

# HOUSE BILL No. 1019

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-16; IC 33-37-5-7; IC 34-30-2-57.9.

**Synopsis:** Dead and dying trees. Defines "dead or dying tree". Renames a county weed control board as the weed and tree control board (board). Requires the board to remove dead or dying trees located on property owned, leased, or controlled by a county, municipality, or township (unit) under certain conditions. Provides that the board may pay the costs of dead or dying tree removal. Provides immunity to a unit for failing to remove a dead or dying tree that falls on a roadway controlled by the unit.

**Effective:** July 1, 2022.

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## Saunders

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January 4, 2022, read first time and referred to Committee on Local Government.

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Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

# HOUSE BILL No. 1019



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 15-16-7-1.2 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2022]: **Sec. 1.2. As used in this chapter, "dead or dying tree"**  
4 **refers to a:**

- 5 (1) **standing dead tree;**
- 6 (2) **leaning or severely damaged tree; or**
- 7 (3) **diseased or partially dead tree;**
- 8 **that is in immediate danger of falling on a roadway under the**  
9 **control of a unit (as defined in IC 36-1-2-23).**

10 SECTION 2. IC 15-16-7-3, AS ADDED BY P.L.2-2008, SECTION  
11 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
12 2022]: **Sec. 3.** The authorizing body of any county may establish a  
13 weed **and tree** control board by adopting an ordinance:

- 14 (1) on the authorizing body's own initiative; or
- 15 (2) after receiving a petition signed by five percent (5%) of the  
16 registered voters of the county.

17 SECTION 3. IC 15-16-7-4, AS ADDED BY P.L.2-2008, SECTION



1 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
2 2022]: Sec. 4. (a) The weed **and tree** control board consists of the  
3 following members to be appointed by the authorizing body:

- 4 (1) One (1) township trustee of the county.  
5 (2) One (1) soil and water conservation district supervisor.  
6 (3) One (1) representative from the agricultural community of the  
7 county.  
8 (4) One (1) representative from the county highway department  
9 or an appointee of the county commissioners.  
10 (5) One (1) cooperative extension service agent from the county  
11 to serve in a nonvoting advisory capacity.

12 (b) Each board member shall be appointed for a term of four (4)  
13 years. All vacancies in the membership of the board shall be filled for  
14 the unexpired term in the same manner as initial appointments.

15 (c) The board shall elect a chairperson and a secretary. The  
16 members of the board are not entitled to receive any compensation, but  
17 are entitled to any traveling and other expenses that are necessary in the  
18 discharge of the members' duties.

19 SECTION 4. IC 15-16-7-5, AS ADDED BY P.L.2-2008, SECTION  
20 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
21 2022]: Sec. 5. The weed **and tree** control board may:

- 22 (1) appoint an executive director; and  
23 (2) employ necessary technical, professional, and other assistants.

24 The board shall fix the qualifications, duties, and salaries of these  
25 employees subject to the approval of the county council.

26 SECTION 5. IC 15-16-7-6, AS ADDED BY P.L.2-2008, SECTION  
27 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
28 2022]: Sec. 6. The county highway supervisor and the soil and water  
29 conservation district supervisor or employee serving the county shall:

- 30 (1) serve as inspectors for the weed **and tree** control board;  
31 (2) make periodic inspections; and  
32 (3) report their findings to the board and the executive director, if  
33 any.

34 SECTION 6. IC 15-16-7-7, AS ADDED BY P.L.2-2008, SECTION  
35 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
36 2022]: Sec. 7. The powers and duties of the weed **and tree** control  
37 board include the following:

- 38 (1) Taking all necessary and proper steps to control and contain  
39 noxious weeds that have adverse significance on agricultural  
40 production in Indiana.  
41 (2) Entering upon any land, public or private, at any reasonable  
42 time after giving forty-eight (48) hours notice to the person in



1 possession of the land to inspect for noxious weeds **and dead or**  
 2 **dying trees**, unless permission is granted to enter earlier.

3 (3) Purchasing supplies, material, and equipment.

4 (4) Acquiring by gift or purchase, holding, or disposing of, any  
 5 real property in the name of the board, to include facilities as  
 6 offices, laboratories, operational buildings, rights-of-way, and  
 7 easements.

8 (5) Making contracts to carry out the duties of the board.

9 (6) Entering into cooperative agreements with appropriate  
 10 organizations to assure technical assistance in developing and  
 11 carrying out the purposes of the board.

12 (7) Identifying problems determined to be of importance to the  
 13 public welfare and developing control programs appropriate to a  
 14 situation.

15 (8) Undertaking investigations to determine the extent of  
 16 infestation of noxious weed species, along with the effect of the  
 17 infestation on agricultural production in the county.

18 (9) Employing the latest technological advances to control and  
 19 contain noxious weeds in the county.

20 **(10) Taking all necessary and proper steps to remove dead or**  
 21 **dying trees in a timely manner.**

22 ~~(10)~~ **(11)** Accepting gifts, grants of money, services, or property  
 23 for any use consistent with the objectives of the board.

24 ~~(11)~~ **(12)** Exercising all other powers necessary to carry out the  
 25 purposes of this chapter.

26 ~~(12)~~ **(13)** Performing additional duties as the authorizing body  
 27 may prescribe.

28 SECTION 7. IC 15-16-7-8, AS ADDED BY P.L.2-2008, SECTION  
 29 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 30 2022]: Sec. 8. In addition to the weed **and tree** control board's powers  
 31 and duties under section 7 of this chapter, the weed **and tree** control  
 32 board may establish a marijuana eradication program to eliminate and  
 33 destroy wild marijuana plants within the county. The program is funded  
 34 by amounts appropriated by the county:

35 (1) under IC 33-37-8; and

36 (2) from the county general fund.

37 SECTION 8. IC 15-16-7-9, AS ADDED BY P.L.2-2008, SECTION  
 38 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 39 2022]: Sec. 9. (a) The weed **and tree** control board shall require  
 40 persons who own:

41 (1) real estate; or

42 (2) easements, rights-of-way, or other similar interests in real



- 1 estate;  
 2 in the county to control and contain noxious weeds growing on the real  
 3 estate.  
 4 (b) A five (5) day written notice to remove any noxious weeds shall  
 5 be issued by the board. The notice may be served:  
 6 (1) by certified or registered mail addressed to the latest address  
 7 of the person or to the person's resident agent; or  
 8 (2) personally by the sheriff.  
 9 (c) The weed **and tree** control board shall notify the township  
 10 trustee when the board has sent a notice to a person to remove noxious  
 11 weeds growing on real estate in the township.  
 12 SECTION 9. IC 15-16-7-10, AS ADDED BY P.L.2-2008,  
 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2022]: Sec. 10. (a) If a person fails to begin a program  
 15 recommended by the weed **and tree** control board to control and  
 16 contain noxious weeds within the time prescribed in section 9 of this  
 17 chapter, the weed **and tree** control board may pay the following costs  
 18 incurred in cutting or destroying noxious weeds under this chapter:  
 19 (1) Chemicals.  
 20 (2) Equipment.  
 21 (3) Labor at a rate per hour to be fixed by the weed **and tree**  
 22 control board commensurate with local hourly wages.  
 23 (b) When the work has been performed, the person doing the work  
 24 shall file an itemized bill for the work in the office of the weed **and**  
 25 **tree** control board. When the bill has been approved, the weed **and**  
 26 **tree** control board shall pay the bill from the county general fund  
 27 unless the county has established a separate fund for the weed **and tree**  
 28 control board. The weed **and tree** control board shall certify the cost  
 29 of the work, adding to the bill twenty dollars (\$20) per day for each day  
 30 that a member of the weed **and tree** control board or the board's agent  
 31 supervises the performance of the services required under this chapter  
 32 as compensation for services. The certified statement of costs must  
 33 include a description of the real estate on which the labor was  
 34 performed.  
 35 (c) The certified statement of costs prepared under subsection (b)  
 36 must be provided:  
 37 (1) to the owner or person possessing the real estate by:  
 38 (A) certified mail; or  
 39 (B) personal service; and  
 40 (2) by mail to the auditor of state for any real estate owned by the  
 41 state or to the fiscal officer of another municipality (as defined in  
 42 IC 5-11-1-16) for real estate owned by the municipality.



1 The statement must request that the person pay the cost of performing  
 2 the service under subsection (b) to the weed **and tree** control board.

3 SECTION 10. IC 15-16-7-10.1 IS ADDED TO THE INDIANA  
 4 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 5 [EFFECTIVE JULY 1, 2022]: **Sec. 10.1. (a) The weed and tree**  
 6 **control board may pay the following costs incurred in cutting and**  
 7 **removing dead or dying trees under this chapter:**

8 **(1) Equipment.**

9 **(2) Labor at a rate per hour to be fixed by the weed and tree**  
 10 **control board commensurate with local hourly wages.**

11 **(b) When the work has been performed, the person doing the**  
 12 **work shall file an itemized bill for the work in the office of the weed**  
 13 **and tree control board. When the bill has been approved, the weed**  
 14 **and tree control board shall pay the bill from the county general**  
 15 **fund unless the county has established a separate fund for the weed**  
 16 **and tree control board. The weed and tree control board shall**  
 17 **certify the cost of the work, adding to the bill twenty dollars (\$20)**  
 18 **per day for each day that a member of the weed and tree control**  
 19 **board or the board's agent supervises the performance of the**  
 20 **services required under this chapter as compensation for services.**  
 21 **The certified statement of costs must include a description of the**  
 22 **real estate on which the labor was performed.**

23 SECTION 11. IC 15-16-7-11, AS ADDED BY P.L.2-2008,  
 24 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 25 JULY 1, 2022]: **Sec. 11. (a) If the owner or person in possession of the**  
 26 **property does not pay the amount set forth in the statement under**  
 27 **section 10(b) of this chapter within ten (10) days after receiving the**  
 28 **certified statement under section 10(c) of this chapter, the weed **and****  
 29 ****tree** control board shall file a copy of the certified statement in the**  
 30 **office of the county auditor of the county where the real estate is**  
 31 **located.**

32 **(b) The auditor shall place the amount claimed in the certified**  
 33 **statement on the tax duplicate of the real estate. Except as provided in**  
 34 **section 12 of this chapter, the amount claimed shall be collected as**  
 35 **taxes are collected.**

36 **(c) After an amount described in subsection (b) is collected, the**  
 37 **funds must be deposited in the weed **and tree** control board fund, if**  
 38 **one has been established by the county, for use at the discretion of the**  
 39 **weed **and tree** control board. If a weed **and tree** control board fund has**  
 40 **not been established by the county, the funds collected must be**  
 41 **deposited in the county general fund.**

42 SECTION 12. IC 15-16-7-12, AS ADDED BY P.L.2-2008,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
2 JULY 1, 2022]: Sec. 12. (a) This subsection applies to real estate  
3 owned by the state. The auditor of state shall issue a warrant to pay the  
4 amount set forth in the certified statement under ~~section~~ **sections 10(b)**  
5 **and 10.1(b)** of this chapter for real estate owned by the state and shall  
6 charge the appropriate fund for the amount.

7 (b) This subsection applies to real estate owned by a municipality  
8 (as defined in IC 5-11-1-16). The fiscal officer of the municipality shall  
9 make the necessary appropriation from the appropriate fund to pay the  
10 weed **and tree** control board the amount set forth in the certified  
11 statement under ~~section~~ **sections 10(b) and 10.1(b)** of this chapter for  
12 real estate owned by the municipality.

13 (c) This subsection applies to real estate that is exempt from  
14 property taxation. The owner of the tax exempt real estate shall pay the  
15 amount set forth in the certified statement under ~~section~~ **sections 10(b)**  
16 **and 10.1(b)** of this chapter for the tax exempt real estate. If the owner  
17 of the tax exempt real estate fails to pay the amount required by this  
18 chapter, the owner is ineligible for the property tax exemption, and the  
19 department of local government finance shall deny the property tax  
20 exemption for the real estate.

21 SECTION 13. IC 15-16-7-13, AS ADDED BY P.L.2-2008,  
22 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2022]: Sec. 13. Except as provided in section 12 of this  
24 chapter, the county auditor, upon receiving and filing the weed **and**  
25 **tree** control board's certified statement as prescribed in this chapter,  
26 shall:

- 27 (1) immediately place the amounts on the tax duplicate of the
- 28 county;
- 29 (2) collect the amounts at the next tax paying time, in the same
- 30 manner as other state, county, or township taxes are collected,
- 31 including penalties, forfeitures, and sales; and
- 32 (3) after the amount has been collected, place the amount in the
- 33 proper fund.

34 SECTION 14. IC 15-16-7-14, AS ADDED BY P.L.2-2008,  
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2022]: Sec. 14. The Purdue University cooperative extension  
37 service shall provide technical assistance to any weed **and tree** control  
38 board in order to control and contain the growth and spread of noxious  
39 weeds.

40 SECTION 15. IC 15-16-7-15, AS ADDED BY P.L.2-2008,  
41 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2022]: Sec. 15. Any person who fails to begin a program



1 recommended by the weed **and tree** control board to control and  
 2 contain noxious weeds within the time prescribed under section 9 of  
 3 this chapter commits a Class C infraction.

4 SECTION 16. IC 15-16-7-16 IS ADDED TO THE INDIANA  
 5 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 6 [EFFECTIVE JULY 1, 2022]: **Sec. 16. A unit (as defined in**  
 7 **IC 36-1-2-23) is immune from liability for failing to remove a dead**  
 8 **or dying tree that falls on a roadway controlled by the unit.**

9 SECTION 17. IC 15-16-8-4, AS ADDED BY P.L.2-2008,  
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2022]: Sec. 4. (a) If a township trustee:

12 (1) has reason to believe that detrimental plants may be on real  
 13 estate; and

14 (2) gives the owner or person in possession of the real estate  
 15 forty-eight (48) hours notice under subsection (e);

16 the township trustee may enter the real estate to investigate whether  
 17 there are detrimental plants on the real estate.

18 (b) Except as provided in subsection (d), if the township trustee  
 19 determines by:

20 (1) investigating real estate located in the trustee's township; or

21 (2) visual inspection without entering real estate located in the  
 22 trustee's township;

23 that a person has detrimental plants growing on real estate, the trustee  
 24 shall give written notice under subsection (e) to the owner or person in  
 25 possession of the real estate to destroy the detrimental plants. The  
 26 owner or person in possession of the real estate shall destroy the plants  
 27 in a manner provided in section 3 of this chapter not more than five (5)  
 28 days after the notice is received under subsection (f).

29 (c) If the detrimental plants are not destroyed as provided in  
 30 subsection (b), the trustee shall cause the detrimental plants to be  
 31 destroyed in a manner most practical to the trustee not more than eight  
 32 (8) days after notice is received by the owner or person in possession  
 33 of the real estate under subsection (f). The trustee may hire a person to  
 34 destroy the detrimental plants. The trustee or the person employed to  
 35 destroy the detrimental plants may enter upon the real estate where the  
 36 detrimental plants are growing to destroy the detrimental plants and are  
 37 not civilly or criminally liable for damage to crops, livestock, or other  
 38 property occurring while carrying out the work, except for gross  
 39 negligence or willful or wanton destruction.

40 (d) If the county has established a county weed **and tree** control  
 41 board under IC 15-16-7, the township trustee may notify the county  
 42 weed **and tree** control board of the real estate containing detrimental





1 plants, and the board shall either assume jurisdiction to control the  
 2 detrimental plants or decline jurisdiction and refer the matter back to  
 3 the township trustee. The county weed **and tree** control board shall  
 4 notify the township trustee of the board's decision.

5 (e) Notice required in subsection (a) or (b) may be given by:

6 (1) certified mail; or

7 (2) personal service.

8 (f) Notice under subsection (e) is considered received by the owner  
 9 or person in possession of the real estate:

10 (1) if sent by mail, on the earlier of:

11 (A) the date of signature of receipt of the mailing; or

12 (B) three (3) business days after the date of mailing; or

13 (2) if served personally, on the date of delivery.

14 SECTION 18. IC 33-37-5-7, AS AMENDED BY P.L.2-2008,  
 15 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2022]: Sec. 7. (a) This section applies to criminal actions.

17 (b) The clerk shall collect the marijuana eradication program fee set  
 18 by the court under IC 15-16-7-8, if:

19 (1) a weed **and tree** control board has been established in the  
 20 county under IC 15-16-7-3; and

21 (2) the person has been convicted of an offense under IC 35-48-4  
 22 in a case prosecuted in that county.

23 (c) The court may set a fee under this section of not more than three  
 24 hundred dollars (\$300).

25 SECTION 19. IC 34-30-2-57.9 IS ADDED TO THE INDIANA  
 26 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 27 [EFFECTIVE JULY 1, 2022]: **Sec. 57.9. IC 15-16-7-16 (concerning**  
 28 **dead or dying trees).**

