

FIRST REGULAR SESSION
[P E R F E C T E D]
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 337
96TH GENERAL ASSEMBLY

Reported from the Committee on Agriculture, Food Production and Outdoor Resources, April 7, 2011, with recommendation that the Senate Committee Substitute do pass.

Senate Committee Substitute for Senate Bill No. 337, adopted April 12, 2011.

Taken up for Perfection April 12, 2011. Bill declared Perfected and Ordered Printed.

TERRY L. SPIELER, Secretary.

1710S.02P

AN ACT

To repeal sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, and 268.121, RSMo, and to enact in lieu thereof five new sections relating to agriculture, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, 263.450, and 268.121, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 263.190, 263.200, 263.220, 263.240, and 268.121, to read as follows:

263.190. 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land] **As used in sections 263.190 to 263.474, "noxious weed" means any weed designated as noxious by rules promulgated by the director of the department of agriculture. The department shall maintain a list of such noxious weeds and shall make such list available to the public. The department of agriculture shall promulgate rules necessary to implement this provision. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 **complies with and is subject to all of the provisions of chapter 536 and,**
13 **if applicable, section 536.028. This section and chapter 536 are**
14 **nonseverable and if any of the powers vested with the general assembly**
15 **pursuant to chapter 536 to review, to delay the effective date, or to**
16 **disapprove and annul a rule are subsequently held unconstitutional,**
17 **then the grant of rulemaking authority and any rule proposed or**
18 **adopted after August 28, 2011, shall be invalid and void.**

19 2. It shall be the duty of every owner of lands in this state, **including**
20 **but not limited to any person, association of persons, corporation,**
21 **partnership, state highways and transportation commission, state**
22 **department, state agency, county commission, township board, school**
23 **board, drainage board, governing body of an incorporated city, railroad**
24 **company or other transportation company and such company's**
25 **authorized agent, and any person supervising state-owned lands, to**
26 control all [Canada, musk, or Scotch thistles] **noxious weeds** growing thereon
27 so often in each and every year as shall be sufficient to prevent [said thistles]
28 **such noxious weeds** from going to seed. If any owner of such land shall
29 knowingly allow any [Canada, musk, or Scotch thistles] **noxious weeds** to grow
30 thereon, such owner shall forfeit and pay the sum of one hundred dollars to the
31 county commission for every such offense, and such sum forfeited plus court costs
32 may be recovered by civil action instituted by the prosecuting attorney in the
33 name of the county commission before any associate circuit judge of the county
34 in which the offense is committed. All sums recovered by virtue of this section
35 shall be paid to the use of the county control fund.

36 3. Before initiating any civil action under this section, the prosecuting
37 attorney of the county in which the land, or the greater part thereof, is located
38 shall notify the owner of the land of the requirements of this law, by certified
39 mail, return receipt requested, from a list supplied by the officer who prepares
40 the tax list, and shall allow the owner of the land fifteen days from
41 acknowledgment date of return receipt, or date of refusal of acceptance, as the
42 case may be, to **initiate control of** all such plants growing upon [his] **the**
43 **owner's** land. Failure of the owner to **initiate control of** such plants within the
44 fifteen-day period shall be prima facie evidence of the owner's knowledge that
45 [he] **the owner** is in violation of this law, and each fifteen days the violation
46 continues after the initial fifteen-day period shall, for the purpose of forfeiture
47 and penalty herein, be considered a separate offense.

48 **4. All sales of noxious weed species are prohibited.**

263.200. 1. In addition to the remedies provided in section 263.190, when
2 [Canada, musk, or Scotch thistles] **noxious weeds** are discovered growing on
3 any lands in the county, it shall be the duty of the county commission to control
4 such [thistles] **noxious weeds** so as to prevent the seed from ripening, and for
5 that purpose the county commission, or its agents, servants, or employees shall
6 have authority to enter on such lands without being liable to an action of trespass
7 therefor, and shall have such official immunity as exists at common law for any
8 misfeasance or damages occurring in connection with the attempt to control
9 [Canada, musk, or Scotch thistles] **noxious weeds**. Notwithstanding any
10 provision of law to the contrary, the county shall be liable for any misfeasance or
11 actual damages caused by its agents, servants, or employees in connection with
12 the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. The
13 landowner shall owe no duty of care to such persons, except that which the
14 landowner owes to trespassers. The county commission shall keep an accurate
15 account of the expenses incurred in controlling the [thistles] **noxious weeds**,
16 and shall verify such statement under seal of the county commission, and
17 transmit the same to the officer whose duty it is or may be to extend state and
18 county taxes on tax books or bills against real estate; and such officer shall
19 extend the aggregate expenses so charged against each tract of land as a special
20 tax, which shall then become a lien on the lands, and be collected as state and
21 county taxes are collected by law and paid to the county commission and credited
22 to the county control fund.

23 2. Before proceeding to control [Canada, musk, or Scotch thistles]
24 **noxious weeds** as provided in this section, the county commission of the county
25 in which the land, or the greater part thereof, is located shall notify the owner of
26 the land of the requirements of this law, by certified mail, return receipt
27 requested, from a list supplied by the officer who prepares the tax list, and shall
28 allow the owner of the land fifteen days from acknowledgment date of return
29 receipt, or date of refusal of acceptance of delivery, as the case may be, to control
30 all such [plants] **noxious weeds** growing upon [his] **the owner's** land.

31 3. Any land or properties that are owned solely by a political subdivision
32 in a city not within a county shall be subject to all provisions of sections 263.190,
33 263.200, and 263.240.

263.220. It shall be the duty of the prosecuting attorney of the county to
2 prosecute all actions brought under [sections 263.190 to 263.240] **section**

3 **263.190.**

263.240. Any person who shall violate any of the provisions of [sections
2 263.210 to 263.240 shall, upon conviction, be] **section 263.190 is, upon**
3 **conviction**, guilty of a misdemeanor.

268.121. It shall be the duty of the director from time to time to [cause to
2 be published in book form] **create** a list of all brands on record at [the time of
3 the publication] **that time and make such list available to the public on**
4 **a publicly-accessible website.** The [lists may be supplemented] **list shall be**
5 **updated** from time to time. The [publication] **list** shall contain a facsimile of all
6 brands recorded and the owner's name and post-office address. The records shall
7 be arranged in convenient form for reference. [It shall be the duty of the director
8 to send one copy of the brand book and supplements to the county recorder of
9 deeds of each county and to each licensed livestock market and slaughter plant
10 in the state. The books and supplements shall be furnished without cost to the
11 livestock market or slaughter plant or to the county and shall be kept as a matter
12 of public record.] The [books and supplements] **list** may be sold to the general
13 public at the cost of **its** printing and mailing [each book].

[263.205. 1. The plant multiflora rose (rosa multiflora) is
2 hereby declared to be a noxious weed; except, notwithstanding any
3 other provision of this section, multiflora rose (rosa multiflora)
4 shall not be considered a noxious weed when cultivated for or used
5 as understock for cultivated roses.

6 2. The governing body of any county of this state may opt
7 to establish a "County Noxious Weed Fund" for the purpose of
8 making grants on a cost share basis for the control of any noxious
9 weed, as the plant may be designated under this section.

10 3. Any county opting to establish a county noxious weed
11 fund, shall establish a noxious weed control program. No resident
12 or owner of land of any county shall be required to participate in
13 a county noxious weed control program; however, any resident or
14 landowner making application for cost share grants under this
15 section shall participate in said program.

16 4. For the purpose of administering the county noxious
17 weed fund, the county governing body shall have sole discretion of
18 awarding cost share grants under this section.

19 5. For the purpose of funding the county noxious weed fund,

20 the county governing body may appropriate county funds, and/or
21 solicit municipality, state agency, state general revenue, and
22 federal agency funds. All such funds shall be deposited in the
23 county noxious weed fund to be expended for the sole purpose of
24 controlling noxious weeds so designated under this section.

25 6. Any county opting to establish a county noxious weed
26 control program under this section may make rules and regulations
27 governing said program, and any county opting to establish a
28 county noxious weed fund under this section shall establish a cost
29 share ratio on an annual basis beginning with the creation of the
30 fund.]

[263.230. It shall be the duty of any person or persons,
2 association of persons, corporations, partnerships, the state
3 highways and transportation commission, the county commissions,
4 the township boards, school boards, drainage boards, the governing
5 bodies of incorporated cities, railroad companies and other
6 transportation companies or their authorized agents and those
7 supervising state-owned lands to control the spread of and to
8 eradicate by methods approved by the state department of
9 agriculture field bindweed (*convolvulus arvensis*) hereby designated
10 as a noxious and dangerous weed to agriculture.]

[263.232. It shall be the duty of any person or persons,
2 association of persons, corporations, partnerships, the state
3 highways and transportation commission, any state department,
4 any state agency, the county commissions, the township boards,
5 school boards, drainage boards, the governing bodies of
6 incorporated cities, railroad companies and other transportation
7 companies or their authorized agents and those supervising state-
8 owned lands:

9 (1) To control and eradicate the spread of cut-leaved teasel
10 (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*),
11 which are hereby designated as noxious and dangerous weeds to
12 agriculture, by methods in compliance with the manufacturer's
13 label instructions when chemical herbicides are used for such
14 purposes;

15 (2) To control the spread of kudzu vine (*Pueraria lobata*),

16 which is hereby designated as a noxious and dangerous weed to
17 agriculture, by methods in compliance and conformity with the
18 manufacturer's label instructions when chemical herbicides are
19 used for such purposes; and

20 (3) To control the spread of spotted knapweed (*Centaurea*
21 *stoebe* ssp. *micranthos*, including all subspecies), which is hereby
22 designated as a noxious and dangerous weed to agriculture, by
23 methods in compliance and conformity with the manufacturer's
24 label instructions when chemical herbicides are used for such
25 purposes.]

[263.241. The plant, purple loosestrife (*Lythrum salicaria*),
2 and any hybrids thereof, is hereby designated a noxious weed. No
3 person shall buy, sell, offer for sale, distribute or plant seeds,
4 plants or parts of plants of purple loosestrife without a permit
5 issued by the Missouri department of conservation. Such permits
6 shall be issued only for experiments to control and eliminate
7 nuisance weeds. Any person who violates the provisions of this
8 section shall be guilty of a class A misdemeanor.]

[263.450. As used in sections 263.450 to 263.474, the term
2 "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson
3 grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except
4 when cultivated for or used as understock for cultivated roses,
5 Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans*
6 L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife
7 (*Lythrum salicaria*), and any other weed designated as noxious by
8 rules and regulations promulgated by the director of the
9 department of agriculture.]

✓