

PART 1
PLANT PEST ACT

43-6-101. Short title.

This part shall be known by the short title of the "Tennessee Plant Pest Act."

[Acts 1955, ch. 8, § 1; T.C.A., § 43-515; Acts 1997, ch. 70, § 1.]

43-6-102. Definitions.

As used in this part and the rules, regulations or orders made pursuant to this part, unless the context otherwise requires:

(1) "Agent" means any person soliciting orders for or selling or distributing nursery stock or other plants under the partial or full control of a nursery owner or dealer;

(2) "Commissioner" means the commissioner of agriculture or the commissioner's duly authorized agents;

(3) "Dealer" means any person not a grower of nursery stock or other plants who buys or otherwise acquires nursery stock or other plants for the purpose of reselling or otherwise distributing same independently of any control of the grower;

(4) "Florist" means an establishment whose primary business is the retail sale of fresh cut flowers; a florist shall not be considered a dealer; provided, that the sales of rooted plant material sold by such florist shall be those used to enhance fresh cut flower arrangements, or which are intended to be grown and maintained indoors and which are not intended to be planted in the landscape;

(5) "Greenhouses" means any glass house, screen house or other structure in which plants are grown, kept, or propagated for sale or distribution;

(6) "Insect pests" means insects or closely related organisms in any stage of development injurious to the agricultural, horticultural, silvicultural, or other interests of the state;

(7) "Nursery" means any grounds or premises on or in which nursery stock is grown, kept or propagated for sale or distribution;

(8) "Nursery farmer" means any person engaged in the practice of growing or propagating nursery stock for sale, which person shall for all statutory purposes be deemed to be a farmer;

(9) "Nursery stock" means all trees, shrubs, or other perennial plants or parts of such trees, shrubs, or other perennial plants grown or kept for, or capable of propagation, distribution, or sale on a commercial basis;

(10) "Nursery worker" means all persons employed on a nursery or property used in conjunction therewith, for the purpose of cultivating the soil, growing and propagating the stock, or for duties necessary for the grading, fumigating, cutting, packing, and the like, of the plants on the nursery, or the property used in conjunction therewith and prior to their entry into channels of commerce, shall be recognized for all statutory purposes as "farm laborers"; and

(11) "Plant diseases" means infectious or transmissible diseases of plants, and their pathogens, including parasitic plants in any stage of development.

[Acts 1955, ch. 8, § 2; 1959, ch. 78, § 1; 1959, ch. 144, § 1; T.C.A., § 43-516; Acts 1997, ch. 70, § 2; 1998, ch. 636, § 1.]

43-6-103. [Repealed.]

43-6-104. Rules and regulations - Force and effect.

The commissioner has the power to promulgate such rules and regulations under the authority of this part as may be necessary to prevent the further introduction of insect pests, pest plants, or plant diseases into the state, and to eradicate and/or suppress and control such insect pests, pest plants, or plant diseases occurring therein, and that such rules and regulations established under this part shall have the force and effect of law.

[Acts 1955, ch. 8, § 4; T.C.A., § 43-518; Acts 1995, ch. 330, § 1; 1997, ch. 70, § 4.]

43-6-105. Uniform Administrative Procedures Act applicable - Exception for quarantine procedure.

Administration of this part shall comply with the Uniform Administrative Procedures Act, compiled in [title 4, chapter 5](#), except that an order of quarantine need not be treated as a contested case prior to receipt by the commissioner of a petition to review the quarantine. Such petitions shall be heard by the commissioner as soon as reasonably possible.

[Acts 1955, ch. 8, § 5; 1959, ch. 78, § 2; 1976, ch. 806, § 1(79); T.C.A., § 43-519; Acts 1980, ch. 472, § 2.]

43-6-106. Duties of director - Powers.

It is the duty of the commissioner to protect the agricultural, silvicultural and horticultural or other interests of the state from insect pests, pest plants, or plant diseases and to that end the commissioner is vested with power and authority to:

(1) Inspect or cause to be inspected by duly authorized agents or employees, plants, plant products, or other articles or things that may, in the commissioner's opinion, be capable of disseminating or carrying insect pests, pest plants, or plant diseases. For this purpose, the commissioner has the power to go upon any property, including private property, posted or otherwise, and open any bundle, package, or other container containing, or

thought to contain, plants, plant products, or other articles or things capable of transmitting or carrying insect pests, pest plants, or plant diseases;

(2) Supervise or cause the treatment, cutting, or destruction of plants; treat or supervise treatment of land and soil; require the elimination of specific crops and prohibit the planting of such crops in designated areas for stipulated periods; regulate planting dates, harvest dates, and other cultural practices in designated areas; require destruction, treatment, other handling of crop residues and debris in designated areas; otherwise regulate land use in designated areas, when any or all of these measures are necessary to prevent the dissemination or to control or to eradicate insect pests, pest plants, or plant diseases and when rules and regulations therefor have been duly promulgated;

(3) Inspect or cause to be inspected all nurseries, greenhouses, or other plant growing establishments of whatever kind in the state at such intervals as the commissioner may deem best and promulgate such rules and regulations governing nurseries, greenhouses and other plant growing establishments and the movement of nursery stock, plants, and plant propagating material as the commissioner may deem necessary in the eradication, control or prevention of spread of insect pests, pest plants, or plant diseases;

(4) Promulgate rules and regulations to govern the sale and distribution of nursery stock, other plants or plant propagating material by dealers and agents;

(5) Promulgate rules and regulations under which nursery stock, other plants, plant propagating material, and plant products may be brought into this state from other states, territories, and foreign countries;

(6) Promulgate such rules and regulations with reference to plants and plant products while in transit through this state as may be deemed necessary to prevent the introduction into and dissemination within this state of insect pests, pest plants, or plant diseases;

(7) Require of any person, firm or corporation having plants, plant products, or other articles or things likely to carry insect pests, pest plants, or plant diseases, in the possession of such person, firm or corporation to give full information as to the origin and source of same, and it is a Class A misdemeanor for such person, firm or corporation to refuse to give such information if able to do so;

(8) Declare a dangerous insect pest, pest plant, or plant disease to be a public nuisance as well as any plant or other thing infested or infected therewith or that has been exposed to infestation or infection and therefore likely to communicate same;

(9) Declare a quarantine against any area, place, nursery, forest, orchard, farm lot, or other boundary of whatever size or description, or any county or counties within this state, other states, territories, foreign countries or portion thereof in reference to dangerous insect pests, pest plants, or plant diseases and prohibit the movement within the state or any part thereof or the introduction into this state from other states, territories, or foreign countries, of all plants, plant propagating material, plant products, or other articles or things including soil from such quarantined places or areas which are likely to carry such dangerous insect pests, pest plants, or plant diseases if such quarantine be

determined, after due investigation by the commissioner to be necessary in order to protect the agricultural, horticultural, and silvicultural, or other interests of this state. In such cases, the quarantine may be made absolute, or rules and regulations may be adopted prescribing the method and manner under which the prohibited articles may be moved into or within, sold, or otherwise disposed of in this state;

(10) Intercept and inspect while in transit or after arrival at destination, all plants, plant propagating material, plant products, or other things likely to carry insect pests, pest plants, or plant diseases being moved in this state, and if upon inspection, the same is found to be infested or infected with an injurious insect pest, pest plant, or plant disease, or if such material is believed to be likely to communicate or transmit same or is being transported in violation of any of the rules and regulations established pursuant to the provisions and under the authority of this part, then such plants, plant propagation material, plant products or other things may be treated when necessary (at the expense of the owners thereof) and released, returned to the sender, or destroyed, such disposition to be determined under rules and regulations to be promulgated by the commissioner;

(11) Carry on investigations relating to methods of control, eradication, and/or prevention of spread of insect pests, pest plants, or plant diseases, and for that purpose may rent, lease, or purchase the necessary facilities, in accordance with existing state law pertaining to such transactions; and

(12) Apply to courts of competent jurisdiction for writs of injunction and institute criminal proceedings for the enforcement of this part. It is the duty of the several district attorneys general to represent the commissioner when called upon to do so.

[Acts 1955, ch. 8, § 6; 1959, ch. 78, § 3; T.C.A., § 43-520; Acts 1989, ch. 591, § 1; 1995, ch. 330, § 2; 1997, ch. 70, § 5.]

43-6-107. Appointment of assistants - Cooperative agreements - Official publication.

The commissioner has the power and authority to:

(1) Purchase all necessary materials, supplies, office, laboratory, and field equipment and other things, in the manner prescribed by law, and make such other expenditures as may be essential and necessary in carrying out the provisions of this part within the limits of the amount appropriated by law;

(2) Appoint, in accordance with any applicable rules or regulations of the department of personnel, such assistants, inspectors and other employees as may be required and prescribe their duties, and delegate to such assistants, inspectors and other employees such powers and authority as may be deemed proper within the limits of the power and authority conferred upon the commissioner and/or the director by this part;

(3) Enter into cooperative arrangements with any person, municipality, county and other departments of this state, and boards, officers and authorities of other states and the United States for inspection with reference to insect pests, pest plants, or plant diseases

and for the control and eradication thereof, and to contribute a just proportionate share of the expenses incurred under such arrangements; and

(4) Publish, at intervals to be determined by the commissioner, an official organ of the department of agriculture for public distribution and may from time to time publish and distribute to the public such further information as may be deemed necessary or in the public interest.

[Acts 1955, ch. 8, § 7; T.C.A., § 43-521; Acts 1995, ch. 330, § 3; 1997, ch. 70, § 6.]

43-6-108. Promulgation of rules - Certified copies in evidence.

All rules and regulations made pursuant to the provisions of this part shall be promulgated as provided by law; provided, that in case of emergency where it is necessary to place a quarantine to take effect immediately, promulgation may be made by proclamation of the commissioner. Printed copies of all acts, rules, regulations, quarantines, or other notices which shall be published by the commissioner under authority granted by this part shall be admitted as sufficient evidence of such acts, rules, regulations, quarantines or other notices in all courts and on all occasions whatsoever; provided, that the correctness of such copies be certified to by the commissioner.

[Acts 1955, ch. 8, § 8; T.C.A., § 43-522; Acts 1997, ch. 70, § 7.]

43-6-109. Live insects and specimens - Special permits.

The introduction into this state of any insect pests, pest plants, or plant diseases, except under a special permit issued by the commissioner, is hereby prohibited.

[Acts 1955, ch. 8, § 9; T.C.A., § 43-523; Acts 1995, ch. 330, § 4; 1997, ch. 70, § 8.]

43-6-110. Isolation of plants and products - Inspection.

Any person, including common carriers, who shall knowingly receive plants, plant products, or other articles or things sold, given away, carried, shipped, or delivered for carriage or shipment within the state, as to which provisions of this part and the rules and regulations promulgated pursuant thereto have not been complied with, shall be required to isolate and hold the plant, plant product, or other article or thing, unopened and unused, subject to such inspection or other disposition as may be provided by the commissioner.

[Acts 1955, ch. 8, § 10; T.C.A., § 43-524; Acts 1997, ch. 70, § 9.]

43-6-111. Liability of principal.

In construing and enforcing the provisions of this part, the act, omission or failure of any official, agent, or other person acting for, or employed by, any association, partnership,

corporation or other principal within the scope of such person's employment or office shall in every case be deemed the act, omission, or failure of such association, partnership, corporation or other principal as well as that of the individual.

[Acts 1955, ch. 8, § 11; T.C.A., § 43-525.]

43-6-112. Violations - Penalty.

Any person who violates any provision or requirement of this part or of the rules and regulations made thereunder or of any order or notice given pursuant thereto, or who forges, counterfeits, destroys, or wrongfully or improperly, uses any certificate provided for in this part or in the rules and regulations made pursuant thereto, or who interferes with or obstructs the commissioner or any of such person's duly designated employees or agents in the performance of such person's duties, commits a Class C misdemeanor.

[Acts 1955, ch. 8, § 12; T.C.A., § 43-526; Acts 1989, ch. 591, § 113; 1997, ch. 70, § 10.]

PART 2 ERADICATION OF JOHNSON GRASS

43-6-201. Adoption of part by county legislative body.

The various county legislative bodies of the state may hereafter by resolution adopt the provisions of this part by a vote of its members. Upon a two-thirds (2/3) vote of the county legislative body for the adoption of this part, the results thereof shall be certified to the commissioner of agriculture. If a majority of the votes cast are against the adoption of the provisions of this part, the question shall not be resubmitted for reconsideration of the county legislative body for at least one (1) year after such vote.

[Acts 1961, ch. 306, § 1; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 43-2701.]

43-6-202. Johnson grass extermination areas - Designation by commissioner of agriculture - Notice.

The commissioner of agriculture shall within thirty (30) days after receipt of the notice from the county clerk as provided in § [43-6-201](#) declare such county to be a "Johnson grass extermination area" and the commissioner shall cause suitable notice to be published in a newspaper in the county for two (2) consecutive weeks. Such notice shall specify that the county has been declared a Johnson grass extermination area and that all property owners in the county shall, not later than April 30 following the publication of such notice, take steps to control and eradicate Johnson grass on all lands owned by them or under their control. The commissioner may have inserted in the notice such other pertinent and relevant information as the commissioner may deem advisable.

[Acts 1961, ch. 306, § 2; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 43-2702.]

43-6-203. County weed control boards.

(a) The commissioner of agriculture shall, within ten (10) days after receipt of the notice provided for in § [43-6-201](#), appoint a three (3) man county weed control board composed of citizens of the county, which shall be named by the county legislative body to serve as advisors and to assist the commissioner in the administration of the provisions of this chapter and to perform such other duties as may be prescribed by the commissioner.

(b) Members of the board shall receive no salary for their services but shall be reimbursed by the county legislative body for their actual and necessary expenses incurred in the performance of their duties.

[Acts 1961, ch. 306, § 3; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 43-2703.]

43-6-204. Duties of commissioner of agriculture.

(a) The commissioner of agriculture has the duty under this part to:

(1) Assist the county weed control board, all public utilities, the department of transportation, the county legislative body, drainage districts, the county highway department, other public and quasi-public corporations and other interested parties in the control and eradication of Johnson grass;

(2) Be informed of the origin, nature and appearance of Johnson grass and the manner in which it is disseminated and shall follow recommendations of the University of Tennessee, college of agricultural sciences and natural resources, as to the best and approved method to control, eradicate and prevent the dissemination of Johnson grass; and

(3) Cooperate with and have authority to enter into cooperative agreements with state and federal agencies and departments for the furtherance of the control and eradication of Johnson grass.

(b) The commissioner shall make all rules and regulations for carrying out the provisions and requirements of this part.

[Acts 1961, ch. 306, § 4; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 43-2704.]

43-6-205. Inspection of land by county weed control boards.

(a) The county weed control board is responsible for the inspection of lands and places for compliance with the provisions of this part, and has the authority to employ all necessary assistance required for inspections, and shall certify the expense thereof to the county clerk for payment.

(b) The commissioner or the commissioner's designated representative, as well as the county weed control board or the designated representative of the board, shall have the

right of ingress or egress upon all lands in the county in making an inspection or performing any other duties imposed by the provisions of this part.

[Acts 1961, ch. 306, § 5; impl. am. Acts 1978, ch. 934, §§ 22, 36; T.C.A., § 43-2705.]

43-6-206. Failure to comply - Prosecution.

Upon failure or refusal to comply with the provisions of this part, such failure or refusal shall be reported by the county weed control board to the district attorney general for the county thereby affected, and it shall be the duty of the district attorney general to prosecute all persons violating the provisions of this part in the manner herein provided.

[Acts 1961, ch. 306, § 6; T.C.A., § 43-2706.]

43-6-207. Duty to control and exterminate.

(a) It is the duty of all public utilities where they control the surface area, the department of transportation, the county legislative body, drainage districts, county road departments and other public and quasi-public corporations and every landowner in Johnson grass extermination areas, to:

(1) Control and eradicate Johnson grass and prevent its regrowth and reinfestation on all lands, rights-of-way and easements owned, occupied or controlled by them;

(2) Employ methods of control and eradication and for the prevention of the regrowth and reinfestation of Johnson grass as directed by the commissioner of agriculture or the county weed control board; and

(3) Comply with all orders, rules and regulations promulgated by the commissioner of agriculture pursuant to the provisions of this part.

(b) The department of transportation may not enter into such program on a pilot basis with more than one (1) county.

(c) The state shall not be held civilly liable for any act in compliance with the purpose and intent of this part.

[Acts 1961, ch. 306, § 7; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 43-2707.]

43-6-208. Nuisance - Action to enjoin.

The existence or growth of Johnson grass, in counties electing to come under the provisions hereof, is hereby declared to be a public and common nuisance and the district attorneys general for and in those counties thereby affected shall have the duty to bring an action in the circuit court of such county to enjoin such nuisance. Such action shall be brought in the name of the state of Tennessee and shall be tried as in equity cases. In order to sustain such action, it shall be necessary to allege that thirty (30) days' advance notice of the filing of such suit has been served upon the defendant or defendants, and that the defendant or defendants, have taken no suitable action to comply with the

provisions of this law prior to the filing of such suit. Any landowner whose land is adjacent to or within one hundred feet (100') of land on which such nuisance is permitted or maintained and who is not undertaking a Johnson grass control program may bring a civil action for injunction against any person permitting or maintaining such nuisance and shall, in addition to injunctive relief, be entitled to recover as a penalty the sum of five hundred dollars (\$500) and any actual damages sustained as a result of the maintenance of such nuisance.

[Acts 1961, ch. 306, § 8; T.C.A., § 43-2708.]

43-6-209. Appropriation of funds by county.

Upon the adoption of the provisions of this part by a county, such county thereafter is hereby specifically authorized to appropriate funds to carry out and administer the provisions of this part.

[Acts 1961, ch. 306, § 10; T.C.A., § 43-2709.]

43-6-210. Removal of county from provisions of part.

When any particular county has adopted the provisions of this part and brings itself within the provisions hereof, it may at any subsequent time remove itself from the provisions hereof by a proper resolution therefor adopted by a majority vote of the county legislative body. Upon the adoption of such resolution, the provisions of this part shall not apply to such county.

[Acts 1961, ch. 306, § 9; impl. am. Acts 1978, ch. 934, §§ 7, 36; T.C.A., § 43-2710.]