

1972 Bill 40

First Session, 17th Legislature, 21 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 40

The Weed Control Act

MR. MOORE

First Reading

Second Reading

Third Reading

Printed by L. S. Wall, Queen's Printer, Edmonton

BILL 40

1972

THE WEED CONTROL ACT

(Assented to _____, 1972)

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of Alberta, enacts as follows:

1. (1) In this Act,

- (a) "council" means
 - (i) the council of a city, town, village, county or municipal district, or
 - (ii) the board of administrators of a new town, or
 - (iii) the Minister of Municipal Affairs, in the case of a special area or improvement district;
- (b) "Department" means the Department of Agriculture;
- (c) "destroy" means, with reference to noxious weeds or weed seeds, to do whatever is necessary to prevent reproduction or to cause growth to cease;
- (d) "highway" means a highway as defined in *The Highway Traffic Act*;
- (e) "inspector" means a Chief Inspector, Regional Inspector or any other inspector appointed pursuant to this Act;
- (f) "land" means
 - (i) lands owned or occupied or controlled by a person, and
 - (ii) where a stream, lake or body of water is contiguous to or included within such lands, the land down to the low water mark;
- (g) "local authority" means a municipal corporation, or, in the case of an improvement district or special area, the Minister of Municipal Affairs;
- (h) "Minister" means the Minister of Agriculture;
- (i) "municipal secretary" means
 - (i) in the case of a city, the official designated by the council to carry out any of the duties of a municipal secretary under this Act,

Explanatory Notes

1. Definitions.

- (ii) in the case of an improvement district or special area, the Deputy Minister of Municipal Affairs or an officer of the Department of Municipal Affairs designated by him, and
 - (iii) in the case of any other local authority, its secretary-treasurer;
 - (j) "municipality" means a city, town, new town, village, county, municipal district, improvement district or special area;
 - (k) "noxious weed" means a plant that is designated under this Act as a noxious weed;
 - (l) "occupant" means a person occupying or having the right to occupy land;
 - (m) "owner" means
 - (i) in the case of land, any person who is registered under *The Land Titles Act* as the owner of land, or who has a right to use land for a specified purpose, or
 - (ii) in the case of other property, any person who is in lawful possession thereof, or who has the right to exercise control over the property;
 - (n) "screenings" means weed seeds and other matter removed in the process of cleaning or grading of cereal, forage or other crop seed;
 - (o) "weed seed" means the seed of a noxious weed.
- (2) A reference in this Act to a by-law includes, in the appropriate case, an order of the Minister of Municipal Affairs.

2. In accordance with *The Public Service Act* there may be appointed a Chief Inspector, Regional Inspectors and inspectors as necessary to carry out the provisions of this Act.

3. The Minister may in writing delegate to any employee of the Department any power, duty or function conferred upon the Minister by this Act.

4. The Minister may exempt from the operation of this Act or any part or provision of this Act any tract of waste or sparsely inhabited lands.

5. (1) The council of every municipality shall appoint a sufficient number of inspectors to carry out the provisions of this Act within the municipality.

(2) When an inspector is appointed, the municipal secretary shall forthwith advise the Minister in writing of the appointment.

2. Appointment of personnel.

3. Delegation of powers.

4. Exemptions.

5. Municipally-appointed inspectors.

6. The council of an urban municipality bounded by a rural municipality may enter into an agreement with the council of the rural municipality to appoint an inspector to act jointly within the municipalities which are parties to the agreement and for the sharing of the costs involved.

7. (1) Where a council neglects or refuses to appoint an inspector, or where in the opinion of the Minister the inspector appointed by the council is not properly enforcing this Act, the Minister may, after serving notice in writing on the council, designate one or more inspectors to carry out provisions of this Act within the municipality, and such inspectors shall be subject to the direction and control of the Minister.

(2) Where the Minister makes an appointment under subsection (1), the amount of salary and expenses paid to the inspector and the amount of expenses incurred by him shall be paid by the Government of Alberta and may be recovered from the local authority.

(3) Where a council refuses or fails to make payment of any amount payable under subsection (2), the Government may recover the amount from the local authority by action as a debt due or by withholding it from any grant payable to the local authority.

8. A council may make by-laws for the regulation and control of matters not otherwise provided for in this Act and which relate to noxious weeds.

9. Notwithstanding section 28, the council of any municipality may by by-law provide that the occupant or owner of land shall for the purposes of this Act be deemed to be the occupant of that portion of any highway within the municipality and subject to the direction, management and control of the local authority of that municipality and which adjoins his land and lies between the boundary of his land and the middle line of the highway.

10. The council of any municipality may by by-law designate any plant not so designated in the regulations as being a noxious weed within that municipality.

11. (1) When a council passes a by-law or an amendment to a by-law under this Act, the municipal secretary shall submit the by-law or amendment to the Minister for approval and the Minister may vary, approve or reject the by-law or amendment in whole or in part.

6. Municipal agreements.

7. The Minister is empowered to intervene to ensure satisfactory inspection

8. General power to pass by-laws.

9. Occupancy by-laws.

10. By-law designating additional noxious weeds.

11. Copies of by-laws to be forwarded to Minister for approval.

(2) Where the by-law is varied or approved in part only, it shall be enforced and take effect as approved, but where it is rejected it shall have no force or effect.

12. Every local authority shall cause to be made available disposal sites for weed seeds and materials containing weed seeds sufficient for the needs of the municipality.

13. In the case of special areas or improvement districts, the Minister of Municipal Affairs may in writing appoint any persons or committees to act on his behalf in all matters relating to this Act.

Duties and Powers of Inspectors

14. Every inspector, for the purpose of performing his duties and exercising the powers under this Act or the regulations or in a by-law authorized under this Act, may, with or without warrant, enter at any reasonable hour upon any land or premises, other than a dwelling house, without the consent of the occupant or owner, and may inspect the land or premises or any crops, hay, grain, fodder, screenings, machine, grain elevator, crop processing plant or equipment thereon or therein.

15. (1) An inspector who finds any noxious weeds or weed seeds in or on any land, premises, vehicle, crop, hay, grain, fodder, machine, grain elevator, crop processing plant or equipment therein or thereon may give a notice in writing to the person who is under the duty imposed by this Act to destroy the noxious weeds or weed seeds and any crops containing the noxious weeds or weed seeds.

(2) Each notice shall specify when and by what method the weeds or weed seeds named are to be controlled or destroyed and such method may include such definite systems of tillage, cropping and management as in the inspector's judgment constitute good agricultural practice for the land and district concerned.

16. (1) An inspector who finds noxious weeds or weed seeds on land that is unoccupied or on land the occupant of which is not readily determinable and after inquiry determines that it is not practicable to serve a notice pursuant to section 15 within 72 hours, may cause the noxious weeds or weed seeds to be destroyed immediately by any means consistent with good agricultural practice.

(2) Immediately upon undertaking action under subsection (1), the inspector shall notify the owner of the land by registered mail addressed to his address as shown on the assessment roll of the municipality within which the land is situated, of the action taken.

12. Disposal areas.

13. Delegation of authority by Minister of Municipal Affairs.

14. Right of entry.

15. Notice to remedy.

16. Unoccupied lands.

17. An inspector may issue a notice requiring the destruction or control of noxious weeds in the next following year and such notice shall have the same effect as if issued in the year in which the work is to be done.

18. (1) No notice shall be issued that requires the destruction of more than 20 acres of a growing crop without the written consent of the council.

(2) Notwithstanding subsection (1), an inspector may

(a) chemically spray, or

(b) direct the chemical spraying of

an area in excess of 20 acres with selective herbicides without prior consent of the council.

(3) In this section “selective herbicides” means herbicides which may be used to control or destroy noxious weeds in a growing crop without causing damage to the crop.

19. Where a person fails to comply with any notice issued by an inspector, the inspector may cause the noxious weeds or weed seeds to be destroyed by any means consistent with good agricultural practice.

20. (1) Where an inspector finds noxious weeds or weed seeds on any land, he may, in order to effectively destroy the noxious weeds or weed seeds, issue a notice prohibiting the occupant or owner of any land from sowing a crop of any kind on the land.

(2) A notice issued under subsection (1) shall cease to have effect three years following date of issue, unless it is sooner rescinded by the inspector.

21. Notwithstanding anything in any other provision of this Act, the inspector of a rural municipality has authority in all urban municipalities completely bounded by the rural municipality with respect to seed cleaning plants, grain elevators, farm produce processing plants and auction markets.

Notices

22. A notice given by an inspector under this Act shall be in the form prescribed by the regulations and shall be served on the person to whom it is addressed by

(a) the notice being personally delivered to the person to whom it is addressed, or

(b) leaving it with a person apparently over the age of 16 years at the dwelling place or place of business of the person to whom the notice is addressed, or

(c) sending it by registered mail addressed to the last known address of the person to whom the notice

17. Destruction to take place in the subsequent year.

18. Limitation on destruction.

19. Failure to comply with notice.

20. Prohibition against growing crops.

21. Extension of authority of inspectors of rural municipalities.

22. Service of individual notices.

is addressed as shown on the assessment roll of the municipality within which the land to which it relates is situated, or

- (d) posting the notice in a conspicuous place on the land referred to in the notice when the inspector has reason to believe that the person to whom the notice is addressed is evading service thereof.

23. Every notice which is served on a person who is not the owner of the land shall also be served on the owner.

24. A copy of every notice issued by an inspector under this Act shall be delivered to the municipal secretary of the local authority within five days of issuance and a copy shall be retained by the inspector.

25. A person who is a mortgagee of land may request the municipal secretary to provide him with copies of all notices issued with respect to all lands on which he holds a mortgage.

26. A change of ownership of the land does not invalidate any notice given under this Act.

Duties of Occupant and Owner

27. Every occupant of land, or, if the land is unoccupied, the owner thereof, shall destroy all noxious weeds and weed seeds growing or located thereon as often as may be necessary to prevent the spread, growth, ripening and scattering of noxious weeds or weed seeds.

28. For the purposes of this Act a local authority shall be deemed to be the occupant of all highways under its direction, management and control.

29. This Act binds the Crown except that recovery of any expenses incurred by an inspector are only recoverable by action in any court which would have jurisdiction if the action were taken against a party other than the Crown.

30. An owner of land in respect of which a notice has been issued who leases, sells or otherwise disposes of such land and does not at the time of making of the sale or lease deliver to the purchaser or lessee a true copy of the notice is guilty of an offence.

31. No person, other than a farmer processing seed to be used on his own farm, shall operate a seed cleaning plant for the cleaning of grain or seeds for seed purposes without a licence therefor issued pursuant to the regulations.

23. Service on owner.

24. Copies of notices.

25. Copies may be provided to mortgagees.

26. Change in ownership.

27. Duties of owners and occupants.

28. A local authority deemed to be the occupant of highways under its control.

29. Application to the Crown.

30. Copy of notice to be provided to purchaser or lessee.

31. Seed cleaning licence.

32. No person shall move or cause to be moved any machine or vehicle if such movement is likely to cause the spread of noxious weeds or weed seeds.

33. No person shall deposit or permit to be deposited any weed seeds or material containing weed seeds in any place where they might grow or spread.

34. Every person who has in his possession screenings or other refuse containing weed seeds shall handle them in such manner as to prevent their being scattered by any means whatsoever and store them in bins or containers constructed in such manner that they are securely confined therein.

35. Every person who has in his possession or under his control screenings or other refuse containing weed seeds that are not kept as required by section 34 shall destroy them or deposit them at a disposal site provided by the municipality.

36. Every person who offers for sale or sells screenings shall do so in accordance with the regulations.

Expenditure

37. (1) Where expenses are incurred by an inspector for the destruction of noxious weeds or any other work the municipal secretary shall serve a statement thereof, together with a demand for payment, on the occupant and a copy on the owner of the land or, in the case of unoccupied land, he shall serve the owner only.

(2) The statement and demand for payment may be served by ordinary post addressed

(a) in the case of an occupant, to his last known address, and

(b) in the case of an owner, to his address as shown on the assessment roll.

(3) If the person or persons on whom the statement is served fails to either pay the amount set out in the statement or to file a notice of dispute within 30 days the municipal secretary shall forthwith cause the amount paid to be placed on the tax roll as an additional tax against the land concerned and it shall be collected in the same manner as taxes.

(4) Where a person to whom a statement and demand for payment is served files with the municipal secretary within the 30-day period referred to in subsection (3) a notice of

32. Restrictions on movement of vehicles or machinery.

33. Prohibition.

34. Storage of screenings.

35. Disposition of screenings.

36. Sale of screenings.

37. Recovery of expenses.

objection denying his liability for the expenses or disputing the amount owing, the council may thereafter proceed against that person only by action for the amount owing.

Appeals

38. Any person

- (a) who has an interest as owner or occupant of land,
- (b) who is affected by any action taken or notice given by an inspector, and
- (c) who thinks himself aggrieved by the action or notice,

may appeal to the council of the local authority which shall hear and determine, or shall by resolution appoint a committee to hear and determine, the appeal.

39. (1) Every notice of appeal shall be in writing and shall set out

- (a) the name and address of the appellant,
- (b) the description of the notice or action from which the appeal is being taken,
- (c) the legal description of the land affected, and
- (d) the grounds for appeal,

and shall be mailed or delivered to the municipal secretary

- (e) in the case of an appeal from a notice, within the time specified in the notice for taking any action or within 15 days, whichever is less, or
- (f) in the case of an appeal from any action taken by an inspector, within 15 days of such action being taken.

(2) The notice of appeal shall be accompanied by a deposit in the sum of \$10 which shall be returned to the appellant if the appeal is allowed but shall otherwise be forfeited and becomes the property of the local authority.

(3) The municipal secretary shall forthwith upon the determination of the appeal forward a copy of the decision and the reasons therefor, if any, by mail to the appellant at his address shown on the notice of appeal and to the inspector.

40. Any party to an appeal under section 38 who is dissatisfied with the result of the appeal may, within 10 days of the date the municipal secretary has mailed the decision to the appellant and the inspector, make a further appeal to the Minister by forwarding a notice of appeal to the Minister.

38. Appeal to the council.

39. Notice of appeal.

40. Appeal to the Minister.

41. An inspector shall not institute any action required by a notice following filing of the notice of appeal until a decision has been given on the appeal and the time for further appeal has expired without a further notice of appeal having been forwarded to the Minister or until a decision has been given on the further appeal, whichever is later.

Offences and Penalties

42. Any person who contravenes any of the provisions of this Act or the regulations or of any notice issued under this Act, is guilty of an offence and liable on summary conviction to a fine of not less than \$25 and not more than \$500.

43. A person who wilfully obstructs or delays the work of an inspector is guilty of an offence and liable on summary conviction to a fine of not less than \$50 and not more than \$500.

44. Fines imposed for an offence under the provisions of this Act within a municipality shall be payable to the local authority for that municipality.

General

45. The Lieutenant Governor in Council may make regulations

- (a) designating plants as noxious weeds generally or in respect of any municipality;
- (b) prescribing qualifications of inspectors;
- (c) prescribing forms and providing for their use;
- (d) prescribing the manner of and procedures for destroying noxious weeds and weed seeds;
- (e) respecting the sale, purchase, storage, processing or transportation of any material or substance infested with noxious weeds or weed seeds;
- (f) providing for the issue, renewal, suspension or revocation of or refusal to issue or renew licences for seed cleaning plants and prescribing fees payable for licences or the renewal thereof;
- (g) respecting any matter necessary to carry out effectively the intent and purpose of this Act.

46. Any notice given and any action taken under *The Noxious Weeds Act* shall, upon the coming into force of this Act, be deemed to have been given or taken under this Act but the provisions of this Act shall govern any further proceedings.

47. *The words "The Noxious Weeds Act" are struck out wherever they appear and the words "The Weed Control Act" are substituted therefor in the following enactments:*

41. Appeal acts as a stay of proceedings.

42. Offences.

43. Obstructing an inspector.

44. Disposition of fines.

45. Regulations.

46. Transitional.

47. Consequential amendments.

The Agricultural Service Board Act, section 15, subsection (4), clause (a) ;

The Drainage Districts Act, section 25, subsection (4) ;

The Police Act, section 4, subsection (2), clause (c) ;

The Special Areas Act, section 7, subsection (1).

48. *The Noxious Weeds Act* is hereby repealed.

49. This Act comes into force on June 1, 1972.

48. Chapter 262 of the Revised Statutes of Alberta 1970 will be repealed.