

1979 BILL 65

First Session, 19th Legislature, 28 Elizabeth II

THE LEGISLATIVE ASSEMBLY OF ALBERTA

BILL 65

THE WEED CONTROL ACT, 1979

MR. TOPOLNISKY

First Reading

Second Reading

Committee of the Whole

Third Reading

Royal Assent

THE WEED CONTROL ACT, 1979

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Bill 65
Mr. Topolnisky

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1979

THE WEED CONTROL ACT, 1979

(Assented to , 1979)

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

1(1) In this Act,

(a) “control” means, with reference to a noxious or nuisance weed, to

(i) carry out measures designed to inhibit propagation of the weed,

(ii) destroy the weed, or

(iii) carry out measures prescribed by an inspector for the control of the weed;

(b) “Department” means the Department of Agriculture;

(c) “destroy” means, with reference to a restricted weed, to

(i) kill all growing parts of the weed, or

(ii) render the reproductive mechanisms of the weed non-viable;

(d) “growing crop” means any plant growth, other than weeds, having a commercial value;

(e) “highway” means a highway as defined in *The Highway Traffic Act, 1975*;

(f) “inspector” means a person appointed as an inspector by the Minister under section 4 or by a local authority under section 5;

(g) “land” includes the land down to the low water mark of a stream, lake or other body of water that is contiguous to or located on land;

Explanatory Notes

1 Definitions.

- (h) “local authority” means
- (i) the council of a city, town, village, summer village, county or municipal district,
 - (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;
- (i) “Minister” means the Minister of Agriculture;
- (j) “municipal secretary” means
- (i) in the case of a city, the official designated by the local authority to carry out any of the duties of a municipal secretary,
 - (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,
 - (iii) in the case of a county, the county administrator, or
 - (iv) in the case of any other municipality, the secretary-treasurer;
- (k) “municipality” means a city, town, new town, village, summer village, county, municipal district, improvement district or special area;
- (l) “noxious weed” means a plant that is designated under the regulations or a by-law as a noxious weed and includes noxious weed seeds;
- (m) “nuisance weed” means a plant that is designated under the regulations or a by-law as a nuisance weed and includes nuisance weed seeds;
- (n) “occupant” means a person occupying or exercising control or having the right to occupy or exercise control over land;
- (o) “owner” means
- (i) in the case of land, a person who is registered under *The Land Titles Act* as the owner, or
 - (ii) in the case of personal property, a person who is in lawful possession of it or who has the right to exercise control over it;

(p) “restricted weed” means a plant that is designated under the regulations or a by-law as a restricted weed and includes restricted weed seeds;

(q) “screenings” means matter removed in the process of cleaning or grading of cereal, forage or other crop seed;

(r) “weed seed” means the seed of a restricted, noxious or nuisance weed.

(2) A reference in this Act to a by-law includes, when appropriate, an order of the Minister of Municipal Affairs.

2 The Minister may in writing delegate to any employee of the Government any power, duty or function conferred or imposed upon the Minister by this Act or the regulations.

3 The Minister may exempt from the operation of this Act or any provision of this Act a tract of land that is, in his opinion, waste land or sparsely inhabited land.

4 The Minister may appoint employees of the Government as inspectors for the purposes of this Act and shall supply each inspector with identification in the form prescribed by the regulations.

5 A local authority shall appoint a sufficient number of inspectors to carry out this Act within the municipality and shall supply each inspector with identification in the form prescribed by the regulations.

6(1) If a local authority does not appoint an inspector, or if in the opinion of the Minister an inspector appointed by the local authority is not properly carrying out this Act, the Minister may, after giving notice in writing to the local authority, designate one or more inspectors appointed under section 4 to carry out this Act within the municipality.

(2) If the Minister makes an appointment under subsection (1), an appointment of an inspector previously made by the local authority is void and the local authority shall not make any further appointments while the Minister’s appointment is in effect.

(3) The salary and expenses paid to an inspector designated by the Minister under subsection (1) and the expenses incurred by him shall be paid by the Crown and may be recovered from the municipality.

2 Minister may delegate power to employee.

3 Minister may exempt land from Act.

4 Minister may appoint inspectors.

5 Local authorities to appoint inspectors.

6 Minister may appoint inspectors.

(4) If a local authority does not pay an amount payable under subsection (3), the Crown may recover that amount from the municipality by action as a debt due to the Crown or by withholding it from any grant payable to the municipality from the Crown.

7(1) A local authority may make by-laws designating plants within the municipality as restricted, noxious or nuisance weeds.

(2) A by-law under subsection (1) may differ from a regulation under section 40(a) as to whether a plant within a municipality is designated as a restricted, noxious or nuisance weed, but if a regulation designates a plant within the municipality

(a) as a restricted weed, the by-law, if any, in relation to that plant shall also designate it as a restricted weed,

(b) as a noxious weed, the by-law, if any, in relation to that plant shall designate it as a noxious or restricted weed, or

(c) as a nuisance weed, the by-law, if any, in relation to that plant shall designate it as a nuisance, noxious or restricted weed.

8(1) Subject to subsection (2), a municipality shall be considered to be the occupant of a highway that is under its direction, management and control and on land owned by it.

(2) A local authority may, with respect to a highway that is subject to the direction, management and control of the local authority, by by-law provide that the occupant or owner of land shall, for the purpose of this Act, be considered to be the occupant of that portion of the highway that lies between the boundary of his land and the centre line of the highway.

9 If a local authority 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 and the Minister may approve, vary or reject the by-law or amendment in whole or in part, and the by-law or amendment is not effective until it has been so approved or varied and is only effective as approved or varied.

10 In the case of special areas and improvement districts, the Minister of Municipal Affairs may in writing delegate to a person or committee appointed by him any of the powers and duties conferred or imposed on him by this Act or the regulations.

7 Local authority may make by-laws.

8 Certain persons deemed to be occupiers of a highway.

9 By-law subject to approval of Minister.

10 Minister of Municipal Affairs may delegate his functions under the Act.

11(1) In this section, “premises” does not include a dwelling house.

(2) Subject to subsections (3) and (4), an inspector may, for the purpose of performing his duties and exercising his powers under this Act, the regulations or a by-law authorized under this Act, enter at any reasonable hour upon any land or premises, and inspect the land or premises or any crops, hay, grain, fodder, screenings, machine, grain elevator, crop processing plant or equipment on the land or in the premises.

(3) An inspector acting under subsection (2) shall not enter any building unless the owner or occupant of the land upon which the building is located consents to the entry or, if the owner or occupant does not consent, the inspector first gives him a notice under subsection (4).

(4) A notice referred to in subsection (3) must

(a) be in writing,

(b) name a reasonable time of entry, and

(c) be served in the manner required by section 21 at least 24 hours before the time of entry.

(5) Subsection (3) does not apply if the building is, or is part of, a seed cleaning plant, grain elevator or auction market.

(6) When acting under the authority of this Act, an inspector shall carry the identification supplied to him under section 4 or 5 and present it upon request to the owner or occupant of the land or premises referred to in subsection (2).

12(1) An inspector who finds any restricted weeds or noxious weeds in or on any land, premises, vehicle, standing crop, hay, grain, fodder, machine, grain elevator, crop processing plant or equipment shall, in the case of restricted weeds, and may, in the case of noxious weeds, give a notice in writing

(a) in the case of land, to the occupant or, if the land is unoccupied, to the owner, and

(b) in the case of personal property, to the owner

to destroy the restricted weeds or control the noxious weeds.

(2) A notice under subsection (1) may include a direction to destroy crops containing restricted or noxious weeds if the destruction of crops is necessary, in the inspector’s opinion, in order to destroy the restricted weeds or control the noxious weeds.

11 Right of inspector to enter and inspect.

12 Inspector may give notice to owner or occupant to remedy weed problem.

(3) A notice under subsection (1) shall set out the time and methods by which the weeds or crops are to be destroyed or controlled, and the methods may include systems of tillage, cropping or management that the inspector considers constitute good agricultural practice for the land and district concerned.

13(1) An inspector who finds restricted weeds or noxious weeds on land that is unoccupied or on land the occupant of which he is not reasonably able to discover, and after inquiry determines that it is not practicable to give a notice under section 12(1) within 5 days, may cause the restricted weeds to be destroyed or the noxious weeds to be controlled or the crops to be destroyed immediately by any means consistent with good agricultural practice.

(2) An inspector shall as soon as possible after acting under subsection (1) notify the owner of the land in accordance with section 21 of the action taken.

14 An inspector may give a notice requiring the destruction of restricted weeds or the control of noxious weeds in the next following year and that notice shall have the same effect as if given in the year in which the work is to be done.

15(1) In this section, “selective herbicide” means a herbicide commonly used for the control or destruction of weeds in growing crops and registered for that purpose under *The Pest Control Products Act* (Canada).

(2) Except in the case of restricted weeds, no notice shall require the destruction of more than 20 acres of growing crop without the written consent of the local authority of the municipality in which the land is located.

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

(a) spray with a selective herbicide, or

(b) direct the spraying with a selective herbicide of

an area in excess of 20 acres without the prior written consent of the local authority.

(4) A selective herbicide applied under subsection (3) shall be applied pursuant to the regulations and to *The Agricultural Chemicals Act* and regulations under that Act.

16 If a person fails to comply with a notice given by an inspector under section 12(1) or 14 the inspector may, subject to section 30, cause the acts required to be done under the

13 Inspector may remedy weed problem.

14 Notice to remedy for next following year.

15 Spraying crops of 20 acres or more.

16 Inspector may remedy weed problem if owner or occupant does not.

notice to be carried out by any means consistent with good agricultural practice.

17(1) If an inspector finds restricted or noxious weeds on any land he may give notice to the occupant or owner of the land prohibiting him from growing a crop of any kind on the land, limiting the kind of crop that may be grown or imposing any conditions and restrictions in respect of grazing, haying or any other use of the land that he considers necessary to prevent the spread of the weeds.

(2) A notice given under subsection (1) shall cease to have effect one year following the date on which it is served.

(3) An inspector may, without the requirement of any further notice and notwithstanding section 15, destroy any crop sown or allowed to grow on the land in contravention of a notice under subsection (1).

18(1) In this section,

(a) “rural municipality” means a county, municipal district, special area or improvement district;

(b) “urban municipality” means a city, town, new town, village or summer village.

(2) Notwithstanding any other provision of this Act, an inspector for a rural municipality has concurrent jurisdiction under this Act with an inspector for an urban municipality in respect of a seed cleaning plant, grain elevator, farm produce processing plant, auction market, farm implement storage lot or feed or fertilizer plant that is located in the urban municipality, if the urban municipality is completely bounded by the rural municipality.

19(1) In this section, “subdivided land” means a parcel or lot of 20 acres or less that is shown on a certificate of title issued under *The Land Titles Act*.

(2) A local authority may, on or before June 30 in any year, give a notice to the owners or occupiers of subdivided land within the municipality to destroy restricted weeds or control noxious weeds within the time specified in the notice.

(3) A notice may be given under subsection (2) by forwarding it by regular post to the owners or occupants of the subdivided land to which the notice relates at their last known address as shown on the assessment roll of the municipality.

17 Inspector may give notice controlling growing of crops.

18 Concurrent authority of inspectors in certain cases.

19 Local authority may give general form of notice to owners and occupiers in a subdivision.

(4) If an owner or occupant fails to comply with a notice given to him under subsection (2), the local authority may direct an inspector to carry out the terms of the notice.

20(1) Notwithstanding any other provision in this Act, if the Minister is satisfied that any person

(a) has contravened or is contravening a provision of this Act or the regulations,

(b) owns or operates anything that causes the spread of weeds, or

(c) has contravened a term or condition of a licence to operate a seed cleaning plant

the Minister may issue an order (in this section called a “stop order”) to that person in accordance with subsection (2).

(2) In a stop order, the Minister may order the person to whom it is directed to

(a) cease the contravention specified in the order, and

(b) stop any operations or shut down or stop the operation of any plant, equipment, structure or thing specified in the order, either permanently or for a specified period,

and the stop order shall contain the reasons for making it.

(3) The Minister shall cause a copy of the stop order to be served on the person to whom it is directed, and upon receipt of the copy, the person to whom the stop order is directed shall comply with the order forthwith.

(4) A person to whom a stop order is directed and who fails to comply with the order forthwith upon service of a copy of it upon him or subsequently, is guilty of an offence and liable on summary conviction to a fine of not more than \$500 for each day that the offence continues.

(5) If the person to whom a stop order is directed fails to comply with the stop order forthwith upon service of a copy of it upon him or subsequently, the Minister may apply to the Court of Queen’s Bench by way of originating notice for an order of the Court directing that person to comply with the stop order.

(6) If the person to whom the stop order is directed fails to comply with the stop order forthwith upon service of a copy of the order of the Court of Queen’s Bench under subsection (5) upon him or subsequently,

20 Minister may issue a stop order to prevent contravention of the Act.

(a) the failure to comply with the stop order may be dealt with by the Court as in the case of a civil contempt of the Court,

(b) an inspector authorized by the Minister for the purpose and any other persons assisting that inspector may without notice and without incurring liability, enter upon any land and do any acts that are necessary to carry out the stop order,

(c) the sheriff, the sheriff's bailiff and any other persons under the written direction of the sheriff may assist the inspector and his assistants in enforcing their powers and duties under clause (b), and

(d) the Minister may recover by action any expenses incurred by the Government in carrying out the stop order pursuant to clause (b) from the person to whom the stop order was directed.

(7) The Minister may

(a) amend a stop order if he considers it advisable in the circumstances to do so, or

(b) revoke a stop order,

and shall notify accordingly the person to whom the stop order was directed.

(8) Service of the order required under subsections (3) and (6) and the notification under subsection (7) shall be effected in the same manner as service of a notice is effected under section 21.

21 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

(a) by delivering it personally to that person,

(b) by leaving it with a person apparently over the age of 18 years at the dwelling place or place of business of the person to whom it is addressed,

(c) by sending it by double registered mail or certified mail to the last known address of the person to whom it is addressed as shown on the assessment roll of the municipality in which the land to which the notice relates is situated, or

(d) if, in the opinion of the inspector, service under clause (a), (b) or (c) cannot reasonably be effected, by posting it in a conspicuous place on the land referred to in the notice.

21 Service of notices.

22 When this Act provides for filing or service of anything by double registered mail or certified mail, the filing or service shall be deemed to be effected at the time the thing is delivered by an official of the post office to the person with whom it is to be filed or on whom it is to be served or to any person receiving it on his behalf.

23 When this Act permits service of a notice on a person other than the owner and the notice is served on that person, a copy of it shall, as soon as possible, also be served on the owner and the provisions of this Act that govern the method of service on the other person apply to service on the owner.

24 An inspector shall keep a copy of every notice he gives and shall, within 5 days after he gives a notice, provide a copy of it to the municipal secretary.

25 A municipal secretary shall, on the request of a mortgagee or purchaser of land, provide him with copies of all notices given under this Act that relate to lands on which he holds a mortgage.

26(1) If a notice under this Act is served on the owner of the land to which the notice relates, a change of ownership of that land subsequent to the service does not invalidate the notice and the notice is effective against the subsequent owner as if it had been served on him on the date that it was served on the previous owner and as if he had been the owner on that date.

(2) An owner of land in respect of which a notice under section 12, 14, 17(1) or 19(2) has been given who leases, sells or otherwise disposes of the land shall, before or at the time the agreement is entered into, provide to the purchaser or lessee a copy of the notice.

27(1) If expenses are incurred by an inspector appointed under section 5 in the carrying out of any work under section 13(1), 16, 17(3) or 19(4), the municipal secretary shall serve a statement of the expenses and a demand for payment of them on the owner of the land in respect of which the work was carried out.

(2) The statement and demand under subsection (1) shall be served in the same manner as a notice is served under section 21.

(3) If,

22 When document is deemed to be filed or served.

23 Service of notice on owner.

24 Inspector to send copy of notice to municipal secretary.

25 Municipal secretary to supply copies of notices to mortgagee.

26 Notice served on owner binds the subsequent owner.

27 Recovery of inspectors' expenses by municipality.

(a) in the case of work carried out under section 13(1), the owner fails to file a notice of dispute with the municipal secretary under subsection (4), or

(b) in the case of work carried out under section 16, 17(3) or 19(4), the owner fails to pay the amount set out in the statement

within 30 days of receiving the statement, the municipal secretary shall immediately cause the amount owing 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) If a statement and demand for payment is served for work carried out under the authority of section 13(1), the owner may file with the municipal secretary, within the 30-day period referred to in subsection (3), a notice of dispute denying his liability for the expenses or disputing the amount owing, and the local authority may thereafter proceed against that person only by action for the amount owing.

28(1) A person who

(a) has an interest in land as an owner or occupant, and

(b) considers himself aggrieved by a notice given by an inspector under section 12, 14 or 17(1) that relates to the land

may appeal to the local authority of the municipality in which that land is located by filing a notice of appeal under this section.

(2) A notice of appeal shall be in writing and shall set out

(a) the name and address of the appellant,

(b) a copy of the notice in respect of which the appeal is being taken,

(c) the legal description of the land affected, and

(d) the grounds for appeal.

(3) A notice of appeal shall be delivered personally or sent by double registered mail or certified mail to the municipal secretary, within the time specified in the notice for doing the thing required by the notice or 15 days, whichever is less.

(4) A notice of appeal shall be accompanied by a deposit of \$50 which shall be refunded if the appellant is successful in his appeal under this section or in a review under section 29.

28 Appeal to local authority.

(5) If the local authority appealed to is the Minister of Municipal Affairs he shall, within 30 days of receipt of the notice of appeal, appoint a committee to hear and determine the appeal.

(6) If the local authority appealed to is a body other than the Minister of Municipal Affairs it shall, within 30 days of receipt of the notice of appeal, hear and determine the appeal or appoint a committee to hear and determine it.

(7) The local authority or committee may confirm, rescind or vary the notice that was given.

(8) The municipal secretary shall, upon determination of the appeal, send a copy of the decision together with the written reasons, if any, by double registered mail or certified mail to the appellant.

29(1) An appellant who is dissatisfied with the decision of a local authority or committee under section 28 may, within 7 days after he receives a copy of the decision, request a review of the decision or any part of it by the Minister.

(2) The Minister may confirm, rescind or vary the decision of the local authority or committee.

30 If a notice of appeal is filed under section 28(3), the notice referred to in that section is stayed until

(a) the appeal under that section is disposed of, or

(b) a review under section 29 is conducted or the time for requesting the review under section 29 has expired without a review being requested.

31 An occupant of land or, if the land is unoccupied, the owner of the land, shall destroy all restricted weeds growing or located on the land as often as is necessary to prevent the spread, growth, ripening or scattering of the restricted weeds.

32 An owner or occupant of land who receives a notice under this Act shall, subject to any right of appeal given by this Act, carry out the directions contained in the notice.

33 A person who has in his possession screenings or other refuse containing weed seeds shall

(a) dispose of the screenings or refuse as directed by an inspector, or

29 Review by Minister of local authority's decision.

30 Notice stayed pending appeals.

31 Offence to permit the existence of restricted weeds on land.

32 Obligation on owners and occupiers to destroy and control weeds.

33 Disposal or storage of material containing weed seeds.

(b) store the screenings or refuse in a container so that the weed seeds will not be scattered.

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

35 No person shall move a machine or vehicle if the movement is likely to cause the spread of a restricted, noxious or nuisance weed.

36 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 unless he holds a licence to operate a seed cleaning plant issued under the regulations.

37 No person shall wilfully obstruct or delay an inspector carrying out his duties under this Act or the regulations.

38 A person who contravenes or fails to comply with section 26(2), 31, 32, 33, 34, 35, 36 or 37, the regulations, a final decision of a local authority or committee under section 28 or a decision of the Minister under section 29 is guilty of an offence and liable on summary conviction to a fine of not less than \$50 or more than \$500.

39 A fine that is imposed for an offence under this Act that is committed within a city, town, village, summer village, county, municipal district or new town enures to the benefit of the city, town, village, summer village, county, municipal district or new town.

40 The Lieutenant Governor in Council may make regulations

- (a) designating plants as restricted, noxious or nuisance weeds, generally or in respect of any part of Alberta;
- (b) respecting qualifications of inspectors;
- (c) respecting the content and use of forms;
- (d) respecting the manner of and procedures for destroying restricted weeds and controlling noxious weeds;

34 Creates offence for depositing weed seeds.

35 Creates offence for moving things which cause the spread of weeds.

36 Licence to operate seed cleaning plant.

37 Offence to obstruct inspector.

38 Offence to breach Act, regulations or notice.

39 Fines enure to local authority.

40 Lieutenant Governor in Council may make regulations.

(e) respecting the sale, purchase, storage, processing or transportation of any material or substance infested with restricted, noxious or nuisance weeds;

(f) respecting 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 of licences;

(g) respecting the transportation, use and handling of screenings containing weed seeds;

(h) respecting the use and manner of application of selective herbicides for the purposes of section 15.

41 The Crown is bound by this Act.

42 Any notice given and any action taken under *The Weed Control Act* shall, upon the coming into force of this Act, be deemed to have been given or taken under this Act, and this Act shall govern any further proceedings.

43 *The Weed Control Act* is repealed on a date or dates to be fixed by Proclamation.

44 This Act comes into force on a date or dates to be fixed by Proclamation.

41 Crown is bound.

42 Transitional.

43 Repeals Chapter 96 of the Statutes of Alberta, 1972.