

IN THE SENATE

SENATE BILL NO. 1073

BY AGRICULTURAL AFFAIRS COMMITTEE

AN ACT

1 RELATING TO NOXIOUS WEEDS; AMENDING SECTION 22-2402, IDAHO CODE, TO DEFINE  
2 TERMS AND TO REVISE A DEFINITION; AND AMENDING SECTION 22-2404, IDAHO  
3 CODE, TO AUTHORIZE THE DIRECTOR OF THE IDAHO STATE DEPARTMENT OF AGRI-  
4 CULTURE TO ALLOW THE COLLECTION, REMOVAL AND MOVEMENT OF NOXIOUS WEEDS  
5 FROM AN INFESTED AREA TO A FACILITY WITHIN THE STATE FOR PURPOSES OF BIO-  
6 LOGICAL CONTROL RESEARCH AND TO PROVIDE CONDITIONS.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Section 22-2402, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11 22-2402. DEFINITIONS. As used in this chapter:

12 (1) "Agency" means:

13 (a) In the case of the federal government, any authority which exer-  
14 cises administrative control over defined areas of federal lands within  
15 the state of Idaho;

16 (b) In the case of the state of Idaho, any department, board, commis-  
17 sion, or institution;

18 (c) In the case of local government, cities, counties and any legal  
19 subdivisions thereof, drainage districts, irrigation districts, canal  
20 companies, highway districts, or any special taxing district.

21 (2) "Applicable fund or account" means:

22 (a) In the case of the state of Idaho, the noxious weed account, which is  
23 hereby created and established in the dedicated fund and which shall be  
24 used exclusively for the purposes prescribed by this chapter;

25 (b) In each county, the noxious weed fund, which is hereby created and  
26 established and shall be maintained in each county and which shall be  
27 used exclusively for the purposes prescribed by this chapter.

28 (3) "Aquatic plant" means any plant growing in, or closely associated  
29 with, the aquatic environment and includes, but is not limited to, riparian  
30 plants.

31 (4) "Article" means any item, animate or inanimate, designated by the  
32 director in rule as being capable of spreading noxious weeds.

33 (5) "Biological control agent" means an organism used to contain, con-  
34 trol or eradicate noxious weeds.

35 (6) "Containment" means halting the spread of a weed infestation beyond  
36 specified boundaries.

37 (57) "Control" means any or all of the following: prevention, rehabil-  
38 itation, eradication or modified treatments.

39 (68) "Control authority" means:

40 (a) On the state level, the director of the department of agriculture;

41 (b) On the county level, the board of county commissioners.

1 (79) "Cooperative weed management area (CWMA)" means a distinguishable  
 2 hydrologic, vegetative or geographic zone based upon geography, weed infes-  
 3 tations, climate or human-use patterns. Cooperative weed management areas  
 4 may be composed of a portion of a county, a county, portions of several coun-  
 5 ties, or portions of one (1) or more states.

6 (810) "Department" means the Idaho state department of agriculture.

7 (911) "Director" means the director of the department of agriculture or  
 8 the director's designated agent.

9 (102) "Eradication" means the elimination of a noxious weed based on ab-  
 10 sence as determined by a visual inspection by the control authority during  
 11 the current growing season.

12 (113) "Integrated weed management plan (IWMP)" means a plan developed  
 13 to manage, control or eradicate a noxious weed(s) from a cooperative weed  
 14 management area or other weed management area. Integrated weed management  
 15 strategies may include, but are not limited to, prevention, cultural, me-  
 16 chanical, chemical and biological methods.

17 (124) "Land" means all soil or water or other growing medium.

18 (135) "Landowner" means:

19 (a) The person who holds legal title to the land, except that portion  
 20 for which another person has the right to exclude others from possession  
 21 of the parcel; or

22 (b) A person with an interest in a parcel of land such that the person  
 23 has the right to exclude others from possession of the parcel.

24 (146) "Modified treatment" means treatment specified in an integrated  
 25 weed management plan.

26 (157) "Noxious weed" means any plant having the potential to cause in-  
 27 jury to public health, crops, livestock, land or other property; and which is  
 28 designated as noxious by the director.

29 (168) "Person" means any individual, partnership, firm, agency, corpo-  
 30 ration, company, society or association.

31 (179) "Prevention" means:

32 (a) Any action that reduces the potential for the introduction or es-  
 33 tablishment of a plant species in areas not currently infested with that  
 34 species; or

35 (b) Any action that deters the spread of noxious weeds.

36 (1820) "Quarantine" means the regulation of the production, movement,  
 37 or existence of plants, plant products, animals, animal products, or any  
 38 other article or material, or the normal activity of persons, to prevent or  
 39 limit introduction or spread of noxious weeds.

40 (1921) "Rehabilitation" means the process of reconditioning formerly  
 41 weed infested land to a productive or desirable condition.

42 (202) "Riparian" means the green, vegetated areas along the edge of  
 43 water bodies like rivers, creeks, canals, lakes, springs, sloughs, pot-  
 44 holes and wetlands. They are the transition zone between upland and aquatic  
 45 ecosystems. Underlying saturated soil is a key feature in riparian areas.

46 (213) "State noxious weed advisory committee" means an advisory commit-  
 47 tee appointed by the director to advise and to assist in development, modifi-  
 48 cation and direction of a statewide noxious weed management strategy.

49 (24) "Viable" means a plant capable of surviving or living success-  
 50 fully, especially under particular environmental conditions.

1           (225) "Waters" means all the accumulations of water, surface and under-  
2 ground, natural and artificial, public and private, or parts thereof which  
3 are wholly or partially within, which flow through, or which border upon the  
4 state.

5           (236) "Weed control advisory committee" means a committee established  
6 by weed control agencies or authorities, at the county level, or a steering  
7 committee of a cooperative weed management area, to develop and to recommend  
8 implementation of integrated weed management plans and strategies.

9           SECTION 2. That Section 22-2404, Idaho Code, be, and the same is hereby  
10 amended to read as follows:

11           22-2404. STATE POWERS. (1) The director is authorized to:

- 12           (a) Investigate the subject of noxious weeds; and  
13           (b) Require information, annual work plans and reports from each county  
14 and from each state agency as to the presence of noxious weeds and other  
15 information relative to noxious weeds and the control thereof; and  
16           (c) To cooperate with agencies and persons in carrying out the direc-  
17 tor's duties under this chapter, and to conduct matters outside this  
18 state in the interest of state noxious weed control; and  
19           (d) Advise and confer as to the extent of noxious weed infestations and  
20 the methods of control; and  
21           (e) Assist counties in the training of county weed superintendents; and  
22           (f) Call and attend meetings and conferences dealing with the subject  
23 of noxious weeds; and  
24           (g) Disseminate information and conduct educational campaigns inde-  
25 pendently or in cooperation with others; and  
26           (h) Appoint a state noxious weed advisory committee, as provided by  
27 section 22-103, Idaho Code, to aid in the development and implementa-  
28 tion of a statewide noxious weed management strategy, aid in evaluation  
29 of cost share projects and research proposals, and advise the director  
30 on matters pertaining to the state noxious weed program; and  
31           (i) Procure materials and equipment; and  
32           (j) Inspect and certify Idaho crops and imports and exports to verify  
33 freedom from noxious weeds, and authorize others to conduct such in-  
34 spections and certification; and  
35           (k) Enter on any public or private land at reasonable times for the pur-  
36 pose of carrying out the provisions of this chapter; and  
37           (l) Apply to any court of competent jurisdiction for a search warrant  
38 authorizing access to any land where access was denied and sought for  
39 the purposes set forth in this chapter. The court may, upon such appli-  
40 cation, issue the search warrant for the purposes requested; and  
41           (m) Perform such other acts as may be necessary or appropriate to the  
42 administration of the provisions of this chapter; and  
43           (n) Cooperate with the federal government or any established agency  
44 thereof in any program of noxious weed control which shall be deemed  
45 advisable for the welfare of the people of the state of Idaho, accept any  
46 advisable program and make any necessary rules which are not in contra-  
47 diction to the purposes of this chapter; and  
48           (o) Accept any gift, grant, contract or other funds, or grants-in-aid  
49 from the federal government or other entities for noxious weed control

1 purposes and account for such moneys as prescribed by the state con-  
2 troller, and all such funds are hereby appropriated to the purpose for  
3 which they are received; and

4 (p) Initiate agreements with federal agencies in accordance with ap-  
5 plicable federal laws; and

6 (q) Control noxious weeds on federal land within the state, with or  
7 without reimbursement, and with the consent of the federal agency in-  
8 volved; and

9 (r) Take any appropriate action necessary to control or quarantine nox-  
10 ious weed infestations whenever an actual or potential emergency situa-  
11 tion exists concerning noxious weed infestations anywhere in the state;  
12 and

13 (s) Initiate cooperative agreements with other agencies and states for  
14 the establishment and support of cooperative weed management areas; and

15 (t) Aid other weed control agencies or authorities in developing and  
16 implementing integrated weed management plans for control of noxious  
17 weeds; and

18 (u) Temporarily designate a weed as noxious for up to fifteen (15)  
19 months, after publication in a newspaper of general circulation serving  
20 the area of infestation; and

21 (v) Authorize the issuance of deficiency warrants for the purposes of  
22 defraying excess costs for the control of noxious weeds for emergency  
23 situations, in the event the actual cost for the control of noxious  
24 weeds in any one (1) year exceeds the appropriations made for that pur-  
25 pose. When so authorized the state controller shall draw deficiency  
26 warrants against the general account; and

27 (w) Allow the collection, removal and movement of noxious weeds from an  
28 infested area to a facility within the state of Idaho for purposes of bi-  
29 ological control research, so long as the following conditions are sat-  
30 isfied:

31 1. The director is notified in writing of the research project at  
32 least thirty (30) days prior to any collection, removal or move-  
33 ment of noxious weeds;

34 2. Collection, removal and movement activities are conducted us-  
35 ing methods that prevent the dissemination of noxious weeds;

36 3. The biological control agent that is the subject of the re-  
37 search is not a plant pest within the meaning of the plant pest act  
38 of 2002, an invasive species within the meaning of the invasive  
39 species act of 2008 or a noxious weed within the meaning of this  
40 chapter;

41 4. Viable noxious weeds, as determined by the department, are not  
42 reintroduced into the environment as a component or result of the  
43 biological control research;

44 5. Any articles, including but not limited to plant parts, that  
45 are collected for transport as part of biological control research  
46 must be destroyed or treated at the research facility in such a way  
47 as to destroy the viability of any plant pests, invasive species  
48 and noxious weeds or be returned to the point of original collec-  
49 tion; and

1           6. The project is conducted in accordance with such other condi-  
2           tions as may be set in writing by the director to ensure contain-  
3           ment during collection, removal and movement of the noxious weed.

4           (2) If at any time the director determines that the county commission-  
5           ers have failed to cooperate or carry out their duties and responsibilities  
6           as a control authority, the director shall notify them of the deficiency, and  
7           suggest corrective action. If the situation is not satisfactorily corrected  
8           within seven (7) days after the time outlined in the director's corrective  
9           action plan, the director shall initiate appropriate action and charge to  
10          the county all expenses including the hiring of necessary labor and equip-  
11          ment. Quarantine of specific crops or potential noxious weed propagating  
12          activities may be a part of the control program.