

**"CHAPTER 152  
NOXIOUS WEED CONTROL**

Section

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## Cross References

Landowner's liability for access to control invasive species, see chapter 520A.

" **§152-1 Definitions.** For the purpose of this chapter, unless otherwise required by context:

"Control noxious weed" means to limit the spread of a specific noxious weed and to reduce its density to a degree where its injurious, harmful, or deleterious effect is reduced to a tolerable level.

"Cooperative agreement" means an agreement between the department and the landowner and land occupier for the control or eradication of a noxious weed infestation.

"Department" means the department of agriculture.

"Eradicate noxious weed" means to completely destroy and eliminate existing plant growth, seeds, and vegetative reproductive plant parts of a specific noxious weed from a given locality.

"Land occupier" means a person who occupies, resides on, or utilizes land or real estate of a landowner.

"Landowner" means the possessor of a fee simple absolute title in land or real estate and shall include the State and its political subdivisions in their capacities as owners of public lands.

"Noxious weed" means any plant species which is, or which may be likely to become, injurious, harmful, or deleterious to the agricultural, horticultural, aquacultural, or livestock industry of the State and to forest and recreational areas and conservation districts of the State, as determined and designated by the department from time to time.

"Person" means any individual, firm, corporation, association, or partnership. [L 1957, c 319, pt of §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §27A-2; HRS §152-1; am L 1974, c 234, §1; am L 1975, c 44, pt of §1; am L 1987, c 92, §1]

" **§152-2 Rules.** Subject to chapter 91, the department may make rules to effectuate this chapter, including but not limited to the following:

- (1) Establishment of criteria and procedures for the designation of plant species as noxious weeds for the purposes of this chapter;
- (2) Establishment of procedures and conditions for the initiation of cooperative agreements with landowners and land occupiers for the purpose of eradicating or controlling noxious weed infestations;

- (3) Control or eradication of noxious weeds when deemed economically feasible. [L 1957, c 319, pt of §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §27A-3; HRS §152-2; am L 1975, c 44, pt of §1; am L 1987, c 92, §2]

" **§152-3 Prohibited acts.** It shall be unlawful to introduce or to transport specific noxious weeds or their seeds or vegetative reproductive parts into any area designated pursuant to section 152-5 as free or reasonably free of those noxious weeds; provided that the introduction or transportation of those noxious weeds may be permitted for educational or research purposes when authorized by a permit issued by the department. [L 1975, c 44, pt of §1; am L 1987, c 92, §3]

" **§152-4 Designation of noxious weed.** The department may designate certain plant species as noxious weeds following the criteria and procedures established under section 152-2(1). The department shall publish and make available a list of noxious weeds to interested persons. [L 1975, c 44, pt of §1; am L 1987, c 92, §4]

" **§152-5 Designation of areas declared free or reasonably free of noxious weeds.** The department may declare the entire State, an island, or a section of an island as free or reasonably free of a specific noxious weed. The department shall take necessary measures to restrict the introduction and establishment of specific noxious weeds in areas declared free or reasonably free of those noxious weeds. [L 1975, c 44, pt of §1; am L 1987, c 92, §5]

" **§152-6 Duties of the department; noxious weed control and eradication.** (a) The department shall maintain a constant vigilance for incipient infestations of specific noxious weeds on islands declared reasonably free from those weeds, and shall use those procedures and methods to control or eradicate the infestations of noxious weeds as are determined to be feasible and practicable.

(b) When the department determines that an infestation of a certain noxious weed exists on an island declared reasonably free from the weed, the department shall immediately conduct investigations and surveys as are necessary to determine the feasibility and practicability of controlling or eradicating the infestation. The department may also conduct investigations and surveys to determine the feasibility and practicability of controlling widespread noxious weed infestations. The methods of control or eradication adopted by the department for any

noxious weed infestation shall cause as little damage to crops and property as possible.

(c) Upon determining that control or eradication of an infestation is practicable and feasible, the department shall immediately serve notice, either oral or written, on both the landowner of the property and the occupant of the property on which the infestations exist. Written notice sent to the landowner's address last known to the department by certified mail, postage prepaid, return receipt requested, shall be deemed sufficient notice. In the event that certified mail is impractical because the department, despite diligent efforts, cannot determine land ownership or because of urgent need to initiate control or eradication measures, notice given once in a daily or weekly publication of general circulation, in the county where any action or proposed action will be taken, or notice made as otherwise provided by law, shall be deemed sufficient notice. The notice shall set forth all pertinent information with respect to the infestation and notify the landowner and the land occupant of the procedure and methods of control or eradication.

(d) Upon the department's notification pursuant to subsection (c) above, the department may enter into a cooperative agreement with the landowner and land occupier for the control or eradication of the noxious weed infestation. The procedures and conditions for executing the cooperative agreement shall be in accordance with rules adopted under section 152-2(2).

(e) Upon the department's notification pursuant to subsection (c) above, the department may entirely undertake the eradication or control project when it has been determined that the owner, occupier, or lessee of the land on which the noxious weed infestation is located will not benefit materially or financially by the control or eradication of the noxious weed; or when the noxious weed infestation is on state-owned land not leased or under control of private interest. [L 1957, c 319, pt of §1; am L Sp 1959 2d, c 1, §22; am L 1961, c 132, §2; Supp, §27A-4; HRS §152-3; ren and am L 1975, c 44, pt of §1; am L 1987, c 92, §6; am L 1997, c 62, §6]

" **§152-7 REPEALED.** L 1989, c 267, §3.

#### **Cross References**

For present provisions, see §141-3.6.