

Title 46 - Agriculture
CHAPTER 23.
NOXIOUS WEEDS

SECTION 46-23-10. Short title.

This chapter may be cited as the "South Carolina Noxious Weed Act."

SECTION 46-23-20. Definitions.

As used in this chapter:

(a) "Commissioner" means the Commissioner of Agriculture of South Carolina or any other person to whom authority may be delegated to act in his stead.

(b) "Authorized inspector" means an employee of South Carolina Department of Agriculture or an employee of a cooperating agency specifically authorized to enforce the provisions of the Federal Noxious Weed Act.

(c) "Noxious weed" means any living stage of any plant including seed or reproductive parts thereof or parasitic plants or parts thereof which is determined by the Commissioner of Agriculture to be directly or indirectly injurious to public health, crops, livestock, or agriculture including but not limited to waterways and irrigation canals.

(d) "Move" means to ship, offer for shipment, offer for entry, import, receive for transportation or transport by a common carrier or carry, transport, move or allow to be moved by any means.

SECTION 46-23-30. Commissioner may prevent introduction and dissemination of noxious weeds in State; remedies of owner of property destroyed or disposed of.

(a) The Commissioner may, when he deems it necessary as an emergency measure in order to prevent the introduction into or the dissemination within

South Carolina of any noxious weed new to or not theretofore widely prevalent or distributed within and throughout the State, seize, quarantine, treat, destroy, apply other remedial measures to, export, return to shipping point, or otherwise dispose of in such a manner as he deems appropriate, any noxious weed or any product or article of any character whatsoever or any means of conveyance which he has reason to believe contains or is contaminated with any noxious weed, offered for movement, moving, or has moved into or through the State or intrastate. Provided, that no such noxious weed, product, article or means of conveyance shall be destroyed, exported, or returned to the shipping point or so ordered to be destroyed, exported, or returned to the shipping point, unless in the opinion of the Commissioner, there is no less drastic action which would be adequate to prevent the introduction or dissemination of noxious weeds.

(b) The Commissioner may order the owner or person in possession of any new or not theretofore widely prevalent noxious weed, or any product, article, or means of conveyance, or his agent to treat, apply other remedial measures to, destroy, export, return to shipping point, or make other disposition of such noxious weed, product, article, or means of conveyance without cost to the State or agency cooperating with the State in such a manner as the Commissioner deems appropriate. The Commissioner may apply to a court of competent jurisdiction in which such person resides or transacts business or in which the noxious weed, product, article, or means of conveyance is found for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpoena for witnesses who are required to attend a court in any judicial district in such a case shall have force and effect in any other judicial district.

(c) The owner of any noxious weed, product, article, or means of conveyance, destroyed or otherwise disposed of by the Commissioner under this section, may bring an action against the State within one year after such destruction or

disposal, and recover just compensation for the destruction or disposal of such noxious weed, product, article, or means of conveyance (not including compensation for loss due to delays incident to determining eligibility for movement into or through South Carolina or for intrastate movement) if the owner establishes that such action was not warranted under this section. Any judgment rendered in favor of such owner shall be paid out of the money appropriated for noxious weed control.

(d) The Commissioner may promulgate such emergency regulations as he deems necessary to prevent the introduction into or the dissemination within the State of noxious weeds.

SECTION 46-23-40. Quarantines.

(a) The Commissioner is authorized and directed to quarantine any county, or any portion thereof, when he deems that such quarantine is necessary to prevent the spread of any noxious weed. Before such quarantine is established, the Commissioner shall give due notice of hearing under such regulations as he may prescribe. At such hearing, any interested party may appear and be heard, either in person or by attorney.

(b) The Commissioner is directed to give notice of quarantine or amendments thereto through publication in the county newspaper.

(c) No persons shall ship or offer for shipment to any common carrier, nor shall any common carrier receive for transportation or transport, nor shall any person carry or transport from any quarantined county or any quarantined portion thereof, into or through any other county, any noxious weed or any other product, article, or means of conveyance of any character whatsoever except as specified in the regulations issued by the Commissioner.

(d) The Commissioner shall make and promulgate rules and regulations governing the inspection, disinfection, certification, and methods and manner of movement of noxious weeds and any carriers thereof specified in the notice of the quarantine.

SECTION 46-23-50. Commissioner may detect and prevent spread of noxious weeds.

The Commissioner is authorized to carry out operations or measures necessary to detect, eradicate, suppress, control, or prevent the spread of noxious weeds new to or not heretofore widely prevalent or distributed within and throughout the State. The Commissioner is authorized to promulgate rules and regulations to accomplish the purposes of this chapter.

SECTION 46-23-60. Inspections and seizures.

Any authorized inspector shall have authority to stop and inspect without a warrant any person or means of conveyance moving into the State and any noxious weed, and any product or article of any character whatsoever which he has reason to believe contains or is contaminated with any noxious weed, to determine whether such person, product, article, or means of conveyance contains or is carrying any noxious weed contrary to this chapter or the regulations promulgated thereunder, and whether any such noxious weed, product, article or means of conveyance contains or is contaminated with any noxious weed or is moving in violation of this chapter or any regulation promulgated thereunder; to stop and inspect, without a warrant, any person, product, article, or means of conveyance moving intrastate and any noxious weed, when he has reason to believe that such means of conveyance, product, or article contains any noxious weed, is contaminated thereby, or is moving contrary to the provisions of this chapter or any regulation promulgated thereunder; and to enter, with a warrant, any premises in the State to make any inspections and seizures necessary under this chapter. Any judge of a court of

competent jurisdiction in South Carolina may, within his respective jurisdiction upon proper oath or affirmation showing probable cause to believe that there are on certain premises any noxious weeds, products, articles, or means of conveyance, regulated or subject to disposal under this chapter, issue warrants for the entry of such premises to make any inspections or seizures under this chapter. Such warrants may be executed by any authorized employee of the South Carolina Department of Agriculture.

SECTION 46-23-70. Cooperation with other governments and agencies.

The Commissioner is authorized to cooperate with the federal government, state agencies, farmers' organizations, other groups, and individuals in the conduction of those operations necessary to accomplish the purposes of this chapter. The Commissioner is further authorized to cooperate with the governments of other states in carrying out necessary surveys, control operations, or quarantine measures, deemed necessary to eradicate, suppress, control, or retard the spread of noxious weeds, whenever the Commissioner determines that such cooperation with the officials in other states is necessary or desirable to protect the interests of this State.

SECTION 46-23-80. Penalty.

Any person who violates any provision of this chapter, or any regulation promulgated thereunder, shall be deemed guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars, or by imprisonment not exceeding one year, or both.