6 ~~legislative authority to hold a hearing as provided in RCW 17.10.890)~~).
7 Control of weeds is a benefit to the lands within any such section.
8 Funding for the budget is derived from any or all of the following:
9 (a) The county legislative authority may, in lieu of a tax, levy an
10 assessment against the land for this purpose. Prior to the levying of
11 an assessment the county noxious weed control board shall hold a public
12 hearing at which it will gather information to serve as a basis for
13 classification and then classify the lands into suitable
14 classifications, including but not limited to dry lands, range lands,
15 irrigated lands, nonuse lands, forest lands, or federal lands. The
16 board shall develop and forward to the county legislative authority, as
17 a proposed level of assessment for each class, an amount as seems just.
18 The assessment rate shall be either uniform per acre in its respective
19 class or a flat rate per parcel rate plus a uniform rate per acre:
20 PROVIDED, That if no benefits are found to accrue to a class of land,
21 a zero assessment may be levied. The county legislative authority,
22 upon receipt of the proposed levels of assessment from the board, after
23 a hearing, shall accept or modify by resolution, or refer back to the
24 board for its reconsideration all or any portion of the proposed levels
25 of assessment. The amount of the assessment constitutes a lien against
26 the property. The county legislative authority may by resolution or
27 ordinance require that notice of the lien be sent to each owner of
28 property for which the assessment has not been paid by the date it was
29 due and that each lien created be collected by the treasurer in the
30 same manner as delinquent real property tax, if within thirty days from
31 the date the owner is sent notice of the lien, including the amount
32 thereof, the lien remains unpaid and an appeal has not been made
33 pursuant to RCW 17.10.180. Liens treated as delinquent taxes bear
34 interest at the rate of twelve percent per annum and the interest
35 accrues as of the date notice of the lien is sent to the owner:
36 PROVIDED FURTHER, That any collections for the lien shall not be
37 considered as tax; or

1 (b) The county legislative authority may appropriate money from the
2 county general fund necessary for the administration of the county
3 noxious weed control program. In addition the county legislative
4 authority may make emergency appropriations as it deems necessary for
5 the implementation of this chapter.

6 (2) Forest lands used solely for the planting, growing, or
7 harvesting of trees and which are typified, except during a single
8 period of five years following clear-cut logging, by canopies so dense
9 as to prohibit growth of an understory may be subject to an annual
10 noxious weed assessment levied by a county legislative authority that
11 does not exceed one-tenth of the weighted average per acre noxious weed
12 assessment levied on all other lands in unincorporated areas within the
13 county that are subject to the weed assessment. This assessment shall
14 be computed in accordance with the formula in subsection (3) of this
15 section.

16 (3) The calculation of the "weighted average per acre noxious weed
17 assessment" is a ratio expressed as follows:

18 (a) The numerator is the total amount of funds estimated to be
19 collected from the per acre assessment on all lands except (i) forest
20 lands as identified in subsection (2) of this section, (ii) lands
21 exempt from the noxious weed assessment, and (iii) lands located in an
22 incorporated area.

23 (b) The denominator is the total acreage from which funds in (a) of
24 this subsection are collected. For lands of less than one acre in
25 size, the denominator calculation may be based on the following
26 assumptions: (i) Unimproved lands are calculated as being one-half
27 acre in size on the average, and (ii) improved lands are calculated as
28 being one-third acre in size on the average. The county legislative
29 authority may choose to calculate the denominator for lands of less
30 than one acre in size using other assumptions about average parcel size
31 based on local information.

32 (4) For those counties that levy a per parcel assessment to help
33 fund noxious weed control programs, the per parcel assessment on forest
34 lands as defined in subsection (2) of this section shall not exceed
35 one-tenth of the per parcel assessment on nonforest lands.

36 **Sec. 11.** RCW 17.10.250 and 1997 c 353 s 28 are each amended to
37 read as follows:

1 The legislative authority of any county (~~with an activated noxious~~
2 ~~weed control board~~) or the board of any weed district may apply to the
3 director for noxious weed control funds when informed by the director
4 that funds are available. Any applicant must employ adequate
5 administrative personnel to supervise an effective weed control program
6 as determined by the director with advice from the state noxious weed
7 control board. The director with advice from the state noxious weed
8 control board shall adopt rules on the distribution and use of noxious
9 weed control account funds.

10 **Sec. 12.** RCW 17.10.280 and 1987 c 438 s 35 are each amended to
11 read as follows:

12 Every (~~activated~~) county noxious weed control board performing
13 labor, furnishing material, or renting, leasing or otherwise supplying
14 equipment, to be used in the control of noxious weeds, or in causing
15 control of noxious weeds, upon any property pursuant to the provisions
16 of chapter 17.10 RCW has a lien upon such property for the labor
17 performed, material furnished, or equipment supplied whether performed,
18 furnished, or supplied with the consent of the owner, or his agent, of
19 such property, or without the consent of said owner or agent.

20 NEW SECTION. **Sec. 13.** The following acts or parts of acts are
21 each repealed:

22 (1) RCW 17.10.040 (Activation of inactive county noxious weed
23 control board) and 1997 c 353 s 5, 1987 c 438 s 3, 1975 1st ex.s. c 13
24 s 2, & 1969 ex.s. c 113 s 4; and

25 (2) RCW 17.10.890 (Deactivation of county noxious weed control
26 board--Hearing) and 1997 c 353 s 32 & 1987 c 438 s 37."

27 Correct the title.

EFFECT: Eliminates responsibility of the Department of
Agriculture and the State Noxious Weed Control Board to act in the
event a county legislative authority fails to appoint a county noxious
weed control board by January 1, 2008. Eliminates provisions regarding
deactivation of county noxious weed control boards because all counties
will be required to have one in place by January 1, 2008. Makes

several technical corrections.

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