

2005  
Place On Calendar

HOUSE FILE 252  
BY COMMITTEE ON AGRICULTURE

(SUCCESSOR TO HF 128)

Passed House, Date 2-16-05 Passed Senate, Date 4-11-05  
Vote: Ayes 99 Nays 1 Vote: Ayes 48 Nays 1  
Approved 4/19/05

**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 252

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 certified mail. A copy of the notice  
29 shall be filed in the office of the county auditor. ~~Provided,~~  
30 ~~however,-that-service-on-persons-living-temporarily-or~~  
31 ~~permanently-outside-of-the-county-may-be-made-by-sending-the~~  
32 ~~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 certified mail, it  
8 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 servng 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.

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EXPLANATION

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

HOUSE FILE 252

AN ACT

RELATING TO THE CONTROL OF NOXIOUS WEEDS ON LAND BY PROVIDING  
ALTERNATIVE NOTICE PROCEDURES TO LANDOWNERS AND OTHER  
RESPONSIBLE PERSONS.

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

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

317.6 ENTERING LAND TO DESTROY WEEDS -- NOTICE.

~~In case of~~ If there is a substantial failure by the owner or person in possession or control of any land to comply with any order of destruction pursuant to the provisions of this chapter, the county weed commissioner, including the weed commissioner's deputies and, or employees acting under the weed commissioner's direction ~~shall have full power and authority to~~ may enter upon any land within the commissioner's county for the purpose of destroying noxious weeds. Such The entry may be made without the consent of the landowner or person in possession or control of the land but. However, the actual work of destruction shall not be commenced until five days after the ~~service of a notice in writing on~~ the landowner and on the person in possession or in control of the land have been notified. The notice shall state the facts as relating to failure of compliance with the county program of weed destruction order or orders made by the board of supervisors and shall be served in the same manner as an original notice except as hereinafter provided. The notice may shall be served delivered by personal service on the owner and persons in possession and control of the land. The personal service may be served by the weed commissioner, the

~~weed commissioner's deputies or any person designated in writing by the weed commissioner and. However, in lieu of personal service, the weed commissioner may provide that the notice be delivered by certified mail. A copy of the notice shall be filed in the office of the county auditor. Provided, however, that service on persons living temporarily or permanently outside of the county may be made by sending the written notice of noncompliance by certified mail to said person at the~~ The last known address to of the owner or person in possession or control of the land may be ascertained, if necessary, from the last tax list in the county treasurer's office. Where any person, firm or corporation owning land within the county has filed a written instrument in the office of the county auditor designating the name and address of its agent, the notice herein provided may be served on delivered to that agent. In computing time hereunder for notice, it shall be from the date of service as evidenced on the return or if of service. If delivery is made by certified mail, it shall be from the date of mailing as evidenced by the certified mail book at the post office where mailed.

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

317.16 FAILURE TO COMPLY.

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

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

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

2. If the weed commissioner enters the land and causes the weeds to be destroyed, the actual cost and expense of cutting, burning or otherwise destroying the weeds, along with the cost of erving providing notice and special meetings or proceedings, if any, shall be paid by the county and, together with the additional assessment to apply toward costs of supervision and administration, be recovered by an assessment against the tract of real estate on which the weeds were growing, as provided in section 317.21. Any fine imposed under this section shall be recovered by a similar assessment.

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CHRISTOPHER C. RANTS  
Speaker of the House

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JOHN P. KIBBIE  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 252, Eighty-first General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved 4/19, 2005

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THOMAS J. VILSACK  
Governor