

FIRST REGULAR SESSION

# SENATE BILL NO. 336

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR MUNZLINGER.

Read 1st time February 24, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

1711S.011

## AN ACT

To repeal sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, and 263.450, RSMo, and to enact in lieu thereof five new sections relating to agriculture, with penalty provisions.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 263.190, 263.200, 263.205, 263.220, 263.230, 263.232, 263.240, 263.241, and 263.450, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 263.190, 263.200, 263.220, 263.240, and 263.242, to read as follows:

263.190. 1. [The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. All owners of land shall control all such plants growing upon their land.] **As used in sections 263.190 to 263.474, the term "noxious weed" means any weed designated as noxious by rules and regulations promulgated by the director of the department of agriculture. The department of agriculture shall maintain a list of such noxious weeds and shall make that list available to the public.**

2. It shall be the duty of every owner of lands in this state, **including, but not limited to, a person or persons, association of persons, corporations, partnerships, the state highways and transportation commission, any state department, any state agency, the county commissions, the township boards, school boards, drainage boards, the governing bodies of incorporated cities, railroad companies and other transportation companies or their authorized agents, and those supervising state-owned lands** to control all [Canada, musk, or Scotch

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

17 thistles] **noxious weeds** growing thereon so often in each and every year as  
18 shall be sufficient to prevent said [thistles] **noxious weeds** from going to seed. If  
19 any owner of such land shall knowingly allow any [Canada, musk, or Scotch  
20 thistles] **noxious weeds** to grow thereon, such owner shall forfeit and pay the  
21 sum of one hundred dollars to the county commission for every such offense, and  
22 such sum forfeited plus court costs may be recovered by civil action instituted by  
23 **the adjoining or aggrieved entity or** the prosecuting attorney in the name  
24 of the county commission before any associate circuit judge of the county in which  
25 the offense is committed. All sums recovered by virtue of this section shall be  
26 paid to the use of the county control fund **or to the adjoining or aggrieved**  
27 **entity.**

28           3. Before initiating any civil action under this section, **the adjoining or**  
29 **aggrieved entity or** the prosecuting attorney of the county in which the land,  
30 or the greater part thereof, is located shall notify the owner of the land of the  
31 requirements of this law, by certified mail, return receipt requested, from a list  
32 supplied by the officer who prepares the tax list, and shall allow the owner of the  
33 land fifteen days from acknowledgment date of return receipt, or date of refusal  
34 of acceptance, as the case may be, to **initiate control of** all such plants growing  
35 upon his land. Failure of the owner to **initiate control of** such plants within the  
36 fifteen-day period shall be prima facie evidence of the owner's knowledge that he  
37 is in violation of this law, and each fifteen days the violation continues after the  
38 initial fifteen-day period shall, for the purpose of forfeiture and penalty herein,  
39 be considered a separate offense.

40           **4. All sales of noxious weed species are prohibited.**

263.200. 1. In addition to the remedies provided in section 263.190, when  
2 [Canada, musk, or Scotch thistles] **noxious weeds** are discovered growing on  
3 any lands in the county, it shall be the duty of the county commission to control  
4 such [thistles] **noxious weeds** so as to prevent the seed from ripening, and for  
5 that purpose the county commission, or its agents, servants, or employees shall  
6 have authority to enter on such lands without being liable to an action of trespass  
7 therefor, and shall have such official immunity as exists at common law for any  
8 misfeasance or damages occurring in connection with the attempt to control  
9 [Canada, musk, or Scotch thistles] **noxious weeds**. Notwithstanding any  
10 provision of law to the contrary, the county shall be liable for any misfeasance or  
11 actual damages caused by its agents, servants, or employees in connection with  
12 the attempt to control [Canada, musk, or Scotch thistles] **noxious weeds**. The

13 landowner shall owe no duty of care to such persons, except that which the  
14 landowner owes to trespassers. The county commission shall keep an accurate  
15 account of the expenses incurred in controlling the [thistles] **noxious weeds**,  
16 and shall verify such statement under seal of the county commission, and  
17 transmit the same to the officer whose duty it is or may be to extend state and  
18 county taxes on tax books or bills against real estate; and such officer shall  
19 extend the aggregate expenses so charged against each tract of land as a special  
20 tax, which shall then become a lien on the lands, and be collected as state and  
21 county taxes are collected by law and paid to the county commission and credited  
22 to the county control fund.

23         2. Before proceeding to control [Canada, musk, or Scotch thistles]  
24 **noxious weeds** as provided in this section, the county commission of the county  
25 in which the land, or the greater part thereof, is located shall notify the owner of  
26 the land of the requirements of this law, by certified mail, return receipt  
27 requested, from a list supplied by the officer who prepares the tax list, and shall  
28 allow the owner of the land fifteen days from acknowledgment date of return  
29 receipt, or date of refusal of acceptance of delivery, as the case may be, to control  
30 all such plants growing upon his land.

31         3. Any land or properties that are owned solely by a political subdivision  
32 in a city not within a county shall be subject to all provisions of sections 263.190,  
33 263.200, and 263.240.

263.220. It shall be the duty of the prosecuting attorney of the county to  
2 prosecute all actions brought under [sections] **section 263.190**[to 263.240].

263.240. Any person who shall violate any of the provisions of [sections  
2 263.210 to 263.240] **section 263.190** shall, upon conviction, be guilty of a  
3 misdemeanor.

**263.242. The department of agriculture shall promulgate rules**  
2 **necessary to implement the provisions of sections 263.190 to**  
3 **263.240. Any rule or portion of a rule, as that term is defined in section**  
4 **536.010 that is created under the authority delegated in this section**  
5 **shall become effective only if it complies with and is subject to all of**  
6 **the provisions of chapter 536, and, if applicable, section 536.028. This**  
7 **section and chapter 536 are nonseverable and if any of the powers**  
8 **vested with the general assembly pursuant to chapter 536, to review, to**  
9 **delay the effective date, or to disapprove and annul a rule are**  
10 **subsequently held unconstitutional, then the grant of rulemaking**

11 **authority and any rule proposed or adopted after August 28, 2011, shall**  
12 **be invalid and void.**

[263.205. 1. The plant multiflora rose (rosa multiflora) is  
2 hereby declared to be a noxious weed; except, notwithstanding any  
3 other provision of this section, multiflora rose (rosa multiflora)  
4 shall not be considered a noxious weed when cultivated for or used  
5 as understock for cultivated roses.

6 2. The governing body of any county of this state may opt  
7 to establish a "County Noxious Weed Fund" for the purpose of  
8 making grants on a cost share basis for the control of any noxious  
9 weed, as the plant may be designated under this section.

10 3. Any county opting to establish a county noxious weed  
11 fund, shall establish a noxious weed control program. No resident  
12 or owner of land of any county shall be required to participate in  
13 a county noxious weed control program; however, any resident or  
14 landowner making application for cost share grants under this  
15 section shall participate in said program.

16 4. For the purpose of administering the county noxious  
17 weed fund, the county governing body shall have sole discretion of  
18 awarding cost share grants under this section.

19 5. For the purpose of funding the county noxious weed fund,  
20 the county governing body may appropriate county funds, and/or  
21 solicit municipality, state agency, state general revenue, and  
22 federal agency funds. All such funds shall be deposited in the  
23 county noxious weed fund to be expended for the sole purpose of  
24 controlling noxious weeds so designated under this section.

25 6. Any county opting to establish a county noxious weed  
26 control program under this section may make rules and regulations  
27 governing said program, and any county opting to establish a  
28 county noxious weed fund under this section shall establish a cost  
29 share ratio on an annual basis beginning with the creation of the  
30 fund.]

[263.230. It shall be the duty of any person or persons,  
2 association of persons, corporations, partnerships, the state  
3 highways and transportation commission, the county commissions,  
4 the township boards, school boards, drainage boards, the governing

5 bodies of incorporated cities, railroad companies and other  
6 transportation companies or their authorized agents and those  
7 supervising state-owned lands to control the spread of and to  
8 eradicate by methods approved by the state department of  
9 agriculture field bindweed (*convolvulus arvensis*) hereby designated  
10 as a noxious and dangerous weed to agriculture.]

[263.232. It shall be the duty of any person or persons,  
2 association of persons, corporations, partnerships, the state  
3 highways and transportation commission, any state department,  
4 any state agency, the county commissions, the township boards,  
5 school boards, drainage boards, the governing bodies of  
6 incorporated cities, railroad companies and other transportation  
7 companies or their authorized agents and those supervising  
8 state-owned lands:

9 (1) To control and eradicate the spread of cut-leaved teasel  
10 (*Dipsacus laciniatus*) and common teasel (*Dipsacus fullonum*),  
11 which are hereby designated as noxious and dangerous weeds to  
12 agriculture, by methods in compliance with the manufacturer's  
13 label instructions when chemical herbicides are used for such  
14 purposes;

15 (2) To control the spread of kudzu vine (*Pueraria lobata*),  
16 which is hereby designated as a noxious and dangerous weed to  
17 agriculture, by methods in compliance and conformity with the  
18 manufacturer's label instructions when chemical herbicides are  
19 used for such purposes; and

20 (3) To control the spread of spotted knapweed (*Centaurea*  
21 *stoebe* ssp. *micranthos*, including all subspecies), which is hereby  
22 designated as a noxious and dangerous weed to agriculture, by  
23 methods in compliance and conformity with the manufacturer's  
24 label instructions when chemical herbicides are used for such  
25 purposes.]

[263.241. The plant, purple loosestrife (*Lythrum salicaria*),  
2 and any hybrids thereof, is hereby designated a noxious weed. No  
3 person shall buy, sell, offer for sale, distribute or plant seeds,  
4 plants or parts of plants of purple loosestrife without a permit  
5 issued by the Missouri department of conservation. Such permits

6 shall be issued only for experiments to control and eliminate  
7 nuisance weeds. Any person who violates the provisions of this  
8 section shall be guilty of a class A misdemeanor.]

2 [263.450. As used in sections 263.450 to 263.474, the term  
3 "noxious weed" includes bindweed (*Convolvulus arvensis*), Johnson  
4 grass (*Sorghum halepense*), multiflora rose (*Rosa multiflora*) except  
5 when cultivated for or used as understock for cultivated roses,  
6 Canada thistle (*Cirsium arvense*), musk thistle (*Carduus nutans*  
7 L.), Scotch thistle (*Onoprodum acanthium* L.), purple loosestrife  
8 (*Lythrum salicaria*), and any other weed designated as noxious by  
9 rules and regulations promulgated by the director of the  
department of agriculture.]

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Bill

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