

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. _____

Weed and pest control.

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

A BILL

for

1 AN ACT relating to weed and pest control; modifying
2 definitions; providing for emergency declarations;
3 providing for district boards to buy and sell property and
4 equipment; repealing provision establishing inspectors as
5 district supervisors; modifying cost sharing with
6 landowners; increasing the amount on surety bonds;
7 providing for entry on private property; requiring reports
8 to the district board; providing for the district board to
9 declare public nuisances; providing for hearing; providing
10 for voluntary mediation; increasing the criminal penalty
11 amount; providing for liens for cost of abatement;
12 providing conforming amendments; and providing for an
13 effective date.

1

2 *Be It Enacted by the Legislature of the State of Wyoming:*

3

4 **Section 1.** W.S. 11-1-103, 11-5-101, 11-5-102(a)(i),
5 (ii), (v), (vii), (viii), (x), (xi), (xii), by creating a
6 new paragraph (xxiii) and by renumbering (xxii) as (xxiv),
7 11-5-104(g), 11-5-105(b)(vi), by creating new paragraphs
8 (vii) and (viii), 11-5-106, 11-5-107(a) and (b) and by
9 creating a new subsection (d), 11-5-108(a), 11-5-109(a) and
10 (c) and by creating new subsections (f) through (h),
11 11-5-115(c) and 11-5-117 are amended to read:

12

13 **11-1-103. Penalty for violations.**

14

15 A person who violates any of the following sections commits
16 a misdemeanor punishable by imprisonment for not more than
17 six (6) months, a fine of not more than seven hundred fifty
18 dollars (\$750.00), or both for the first offense, or by
19 imprisonment for not more than one (1) year, a fine of not
20 more than one thousand five hundred dollars (\$1,500.00), or
21 both for second or subsequent offenses: W.S. 11-5-117,
22 11-6-210(a) or (f), 11-18-112, 11-19-101, 11-19-102,
23 11-19-111, 11-19-401, 11-20-114, 11-20-117, 11-20-229,

1 11-20-230, 11-21-104, 11-22-118, 11-23-106, 11-23-207,
2 11-24-106 and 11-30-114. A person who violates board rules
3 promulgated pursuant to W.S. 11-18-103(a)(v) shall be
4 subject to the penalties specified in this section.

5

6 **11-5-101. Short title; purpose of provisions.**

7

8 (a) This act may be cited as the "Wyoming Weed and
9 Pest Control Act" ~~of 1973~~.

10

11 (b) The purpose of this act is controlling designated
12 and declared weeds and pests.

13

14 **11-5-102. Definitions.**

15

16 (a) As used in this act:

17

18 (i) ~~"Agricultural"~~ "Pesticide" means any material
19 used to control or eradicate weeds or pests;

20

21 (ii) "Authorized dealer" means ~~a resident of any~~
22 pesticide dealer licensed in Wyoming who sells, retails,
23 wholesales, distributes, offers or exposes for sale,

1 exchanges, barters or gives away any ~~agricultural~~ pesticide
2 within this state;

3

4 (v) "Control" means the process of containing,
5 ~~and limiting weed and pest infestations~~ preventing,
6 identifying and mitigating weed and pest infestations by
7 using multiple integrated management practices, including
8 but not limited to, regulation, prevention, survey,
9 eradication, pesticides, cultivation, competition, grazing
10 and biological control in an adaptive management effort
11 designed to reduce economic and ecological impacts from
12 designated and declared species and to protect uninfested
13 lands;

14

15 (vii) "Declared pest" means any animal or insect
16 species which the board and the Wyoming weed and pest
17 council have found, either by virtue of its direct or
18 indirect effect to negatively impact management of
19 agricultural or natural ecosystems, or as a carrier of
20 disease or parasites, to be detrimental to the general
21 welfare of persons residing within a district;

22

1 (viii) "Declared weed" means any plant species
2 which the board and the Wyoming weed and pest council have
3 found, either by virtue of its direct or indirect effect to
4 negatively impact management of agricultural or natural
5 ecosystems, or as a carrier of disease or parasites, to be
6 detrimental to the general welfare of persons residing
7 within a district;

8
9 (x) "Designated list" means the list of weeds
10 and pests from time to time designated by joint resolution
11 of the board and the Wyoming weed and pest council or by an
12 emergency declaration of the director;

13
14 (xi) "Designated noxious ~~weeds" means the weeds,~~
15 weed" means, any plant species whose seeds or other plant
16 ~~parts that are considered detrimental, destructive,~~
17 ~~injurious or poisonous, either by virtue of their direct~~
18 ~~effect or as carriers of diseases or parasites that exist~~
19 ~~within this state, and are on the designated list~~ are
20 determined to be detrimental to the general welfare of
21 persons residing within the state of Wyoming due to any of
22 the following:

23

1 (A) Has demonstrated the ability to
2 aggressively invade native plant communities and
3 agricultural crops;

4
5 (B) Is injurious or poisonous to livestock;

6
7 (C) Is a carrier of disease or parasites;

8
9 (D) Can, by virtue of either direct or
10 indirect effect, negatively impact management of
11 agricultural or natural ecosystems;

12
13 (E) Is on the designated list.†

14
15 (xii) "~~Designated pests~~" ~~means animals or~~
16 ~~insects which are on the designated list considered pest~~"
17 means any animal or insect species that is determined to be
18 detrimental to the general welfare of ~~the state~~ persons
19 residing within the state of Wyoming due to any of the
20 following:

21

1 (A) Its demonstrated ability to
2 aggressively invade native plant communities and
3 agricultural crops;

4

5 (B) Is injurious or poisonous to livestock;

6

7 (C) Is a carrier of disease or parasites;

8

9 (D) Can, by virtue of either its direct or
10 indirect effect, negatively impact management of
11 agricultural or natural ecosystems;

12

13 (E) Is on the designated list.†

14

15 (xviii) "Farm products" means all crops, crop
16 products, nursery stock, plants or portions thereof, but
17 shall not mean livestock;

18

19 (xx) "Landowner" means any ~~owner or lessee of~~
20 ~~state, municipal or private land, and includes an owner of~~
21 person who has actual use and exclusive possession of the
22 land or exercises control over the land through any lease,
23 easement, right-of-way or estate in the land. Federal

1 landowner means the federal agency having jurisdiction over
2 any lands affected by this act;

3

4 (xxiii) "Emergency declaration" means the
5 addition of a weed or pest to either the statewide
6 designated list or to a county declared list on an
7 emergency basis to allow for immediate control activities.
8 An emergency declaration shall only last until formal
9 action can be taken by the council and the board to list
10 the species through established rules, and in any case not
11 to exceed one (1) year;

12

13 ~~(xxiii)~~(xxiv) "This act" means W.S. 11-5-101
14 through 11-5-119.

15

16 **11-5-104. District board of directors; appointment;**
17 **terms; vacancies; compensation and expenses.**

18

19 (g) At the first regular meeting in February the
20 district board shall elect from its members a chairman and
21 a vice-chairman, and appoint a secretary and a treasurer.
22 The positions of secretary and treasurer need not be
23 members of the district board. The treasurer shall furnish

1 a surety bond to the district before entering upon the
2 duties of office in an amount to be set by the district
3 board but not less than ~~three thousand dollars~~
4 ~~(\$3,000.00)~~fifty thousand dollars (\$50,000.00).

5
6 **11-5-105. Duties; powers; supervisor compensation.**

7
8 (b) The district board of each district may:

9
10 (vi) Participate in programs for the control of
11 declared weeds and declared pests not included on the
12 designated list~~;~~ ~~Such programs do not qualify for~~
13 ~~cost sharing from the department.~~

14
15 (vii) Buy and sell real property and equipment
16 as needed to carry out district programs;

17
18 (viii) Hold hearings to issue administrative
19 inspection warrants to investigate suspected infestations
20 of designated or declared weeds and pests and establish
21 remedial actions;

22

1 (ix) Declare a public nuisance and order
2 abatement of the nuisance.

3
4 **11-5-106. Board of certification; duties.**

5
6 A board of certification is established consisting of the
7 director or his designee, a University of Wyoming weed or
8 pest specialist appointed by the dean of the college of
9 agriculture, two (2) certified district supervisors and a
10 district board member appointed by the Wyoming weed and
11 pest council. The board of certification shall promulgate
12 rules and requirements for certification of district
13 supervisors and shall certify all personnel meeting the
14 established requirements. ~~All inspectors certified as of~~
15 ~~February 10, 1973 are deemed certified district supervisors~~
16 ~~without any further actions of the board of certification.~~

17
18 **11-5-107. Purchase and sale of pesticides; cost share**
19 **with landowner.**

20
21 (a) The district board may purchase from authorized
22 dealers such quantities of ~~agricultural~~ pesticides ~~and~~
23 ~~equipment~~ as are necessary, and hire labor to carry out the

1 provisions of this act. Warrants in payment shall be drawn
2 on the weed and pest control fund.

3

4 (b) The district board may sell agricultural
5 pesticides which have been registered with the department
6 for weed and pest control.

7

8 (d) The district board may cost share with the
9 landowner the cost of the pesticides, the cost of the
10 application and the cost of any other integrated management
11 practice for the control of designated or declared noxious
12 weeds and pests.

13

14 **11-5-108. Rates and application of pesticides;**
15 **payment by landowner; bidding restriction.**

16

17 (a) The district board may establish rates and engage
18 in the application of agricultural pesticides for weed and
19 pest control, subject to subsection (b) of this section.

20 ~~The district board may cost share in the agricultural~~
21 ~~pesticides, and the landowner shall pay the full cost of~~
22 ~~the application.~~ If services provided are not paid for by
23 the landowner for whom rendered as provided in W.S.

1 11-5-107(d), such indebtedness may be collected as provided
2 by W.S. 11-5-107(c).

3

4 **11-5-109. Inspection of land; remedial requirements;**
5 **cost to landowner; liens.**

6

7 (a) Whenever the district board has probable cause to
8 believe that there exists land infested by designated or
9 declared noxious weeds or pests which are liable to spread
10 ~~and contribute to the injury or detriment of others, it the~~
11 board shall make or have made an investigation of the
12 suspected premises ~~through the use of lawful entry~~
13 ~~procedures. The designated representative of the district~~
14 ~~board,~~ by obtaining the cooperation and permission of the
15 landowner, or failing that, the district board may issue an
16 administrative inspection warrant and the board or a
17 designated representative, after giving the landowner
18 written notice, may go upon ~~premises~~ specified lands within
19 the district, ~~through the use of lawful entry procedures,~~
20 without interference or obstruction for purposes of ~~making~~
21 ~~a reasonable investigation of the infested area.~~
22 identifying the species involved and mapping the extent of
23 the infestation. Notice is deemed to have been given if it

1 is deposited in a United States post office by certified
2 mail with sufficient postage, addressed to the last known
3 address of the landowner at least five (5) business days
4 before entry. A report of the investigation shall be
5 submitted to the district board and the landowner within
6 ten (10) business days after completion of the report.

7
8 (c) The district board shall deliver, by certified
9 mail, to the address of the landowner appearing on the most
10 recent tax roles of the district:

11
12 (iii) A request that the requirements contained
13 in the resolution be carried out at the owner's expense or
14 on a cooperative basis within a designated period of time.
15 ~~or on a cooperative basis.~~

16
17 (f) If the requirements of the resolution are not
18 carried out within the designated time, the district board
19 may declare the existence of a public nuisance.

20
21 (g) Once a public nuisance has been declared, the
22 district board shall notify the landowner in writing of the
23 declaration and order the landowner to abate the nuisance.

1 Notice is deemed to have been given if it is deposited in a
2 United States post office by certified mail with sufficient
3 postage, addressed to the last known address of the
4 landowner.

5
6 (h) If the landowner fails to abate the public
7 nuisance within the ten (10) business days after receiving
8 the notice provided under subsection (g) of this section,
9 the district board shall cause the infestation to be abated
10 and assess the landowner for the costs of the abatement.
11 Assessment of the costs of abatement shall include any
12 appropriate cost share with the landowner.

13
14 (j) Any unpaid costs assessed against the landowner
15 under subsection (h) of this section shall become a tax
16 lien against the property.

17
18 (k) At the request of the landowner, filed with the
19 district board within five (5) business days from
20 notification under subsection (a) or (g) of this section,
21 the district board shall hold a hearing in accordance with
22 the Wyoming Administrative Procedure Act. The landowner
23 may appeal any adverse ruling to the district court. The

1 district board may petition the district court for
2 enforcement. The district board and the landowner may
3 elect to enter voluntary mediation pursuant to W.S
4 11-41-101 through 11-41-110.

5
6
7 **THIS 11-5-109 ALTERNATIVE USES THE DISTRICT COURT FOR**
8 **ENFORCEMENT FROM THE BEGINNING OF THE PROCESS AND IS**
9 **IDENTIFIED BY ITALICS.**

10
11 (a) *Whenever the district board has probable cause to*
12 *believe that there exists land infested by designated or*
13 *declared weeds or pests which are liable to spread and*
14 *contribute to the injury or detriment of others, it shall*
15 *make or have made an investigation of the suspected*
16 *premises through the cooperation of the landowner, and or*
17 *failing that, petition the district court for an order to*
18 *go upon specified lands for the purpose of identifying the*
19 *species involved and mapping the extent of the infestation.*
20 *A report of the inspection shall be filed with the district*
21 *court within ten (10) business days of the order.*

22

1 (c) The district board shall deliver, by certified
2 mail, to the address of the landowner appearing on the most
3 recent tax roles of the district:

4
5 (iii) A request that the requirements contained
6 in the resolution be carried out at the owner's expense
7 ~~within a designated period of time~~ or on a cooperative
8 basis within a designated period of time.

9
10 (d) At the request of the landowner, the district
11 board shall hold a hearing in accordance with the Wyoming
12 Administrative Procedure Act, or both parties may elect to
13 enter voluntary mediation pursuant to W.S. 11-41-101
14 through 11-41-110.

15
16 (e) If a landowner who is responsible for an
17 infestation ~~and~~ fails or refuses to perform the remedial
18 requirements for the control of the weed or pest on the
19 infested area within the time designated, ~~may be fined not~~
20 ~~more than fifty dollars (\$50.00) per day for each day of~~
21 ~~violation and not more than a total of two thousand five~~
22 ~~hundred dollars (\$2,500.00) per year as determined by the~~
23 ~~court. Any person accused under this act is entitled to a~~

1 ~~trial by jury. The accumulated fines under this section are~~
2 ~~a lien against the property of the landowner from the day~~
3 ~~notice is delivered to the landowner by the district board.~~
4 ~~All fines shall be deposited with the county treasurer and~~
5 ~~credited to the county school fund.~~ the district board may
6 petition the district court to order abatement of the
7 designated or declared weeds or pests by the weed and pest
8 district at the landowner's expense. Any unpaid costs
9 shall become a tax lien against the property.

10
11 **11-5-115. Program in cities and towns authorized;**
12 **funding; use of monies.**

13
14 (c) Monies received by the cities from the district
15 ~~may shall~~ be used ~~in any phase of weed and pest control to~~
16 control noxious weeds and pests as determined by the
17 governing body of the city or town. ~~The control program~~
18 ~~shall include work on designated weeds and pests as~~
19 ~~determined by the district board~~ The city or town shall
20 provide an annual report to the district board on
21 designated and or declared weed and pest work completed
22 within the jurisdictional limits of the city or town.

23

1 **11-5-117. Criminal provision; penalty.**

2

3 Any person violating any provision of this act ~~is guilty of~~
4 ~~a misdemeanor, and shall be fined not more than one hundred~~
5 ~~dollars (\$100.00) in addition to fines provided for in W.S.~~
6 ~~11-5-109(e)~~ shall be punished as provided in W.S. 11-1-103.

7

8 **Section 2.** W.S. 11-5-109(d) and (e) is repealed.

9

10 **Section 3.** This act is effective July 1, 2011.

11

12

(END)