



HB0038

**Weed and pest amendments.**

Sponsored By: Joint Agriculture, State and Public Lands & Water  
Resources Interim Committee

AN ACT relating to weed and pest control; amending provisions related to inspections and remediation of weed and pest infestations; repealing a related provision; and providing for an effective date.

1/7/2020 Bill Number Assigned  
2/7/2020 H Received for Introduction  
2/10/2020 H Introduced and Referred to H05 - Agriculture 47-10-3-0-0

**ROLL CALL**

**Ayes:** Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clausen, Clifford, Connolly, Crank, Dayton-Selman, Eklund, Eyre, Freeman, Furphy, Haley, Hallinan, Harshman, Henderson, Hunt, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Loucks, Macguire, Newsome, Nicholas, Northrup, Obermueller, Olsen, Paxton, Pelkey, Piiparinen, Pownall, Roscoe, Schwartz, Simpson, Sommers, Stith, Sweeney, Walters, Washut, Western, Wilson, Yin, Zwonitzer

**Nays:** Representative(s) Clem, Edwards, Flitner, Gray, Jennings, Miller, Salazar, Styvar, Tass, Winter

**Excused:** Representative(s) Duncan, Greear, Lindholm

**Ayes 47 Nays 10 Excused 3 Absent 0 Conflicts 0**

2/11/2020 H05 - Agriculture:Recommend Amend and Do Pass 9-0-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Blake, Clausen, Haley, Henderson, Hunt, Laursen, Simpson, Tass, Winter

**Ayes 9 Nays 0 Excused 0 Absent 0 Conflicts 0**

2/11/2020 H Placed on General File

**HB0038HS001/ADOPTED**

Page 3-line 22 Delete "control procedures," and insert "assisting the landowner in developing an integrated pest management plan for the species in question and potential estimated costs if available".

Page 4-lines 1 and 2 Delete all new language.

Page 4-line 9 Before "cost" insert "estimated".

Page 4-line 10 Delete all new language and insert "that may be shared with the landowner, as determined by district board policy". HUNT, CHAIRMAN

**HB0038HW001/ADOPTED**

Page 3-line 15 Delete "general" and insert "particularized". WASHUT

2/12/2020 H COW:Passed

**HB0038H2001/ADOPTED**

Page 2-line 16 After "mail" insert: "or other electronic means that provide actual notice to the landowner or occupant".

Page 4-line 5 After "mail" insert "or other electronic means that provide actual notice to the landowner or occupant".  
NEWSOME

**HB0038H2002/ADOPTED**

Page 2-line 23 Before "inspection" insert "administrative".

Page 3-line 3 Before "inspection" insert "administrative".

Page 3-line 4 Before "inspection" insert "administrative".  
LAURSEN

2/13/2020 H 2nd Reading:Passed

**HB0038H3001/FAILED**

Page 2-lines 5 through 23 Delete the Newsome second reading amendment (HB0038H2001/A) to these lines and the Laursen second reading amendment (HB0038H2002/A) to these lines and further amend as follows: reinsert all stricken language and delete all new language.

Page 3-lines 1 through 16 Delete entirely including the Washut committee of the whole amendment (HB0038HW001/A) to these lines and the Laursen second reading amendment (HB0038H2002/A) to these lines. ZWONITZER

2/14/2020 H 3rd Reading:Passed 51-9-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Barlow, Blake, Brown, Burkhart, Burlingame, Clausen, Clem, Clifford, Connolly, Dayton-Selman, Duncan, Eklund, Eyre, Freeman, Furphy, Gray, Haley, Hallinan, Harshman, Henderson, Hunt, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Lindholm, Loucks, Macguire, Miller, Newsome, Nicholas, Northrup, Obermueller, Olsen, Paxton, Pelkey, Piiparinen, Pownall, Roscoe, Salazar, Schwartz, Simpson, Sommers, Stith, Sweeney, Tass, Washut, Western, Wilson, Winter, Yin

**Nays:** Representative(s) Blackburn, Crank, Edwards, Flitner, Greear, Jennings, Styvar, Walters, Zwonitzer

**Ayes** 51      **Nays** 9      **Excused** 0      **Absent** 0      **Conflicts** 0

2/17/2020 S Received for Introduction

2/24/2020 S Introduced and Referred to S05 - Agriculture

2/26/2020 S05 - Agriculture:Recommend Amend and Do Pass 4-1-0-0-0

**ROLL CALL**

**Ayes:** Senator(s) Boner, Kost, Moniz, Steinmetz

**Nays:** Senator Bouchard

**Ayes** 4      **Nays** 1      **Excused** 0      **Absent** 0      **Conflicts** 0

2/26/2020 S Placed on General File

**HB0038SS001/ADOPTED**

(TO ENGROSSED COPY)

Page 1-line 3 After "infestations;" insert "repealing a related provision;".

Page 2-line 17 Delete "or other" and insert "and, if the landowner has consented to receive notices electronically, by".

Page 2-line 23 Delete "inspector of the".

Page 3-line 1 Delete "district board, the inspector" and insert "district supervisor or the supervisor's designee, the supervisor".

Page 3-line 10 Delete "inspector" and insert "district board".

Page 3-line 15 Delete "inspector" and insert "district supervisor or the supervisor's designee or has not responded within fifteen (15) days of receiving notice".

Page 3-line 22 Strike "district".

Page 3-line 23 Strike "board" and insert "resolution".

Page 4-line 7 After "mail" delete balance of line.

Page 4-line 8 Delete "to the landowner or occupant".

Page 4-line 10 After "district" insert "and, if the landowner has consented to receive notices electronically, by electronic means that provide actual notice to the landowner".

Page 4-line 12 After "cost" insert "to the landowner".

Page 4-line 13 After "requirements" insert "and the amount".

Page 4-line 14 Strike "; and" and insert ".".

Page 5-after line 6 Insert:  
"Section 2. W.S. 11-5-109(c)(iii) is repealed."

Page 5-line 8 Delete "**Section 2.**" and insert "**Section 3.**". BONER, CHAIRMAN

2/26/2020 S COW:Passed

**HB0038S2001/ADOPTED**

**(TO ENGROSSED COPY)**

Page 1-line 13 Strike "has probable cause to".

Page 1-line 14 Strike "believe" and insert "believes by a preponderance of the evidence".

Page 2-line 2 Delete "of probable cause".

Page 2-line 14 After stricken "entry." delete all new language.

Page 2-lines 15 through 23

Delete entirely including the Senate standing committee amendment (HB0038SS001/AE) to these lines.

Page 3-lines 1 through 18

Delete entirely including the Senate standing committee amendment (HB0038SS001/AE) to these lines and insert:

"The following procedure shall apply for entry upon any property suspected to be infested:

(i) The district board shall issue an order declaring a suspected infestation by weeds or pests and authorizing entry onto the infested property for inspection. The order shall state with specificity the nature of the suspected infestation and the reasons why inspection is necessary. The order shall be in writing, provided to the landowner or occupant and filed in the office of the clerk of the district court of the county in which the property is located. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the landowner or occupant with a written notice that the order has been filed and shall remain in force unless the landowner or occupant files his objections or answer with the clerk of the district court within twenty (20) days. A copy of the order shall be posted in a conspicuous place upon the property;

(ii) Within twenty (20) days of service of an order issued under paragraph (i) of this subsection, the landowner or occupant may file with the clerk of the district court and serve upon the district board issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the order shall become a final order declaring the property to be infested and the district board shall fix a time when the property can be entered for inspection. If an answer is filed and served, the district court shall hear and determine the issues raised as set forth in paragraph (iii) of this subsection;

(iii) The district court shall hold a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains all or any part of the order, the court shall issue a final order and fix a time within which inspection of the property shall take place;

(iv) An appeal from the judgment or final order of the district court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure;

(v) Notwithstanding this subsection and upon application by the district board, the district court of the county in which the property is located may issue an ex parte order authorizing entry onto the property for an emergency inspection when necessary to ensure the public health, safety and welfare;

(vi) No person shall deny or cause to deny entry onto the property for inspection in violation of a final order issued pursuant to this subsection. Any order issued under this subsection is enforceable, in addition to other remedies provided by law, by injunction, mandamus or abatement. Any person who fails to comply with a final order shall be assessed a civil penalty of up to one hundred dollars (\$100.00) per day for each day the violation continues."

NETHERCOTT, STEINMETZ

2/27/2020 S 2nd Reading:Passed

**HB0038S3001/ADOPTED**

**(TO ENGROSSED COPY)**

Page 1-line 7 After "(ii)" insert ", (d)".

Page 4-line 1 Delete "including assisting the".

Page 4-lines 2 through 4 Delete entirely and insert:

"provided that:

(i) The remedial requirements are likely to be effective in controlling an infestation of the species in question at the infested area;

(ii) The board includes potential estimated costs if available;

(iii) The benefits, both economic and environmental, exceed the estimated costs of the remedial requirements;

(iv) The board may assist the landowner in developing an integrated pest management plan for the species in question; and

(v) The landowner may propose alternate remedial requirements."

Page 4-after line 14 Insert:

"(d) At the request of the landowner, the district board shall hold a hearing in accordance with the Wyoming Administrative Procedure Act. The landowner may appeal the board's resolution to the district court.". SCOTT, DRISKILL

2/28/2020 S 3rd Reading:Passed 26-4-0-0-0

**ROLL CALL**

**Ayes:** Senator(s) Agar, Anderson, Anselmi-Dalton, Baldwin, Bebout, Boner, Coe, Dockstader, Driskill, Ellis, Gierau, Hicks, Hutchings, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Perkins, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern, Wasserburger

**Nays:** Senator(s) Biteman, Bouchard, Case, James

**Ayes** 26 **Nays** 4 **Excused** 0 **Absent** 0 **Conflicts** 0

2/28/2020 H Received for Concurrence

3/2/2020 H Concur:Failed 13-47-0-0-0

**ROLL CALL**

**Ayes:** Representative(s) Clausen, Duncan, Hunt, Laursen Dan, Lindholm, Loucks, Nicholas, Northrup, Olsen, Roscoe, Sommers, Styvar, Tass

**Nays:** Representative(s) Barlow, Blackburn, Blake, Brown, Burkhart, Burlingame, Clem, Clifford, Connolly, Crank, Dayton-Selman, Edwards, Eklund, Eyre, Flitner, Freeman, Furphy, Gray, Greear, Haley, Hallinan, Harshman, Henderson, Jennings, Kinner, Kirkbride, Larsen Lloyd, Macguire, Miller, Newsome, Obermueller, Paxton, Pelkey, Piiparinen, Pownall, Salazar, Schwartz, Simpson, Stith, Sweeney, Walters, Washut, Western, Wilson, Winter, Yin, Zwonitzer

**Ayes** 13 **Nays** 47 **Excused** 0 **Absent** 0 **Conflicts** 0

3/2/2020 H Appointed JCC01 Members

Representative(s) Hunt, Greear, Olsen

3/3/2020 S Appointed JCC01 Members  
Senator(s) Boner, Biteman, Nethercott  
3/6/2020 H Adopted HB0038JC001: 46-12-2-0-0

**HB0038JC001/HADOPTED (TO ENGROSSED COPY)**

Delete the following Senate amendments:

HB0038SS001/AE  
HB0038S2001/AE  
HB0038S3001/AE

Further amend the ENGROSSED COPY as follows:

Page 1-line 7 After "W.S." insert "11-5-108(b)"; after "(ii)"  
insert ", (d)".

Page 1-after line 8 Insert:

**"11-5-108. Rates and application of pesticides; payment by landowner;  
bidding restriction.**

(b) A district board shall not engage in competitive bidding of bare ground application of pesticides for industrial weed control, unless there are no commercially licensed entities operating in the state that are able and willing to perform the service. Nothing in this subsection shall limit the district board's authority to act pursuant to W.S. 11-5-105(a)(i). ~~and 11-5-109.~~".

Page 1-line 13 After "Whenever the" strike balance of line.

Page 1-line 14 Strike "believe" and insert "board of county commissioners believes".

Page 2-line 2 Delete entirely and insert "board of county commissioners have provided written notice to the".

Page 2-line 14 Delete all new language.

Page 2-lines 15 through 23 Delete entirely.

Page 3-lines 1 through 18 Delete entirely and insert:

"The following procedure shall apply for entry upon any property suspected to be infested:

(i) The board of county commissioners shall issue an order declaring a suspected infestation by weeds or pests and authorizing entry onto the infested property for inspection. The order shall state with specificity the nature of the suspected infestation and the reasons why inspection is necessary. The order shall be in writing, provided to the landowner or occupant and filed with a court of competent jurisdiction in the county in which the property is located. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the landowner or occupant with a written notice that the order has been filed and shall remain in force unless the landowner or occupant files his objections or answer with the court within twenty (20) days. A copy of the order shall be posted in a conspicuous place upon the property;

(ii) Within twenty (20) days of service of an order issued under paragraph (i) of this subsection, the landowner or occupant may file with the court and serve upon the board of county commissioners issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the order shall become a final order declaring the property to be infested and the board of county commissioners shall fix a time when the property can be entered for inspection. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in paragraph (iii) of this subsection;

(iii) The court shall hold a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains all or any part of the order, the court shall issue a final order and fix a time within which inspection of the property shall take place;

(iv) An appeal from the judgment or final order of the court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure;

(v) Notwithstanding this subsection and upon application by the board of county commissioners, a court of competent jurisdiction in the county in which the property is located may issue an ex parte order authorizing entry onto the property for an emergency inspection when necessary to ensure the public health, safety and welfare;

(vi) No person shall deny or cause to deny entry onto the property for inspection in violation of a final order issued pursuant to this subsection. Any order issued under this subsection is enforceable, in addition to other remedies provided by law, by injunction, mandamus or abatement. Any person who fails to comply with a final order shall be assessed a civil penalty of up to one hundred dollars (\$100.00) per day for each day the violation continues."

Page 3-line 21                    Strike "district board" and insert "county commissioners".

Page 3-line 22                    Strike "its members" and insert "the commissioners";  
strike "district".

Page 3-line 23                    After "board" insert "of county commissioners".

Page 4-line 6                    Strike "district"; after "board" insert "of county commissioners".

Page 4-line 14                    Delete "district board policy" and insert "the board of county commissioners".

Page 4-after line 14            Insert:

"(d) At the request of the landowner, the ~~district~~board of county commissioners shall hold a hearing in accordance with the Wyoming Administrative Procedure Act."

Page 4-line 19                    Delete "district board's" and insert "the board of county commissioners'".

Page 5-line 4                   Strike "district"; after "board" insert "of county commissioners".

HUNT, GREEAR, OLSEN, BONER, BITEMAN, NETHERCOTT

**ROLL CALL**

**Ayes:** Representative(s) Blake, Brown, Burkhart, Burlingame, Clausen, Clifford, Connolly, Crank, Dayton-Selman, Duncan, Edwards, Eklund, Eyre, Freeman, Furphy, Greear, Haley, Hallinan, Harshman, Henderson, Hunt, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Lindholm, Loucks, Macguire, Newsome, Nicholas, Northrup, Obermueller, Olsen, Paxton, Roscoe, Salazar, Schwartz, Simpson, Sommers, Stith, Sweeney, Walters, Western, Wilson, Yin, Zwonitzer

**Nays:** Representative(s) Barlow, Clem, Flitner, Gray, Jennings, Miller, Piiparinen, Pownall, Styvar, Tass, Washut, Winter

**Excused:** Representative(s) Blackburn, Pelkey

**Ayes** 46     **Nays** 12     **Excused** 2     **Absent** 0     **Conflicts** 0

3/9/2020        S Did Not Adopt HB0038JC001: 5-25-0-0-0

**HB0038JC001/HADOPTED                    (TO ENGROSSED COPY)**

Delete the following Senate amendments:

HB0038SS001/AE

HB0038S2001/AE

HB0038S3001/AE

Further amend the ENGROSSED COPY as follows:

Page 1-line 7                   After "W.S." insert "11-5-108(b)"; after "(ii)" insert ", (d)".

Page 1-after line 8                Insert:

**"11-5-108. Rates and application of pesticides; payment by landowner; bidding restriction.**

(b) A district board shall not engage in competitive bidding of bare ground application of pesticides for industrial weed control, unless there are no commercially licensed entities operating in the state that are able and willing to perform the service. Nothing in this subsection shall limit the district board's authority to act pursuant to W.S. 11-5-105(a)(i). ~~and 11-5-109.~~".

Page 1-line 13                   After "Whenever the" strike balance of line.

Page 1-line 14                   Strike "believe" and insert "board of county commissioners believes".

Page 2-line 2                   Delete entirely and insert "board of county commissioners have provided written notice to the".

Page 2-line 14                   Delete all new language.

Page 2-lines 15 through 23       Delete entirely.



"The following procedure shall apply for entry upon any property suspected to be infested:

(i) The board of county commissioners shall issue an order declaring a suspected infestation by weeds or pests and authorizing entry onto the infested property for inspection. The order shall state with specificity the nature of the suspected infestation and the reasons why inspection is necessary. The order shall be in writing, provided to the landowner or occupant and filed with a court of competent jurisdiction in the county in which the property is located. A copy of the order shall be served in accordance with the Wyoming Rules of Civil Procedure upon the landowner or occupant with a written notice that the order has been filed and shall remain in force unless the landowner or occupant files his objections or answer with the court within twenty (20) days. A copy of the order shall be posted in a conspicuous place upon the property;

(ii) Within twenty (20) days of service of an order issued under paragraph (i) of this subsection, the landowner or occupant may file with the court and serve upon the board of county commissioners issuing the order, an answer denying the existence of any of the allegations in the order. If no answer is filed and served, the order shall become a final order declaring the property to be infested and the board of county commissioners shall fix a time when the property can be entered for inspection. If an answer is filed and served, the court shall hear and determine the issues raised as set forth in paragraph (iii) of this subsection;

(iii) The court shall hold a hearing within twenty (20) days from the date of the filing of the answer. If the court sustains all or any part of the order, the court shall issue a final order and fix a time within which inspection of the property shall take place;

(iv) An appeal from the judgment or final order of the court may be taken by any party to the proceeding in accordance with the Wyoming Rules of Appellate Procedure;

(v) Notwithstanding this subsection and upon application by the board of county commissioners, a court of competent jurisdiction in the county in which the property is located may issue an ex parte order authorizing entry onto the property for an emergency inspection when necessary to ensure the public health, safety and welfare;

(vi) No person shall deny or cause to deny entry onto the property for inspection in violation of a final order issued pursuant to this subsection. Any order issued under this subsection is enforceable, in addition to other remedies provided by law, by injunction, mandamus or abatement. Any person who fails to comply with a final order shall be assessed a civil penalty of up to one hundred dollars (\$100.00) per day for each day the violation continues."

Page 3-line 21                    Strike "district board" and insert "county commissioners".

Page 3-line 22                    Strike "its members" and insert "the commissioners"; strike "district".

Page 3-line 23                    After "board" insert "of county commissioners".

Page 4-line 6                   Strike "district"; after "board" insert "of county commissioners".

Page 4-line 14                 Delete "district board policy" and insert "the board of county commissioners".

Page 4-after line 14           Insert:

"(d) At the request of the landowner, the ~~district~~board of county commissioners shall hold a hearing in accordance with the Wyoming Administrative Procedure Act."

Page 4-line 19                 Delete "district board's" and insert "the board of county commissioners'".

Page 5-line 4                   Strike "district"; after "board" insert "of county commissioners".

HUNT, GREEAR, OLSEN, BONER, BITEMAN, NETHERCOTT

#### ROLL CALL

**Ayes:** Senator(s) Agar, Bebout, Coe, Perkins, Scott

**Nays:** Senator(s) Anderson, Anselmi-Dalton, Baldwin, Biteman, Boner, Bouchard, Case, Dockstader, Driskill, Ellis, Gierau, Hicks, Hutchings, James, Kinskey, Kost, Landen, Moniz, Nethercott, Pappas, Rothfuss, Schuler, Steinmetz, Von Flatern, Wasserburger

**Ayes** 5     **Nays** 25     **Excused** 0     **Absent** 0     **Conflicts** 0

3/9/2020       Pursuant to JR 2-1(c):S Appointed JCC02 Members  
Senator(s) Boner, Agar, Kinskey

3/10/2020      Pursuant to JR 2-1(c): H Appointed JCC02 Members  
Representative(s) Hunt, Greear, Olsen

3/12/2020      H Adopted HB0038JC002: 42-10-8-0-0

#### HB0038JC002/HADOPTEDSADOPTED (TO ENGROSSED COPY)

Adopt the following Senate amendments:

HB0038SS001/AE

HB0038S3001/AE

Delete the following Senate amendments:

HB0038S2001/AE

HUNT, GREEAR, OLSEN, BONER, KINSKEY

#### ROLL CALL

**Ayes:** Representative(s) Barlow, Blackburn, Blake, Brown, Burlingame, Clausen, Clifford, Dayton-Selman, Duncan, Eklund, Eyre, Furphy, Haley, Hallinan, Harshman, Henderson, Hunt, Kinner, Kirkbride, Larsen Lloyd, Laursen Dan, Loucks, Newsome, Northrup, Obermueller, Olsen, Paxton, Pelkey, Piiparinen, Pownall, Roscoe, Salazar, Schwartz, Simpson, Sommers, Stith, Sweeney, Washut, Western, Wilson, Yin, Zwonitzer

**Nays:** Representative(s) Clem, Edwards, Flitner, Gray, Jennings, Miller, Styvar, Tass, Walters, Winter

**Excused:** Representative(s) Burkhardt, Connolly, Crank, Freeman, Greear, Lindholm, Macguire, Nicholas  
**Ayes** 42    **Nays** 10    **Excused** 8    **Absent** 0    **Conflicts** 0

3/12/2020    S Adopted HB0038JC002: 18-6-6-0-0

**HB0038JC002/HADOPTEDSADOPTED (TO ENGROSSED COPY)**

Adopt the following Senate amendments:

HB0038SS001/AE

HB0038S3001/AE

Delete the following Senate amendments:

HB0038S2001/AE

HUNT, GREEAR, OLSEN, BONER, KINSKEY

**ROLL CALL**

**Ayes:** Senator(s) Anselmi-Dalton, Bebout, Boner, Case, Coe, Dockstader, Driskill, Ellis, Gierau, Hicks, Kinskey, Kost, Pappas, Rothfuss, Schuler, Scott, Steinmetz, Von Flatern

**Nays:** Senator(s) Biteman, Bouchard, Hutchings, James, Nethercott, Perkins

**Excused:** Senator(s) Agar, Anderson, Baldwin, Landen, Moniz, Wasserburger

**Ayes** 18    **Nays** 6    **Excused** 6    **Absent** 0    **Conflicts** 0

3/12/2020    Assigned Number HEA No. 0092

3/12/2020    H Speaker Signed HEA No. 0092

3/12/2020    S President Signed HEA No. 0092

3/24/2020    Governor Signed HEA No. 0092

3/24/2020    Assigned Chapter Number 135

Chapter No. 135    Session Laws of Wyoming 2020