

JAN 25 2005
Agriculture

HOUSE FILE 128
BY REASONER

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the control of noxious weeds on land by
2 providing alternative notice procedures to landowners and
3 other responsible persons.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF-128

1 Section 1. Section 317.6, Code 2005, is amended to read as
2 follows:

3 317.6 ENTERING LAND TO DESTROY WEEDS -- NOTICE.

4 ~~In-case-of~~ If there is a substantial failure by the owner
5 or person in possession or control of any land to comply with
6 any order of destruction pursuant to the provisions of this
7 chapter, the county weed commissioner, including the weed
8 commissioner's deputies and, or employees acting under the
9 weed commissioner's direction ~~shall-have-full-power-and~~
10 ~~authority-to~~ may enter upon any land within their the
11 commissioner's county for the purpose of destroying noxious
12 weeds. Such The entry may be made without the consent of the
13 landowner or person in possession or control of the land but.
14 However, the actual work of destruction shall not be commenced
15 until five days after the ~~service-of-a-notice-in-writing-on~~
16 ~~the~~ landowner and ~~on~~ the person in possession or ~~in~~ control of
17 the land have been notified. The notice shall state the facts
18 as relating to failure of compliance with the county program
19 of weed destruction order or orders made by the board of
20 supervisors ~~and-shall-be-served-in-the-same-manner-as-an~~
21 ~~original-notice-except-as-hereinafter-provided.~~ The notice
22 ~~may~~ shall be ~~served~~ delivered by personal service on the owner
23 and persons in possession and control of the land. The
24 personal service may be served by the weed commissioner, ~~the~~
25 ~~weed-commissioner's-deputies~~ or any person designated in
26 writing by the weed commissioner and. However, in lieu of
27 personal service, the weed commissioner may provide that the
28 notice be delivered by restricted certified mail. A copy of
29 the notice shall be filed in the office of the county auditor.
30 ~~Provided, however, that service on persons living temporarily~~
31 ~~or permanently outside of the county may be made by sending~~
32 ~~the written notice of noncompliance by certified mail to said~~
33 ~~person at the~~ The last known address to of the owner or person
34 in possession or control of the land may be ascertained, if
35 necessary, from the last tax list in the county treasurer's

1 office. Where any person, ~~firm or corporation~~ owning land
2 within the county has filed a written instrument in the office
3 of the county auditor designating the name and address of its
4 agent, the notice ~~herein provided~~ may be ~~served on~~ delivered
5 to that agent. In computing time hereunder for notice, it
6 shall be from the date of service as evidenced on the return
7 ~~or if~~ of service. If delivery is made by restricted certified
8 mail, it shall be from the date of mailing ~~as evidenced by the~~
9 ~~certified mail book at the post office where mailed.~~

10 Sec. 2. Section 317.16, Code 2005, is amended to read as
11 follows:

12 317.16 FAILURE TO COMPLY.

13 1. In case of a substantial failure to comply by the date
14 prescribed in any order of destruction of weeds made pursuant
15 to this chapter, the weed commissioner ~~or the deputies~~ may,
16 ~~subsequent to the time after service of the notice provided~~
17 ~~for in section 317.6 enter~~ do any of the following:

18 a. Enter upon the land and as cause provided in section
19 317.6 and provide for the destruction of the weeds to be
20 ~~destroyed, or may impose~~ as provided in section 317.6.

21 b. Impose a maximum penalty of a ten dollar fine for each
22 day, up to ten days, that the owner or person in possession or
23 control of the land fails to comply. If a penalty is imposed
24 and the owner or person in possession or control of the land
25 fails to comply, the weed commissioner shall cause the weeds
26 to be destroyed.

27 2. If the weed commissioner enters the land and causes the
28 weeds to be destroyed, the actual cost and expense of cutting,
29 burning or otherwise destroying the weeds, along with the cost
30 of ~~serving~~ providing notice and special meetings or
31 proceedings, if any, shall be paid by the county and, together
32 with the additional assessment to apply toward costs of
33 supervision and administration, be recovered by an assessment
34 against the tract of real estate on which the weeds were
35 growing, as provided in section 317.21. Any fine imposed

1 under this section shall be recovered by a similar assessment.

2 EXPLANATION

3 This bill amends Code chapter 317, which provides for the
4 control of noxious weeds. Generally, county weed
5 commissioners are responsible for enforcing the provisions of
6 the Code chapter, which includes the authority to enter onto
7 land for purposes of controlling noxious weeds if the owner of
8 the land or other responsible person (e.g., the owner's
9 tenant) fails to do so. The Code chapter requires the weed
10 commissioner to notify the responsible person prior to
11 entering onto the person's land to control the noxious weeds.
12 The notice must be made by personal service. The bill
13 provides that in lieu of personal service, the weed
14 commissioner may provide notice by restricted certified mail.
15 The bill also amends provisions in order to enhance their
16 readability.

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