

A Bill for an Act Relating to the Control and Eradication of Noxious Weeds.
Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 152, Hawaii Revised Statutes, is hereby amended to read:

**“CHAPTER 152
NOXIOUS WEED CONTROL**

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

- (1) “Department” means the department of agriculture.
- (2) “Noxious weed” means gorse and any other plant species which is injurious, harmful or deleterious or which may be likely to become so to the agricultural, horticultural, aquacultural, livestock industries of the State, and to forest and recreational areas and conservation districts of the State, as determined and so designated by the department from time to time.
- (3) “Landowner” means the possessor of a fee simple absolute title in

land or real estate and shall include the State as well as its political subdivisions in their capacities as owners of public lands.

- (4) "Person" means any individual, firm, corporation, association, or partnership.
- (5) "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.
- (6) "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.

Sec. 152-2 Rules and regulations. The department of agriculture shall have all powers necessary to carry out and to effectuate this chapter, by rules and regulations including but not limited to the following:

- (1) To establish criteria and procedures for the designation of plant species as noxious weeds for the purposes of this chapter;
- (2) To establish procedures and conditions for the initiation of cooperative agreements with landowners for the purpose of eradicating or controlling noxious weed infestations;
- (3) To promulgate necessary rules and regulations necessary to control or eradicate noxious weeds when deemed economically feasible; provided that all rules and regulations shall be in compliance with all other laws concerning the making of rules and regulations which shall have the force and effect of law.

Sec. 152-3 Prohibited acts. It shall be unlawful to introduce or to transport specific noxious weed, its seed or its vegetative reproductive parts into any area designated pursuant to section 152-5 as free or reasonably free of such noxious weed; provided that said introduction or transportation may be permitted for educational or research purposes when authorized by a permit issued by the department.

Sec. 152-4 Designation of noxious weed. The department may designate certain plant species as noxious weeds following criteria and procedures promulgated by regulations under section 152-2(1). The department shall publish and shall make available a list of noxious weeds to interested persons.

Sec. 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 such noxious weeds.

Sec. 152-6 Duties of the department; noxious weed control and eradication. (a) The department of agriculture shall maintain a constant vigilance for incipient infestations of specific noxious weeds on islands declared reasonably free from such weeds, and use such procedures and methods to control or eradicate such 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 such investigations and surveys as are necessary to determine the feasibility and practicability of control or eradication of 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 registered mail, postage prepaid, return receipt requested, 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 for the control or eradication of said noxious weed infestation. The procedures and conditions for executing the cooperative agreement shall be in accordance with rules and regulations 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 said noxious weed; or when the noxious weed infestation is on state owned land not leased or under control of private interest.

Sec. 152-7 Entry of private property for the control of any noxious weed.

Whenever any member of the department or any member of a county agency duly authorized to maintain a noxious weed control program determines that there is an infestation of noxious weed on private property and that such infestation poses a threat to the agricultural, horticultural, or livestock industry of the county in which the property is situated, the department or county agency may enter such property for the purpose of abating, destroying, removing, or controlling such infestation; provided that the county agency or department shall give written notice of such finding to the owner or occupant of such property at least five days prior to entry. If such entry is refused, the member may make a complaint to the district court in the circuit in which such land is located. The district court may thereupon issue a warrant, directed to any police officer of the circuit, commanding him to take sufficient aid, and, being accompanied by a member of the department or county agency, as the case may be, between the hours of sunrise and sunset to examine, abate, destroy, remove, or control, under the directions of the member, the infestation of noxious weeds."

SECTION 2. Material to be repealed is bracketed. New material is

underscored. In printing this Act, the revisor of statutes need not include the brackets, the bracketed material, or the underscoring.

SECTION 3. This Act shall take effect upon its approval.

(Approved May 3, 1975.)