

IN THE SENATE

SENATE BILL NO. 1073, As Amended in the House

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
6 BIOLOGICAL CONTROL RESEARCH, TO PROVIDE CONDITIONS, TO PROVIDE A LIMIT-
7 TATION ON PENALTIES, TO PROVIDE FOR COMPLIANCE WITH SPECIFIED PROTOCOL
8 AND TO PROVIDE CONDITIONS PRIOR TO IMPLEMENTATION OF SPECIFIED PROVI-
9 SIONS.
10

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

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

14 22-2402. DEFINITIONS. As used in this chapter:

15 (1) "Agency" means:

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

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

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

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

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

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

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

34 (4) "Article" means a particular kind of object, and includes any type
35 of conveyance, mode of transport or associated materials such as water.

36 (5) "Classical biological control" means the introduction of control
37 agents into a region, that is not part of their natural range, to suppress
38 permanently the populations of selected target weeds usually also intro-
39 duced into that region. "Augmentative biological control" means the supple-
40 mental release of control agents into a region, that is part of their natural
41 range, to suppress permanently the populations of selected target weeds.

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

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

5 (68) "Control authority" means:

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

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

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

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

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

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

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

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

25 (135) "Landowner" means:

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

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

31 (146) "Modified treatment" means treatment specified in an integrated
32 weed management plan.

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

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

38 (179) "Prevention" means:

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

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

43 (1820) "Quarantine" means the regulation of the production, movement,
44 or existence of plants, plant products, animals, animal products, or any
45 other article or material, or the normal activity of persons, to prevent or
46 limit introduction or spread of noxious weeds.

47 (1921) "Rehabilitation" means the process of reconditioning formerly
48 weed infested land to a productive or desirable condition.

49 (202) "Riparian" means the green, vegetated areas along the edge of
50 water bodies like rivers, creeks, canals, lakes, springs, sloughs, pot-

1 holes and wetlands. They are the transition zone between upland and aquatic
2 ecosystems. Underlying saturated soil is a key feature in riparian areas.

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

6 (24) "Viable" means a plant or plant part capable of surviving or liv-
7 ing successfully, especially under particular environmental conditions.

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

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

16 (27) "Hybrid" means the offspring of two (2) plants of different
17 breeds, varieties, species or genera.

18 (28) "Releasing" means releasing, placing, planting, or causing to be
19 released, a species in a water body, facility, water supply system, field,
20 garden, planted area, ecosystem or otherwise into the environment within the
21 state of Idaho.

22 (29) "Researcher" means someone who has the generally accepted educa-
23 tion, experience and position within the biological control research commu-
24 nity.

25 (30) "Research facility" means any laboratory, institution, college or
26 university, at which scientific tests, experiments or peer-reviewed inves-
27 tigations involving the use of any living plants is carried out, conducted
28 or attempted and that receives funds under a grant, award or contract from a
29 department, agency, or instrumentality of the United States for the purpose
30 of carrying out research, tests or experiments and that uses generally ac-
31 cepted protocols at an equivalent or higher level than a U.S. center for dis-
32 ease control and prevention biosafety level 1 facility.

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

35 22-2404. STATE POWERS. (1) The director is authorized to:

36 (a) Investigate the subject of noxious weeds; and

37 (b) Require information, annual work plans and reports from each county
38 and from each state agency as to the presence of noxious weeds and other
39 information relative to noxious weeds and the control thereof; and

40 (c) To cooperate with agencies and persons in carrying out the direc-
41 tor's duties under this chapter, and to conduct matters outside this
42 state in the interest of state noxious weed control; and

43 (d) Advise and confer as to the extent of noxious weed infestations and
44 the methods of control; and

45 (e) Assist counties in the training of county weed superintendents; and

46 (f) Call and attend meetings and conferences dealing with the subject
47 of noxious weeds; and

48 (g) Disseminate information and conduct educational campaigns inde-
49 pendently or in cooperation with others; and

1 (h) Appoint a state noxious weed advisory committee, as provided by
2 section 22-103, Idaho Code, to aid in the development and implementa-
3 tion of a statewide noxious weed management strategy, aid in evaluation
4 of cost share projects and research proposals, and advise the director
5 on matters pertaining to the state noxious weed program; and
6 (i) Procure materials and equipment; and
7 (j) Inspect and certify Idaho crops and imports and exports to verify
8 freedom from noxious weeds, and authorize others to conduct such in-
9 spections and certification; and
10 (k) Enter on any public or private land at reasonable times for the pur-
11 pose of carrying out the provisions of this chapter; and
12 (l) Apply to any court of competent jurisdiction for a search warrant
13 authorizing access to any land where access was denied and sought for
14 the purposes set forth in this chapter. The court may, upon such appli-
15 cation, issue the search warrant for the purposes requested; and
16 (m) Perform such other acts as may be necessary or appropriate to the
17 administration of the provisions of this chapter; and
18 (n) Cooperate with the federal government or any established agency
19 thereof in any program of noxious weed control which shall be deemed
20 advisable for the welfare of the people of the state of Idaho, accept any
21 advisable program and make any necessary rules which are not in contra-
22 diction to the purposes of this chapter; and
23 (o) Accept any gift, grant, contract or other funds, or grants-in-aid
24 from the federal government or other entities for noxious weed control
25 purposes and account for such moneys as prescribed by the state con-
26 troller, and all such funds are hereby appropriated to the purpose for
27 which they are received; and
28 (p) Initiate agreements with federal agencies in accordance with ap-
29 plicable federal laws; and
30 (q) Control noxious weeds on federal land within the state, with or
31 without reimbursement, and with the consent of the federal agency in-
32 volved; and
33 (r) Take any appropriate action necessary to control or quarantine nox-
34 ious weed infestations whenever an actual or potential emergency situa-
35 tion exists concerning noxious weed infestations anywhere in the state;
36 and
37 (s) Initiate cooperative agreements with other agencies and states for
38 the establishment and support of cooperative weed management areas; and
39 (t) Aid other weed control agencies or authorities in developing and
40 implementing integrated weed management plans for control of noxious
41 weeds; and
42 (u) Temporarily designate a weed as noxious for up to fifteen (15)
43 months, after publication in a newspaper of general circulation serving
44 the area of infestation; and
45 (v) Authorize the issuance of deficiency warrants for the purposes of
46 defraying excess costs for the control of noxious weeds for emergency
47 situations, in the event the actual cost for the control of noxious
48 weeds in any one (1) year exceeds the appropriations made for that pur-
49 pose. When so authorized the state controller shall draw deficiency
50 warrants against the general account; and

1 (w) Allow the collection, removal and movement of noxious weeds by a re-
2 searcher from an infested area in Idaho to a facility within Idaho when
3 available within the state of Idaho for purposes of biological control
4 research, so long as the following conditions are satisfied and certi-
5 fied by the researcher and the director in legally binding and notarized
6 documents:

7 1. The director is notified in writing by the researcher the pre-
8 precise details of the proposed research project at least thirty (30)
9 days prior to any contemplated collection, removal or movement of
10 noxious weeds. The director and specialist staff shall conduct
11 a review of the proposed research project and complete a written
12 project approval plan that includes details of all appropriate
13 actions that will be taken to ensure implementation and protection
14 of the authority of the director as outlined in section 22-2403,
15 Idaho Code, the state powers as outlined in section 22-2404, Idaho
16 Code, the county duties as outlined in section 22-2405, Idaho
17 Code, the county powers as outlined in section 22-2406, Idaho
18 Code, the landowner duties as outlined in section 22-2407, Idaho
19 Code, and the landowner and citizen powers as outlined in section
20 22-2408, Idaho Code. The researcher shall take no action prior
21 to written approval from all control authorities. The written
22 approval process shall also contain a notification to all other
23 appropriate entities as outlined in this chapter;

24 2. The collection, removal and movement activities are certified
25 in writing that they will be conducted using methods and protocols
26 prescribed and generally accepted in the biological control re-
27 search community that prevent the dissemination of noxious weeds;

28 3. The biological control agent that is the subject of the re-
29 search is not a plant pest within the meaning of the plant pest
30 act of 2002, an invasive species within the meaning of the invasive
31 species act of 2008 or a viable noxious weed within the meaning of
32 this chapter;

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

36 5. Any articles, including but not limited to plant parts, that
37 are collected for transport as part of biological control research
38 must be destroyed or treated at the research facility in such a way
39 as to destroy the viability of any plant pests, invasive species,
40 hybrids and noxious weeds; and

41 6. The project is conducted in accordance with such other condi-
42 tions as may be set in the written approval document by the direc-
43 tor to ensure containment during collection, removal and movement
44 of the noxious weed.

45 Penalties for intentional transportation or release of a biological
46 control agent shall not exceed those established in the plant protec-
47 tion act (Title 7, USC 7734).

48 Should it be necessary to transport a biological control agent into or
49 out of the state of Idaho all appropriate biological control protocols
50 shall be followed as delineated by the appropriate federal agencies

1 such as the USDA animal plant health inspection service plant protec-
2 tion quarantine (USDA APHIS PPQ) .

3 None of the actions authorized in this paragraph shall be carried out
4 until the director both outlines the actions and certifies to the board
5 of examiners that the specific funding and personnel necessary for all
6 actions is available within the current operational budget of the Idaho
7 state department of agriculture.

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