

Chapter 17.2 – Noxious Weed Law

§ 3.1-296.11. Title.

This chapter shall be known as the "Noxious Weed Law."

§ 3.1-296.12. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter.

- (1) "Board" means the Board of Agriculture and Consumer Services.
- (2) "Commissioner" means the Commissioner of the Department of Agriculture and Consumer Services, or his authorized representatives.
- (3) "Person" means any individual, partnership, firm, corporation, company, society, association, the Commonwealth or any department, agency, or subdivision thereof, or any other entity.
- (4) "Noxious weed" means any living plant, not widely disseminated, or part thereof, declared by the Board through rules and regulations under this chapter, to be detrimental to crops, surface waters, including lakes, or other desirable plants, livestock, land, or other property, or to be injurious to public health or the economy.
- (5) "Quarantine" means a legal declaration by the Board that specifies:
 - (a) The noxious weed.
 - (b) The articles to be regulated.
 - (c) Conditions governing movement.
 - (d) Exemptions.
- (6) "Infested" means the establishment of a noxious weed or exposure to such weed, which would be reasonable cause to believe that establishment could occur.
- (7) "Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move or allow to be moved.
- (8) "Regulated article" means any article of any character as described in this chapter or in the quarantine carrying or capable of carrying a noxious weed against which this chapter or the quarantine is directed.

(9) "Certificate" means a document issued or authorized by the Commissioner indicating that a regulated article is not contaminated with a noxious weed.

(10) "Permit" means a document issued or authorized by the Commissioner to provide for movement of regulated articles to restricted destinations for limited handling, utilization, processing, or for scientific purposes.

(1970, c. 175; 1996, c. 266.)

§ 3.1-296.13. Powers and duties of Commissioner.

It shall be the duty of the Commissioner to exercise or perform the powers and duties imposed upon him by this chapter.

The Commissioner shall make surveys for noxious weeds and when the Commissioner determines that an infestation exists within the Commonwealth, he may request the Board to declare the weed to be noxious under this chapter and the Board shall proceed as specified in § [3.1-296.14](#).

The Commissioner in coordination with the Department of Game and Inland Fisheries shall develop a plan for the identification and control of noxious weeds in the surface waters and lakes of the Commonwealth.

The Commissioner may cooperate with any person or any agency of the federal government in carrying out the provisions of this chapter.

Expenses incurred on property owned or controlled by the federal government shall be reimbursed and refunded to the appropriation from which they were expended.

The Commissioner may, upon request, cooperate with federal, other state agencies or political subdivisions in the enforcement of the narcotics laws to the extent of preventing the spread of and destroying marijuana or hemp, Cannabis species, or other plants that produce drugs which have been condemned for destruction under the narcotics laws, and the expenses incurred shall be reimbursed and shall be refunded to the appropriation from which they were expended. Such drug producing plants are hereby declared noxious and subject to all provisions of this chapter pertaining to eradication and spread subject to the above conditions.

(1970, c. 175; 1996, c. 266.)

§ 3.1-296.14. Powers and duties of Board; quarantine.

It shall be the duty of the Board to establish by regulation, after a public hearing, those weeds deemed to be noxious weeds not otherwise so declared by the terms of this chapter. The Board may establish a statewide quarantine and provide rules and regulations pertaining to regulated articles and conditions governing movement, under

which the Commissioner shall proceed to eradicate or suppress and prevent the dissemination of noxious weeds in the Commonwealth, and shall establish such other rules and regulations as are necessary to carry out the purpose of this chapter. The Board shall also have the power to prescribe by rules and regulations the conditions governing movement of regulated articles entering this Commonwealth from without. Following the establishment of a quarantine, no person shall move any noxious weed or any regulated article described in the quarantine from any regulated area without a valid permit or certificate.

Subsequent to the declaration of a quarantine by the Board, the Commissioner shall limit the application of the rules and regulations pertinent to such quarantine to the infested portion of the Commonwealth and appropriate environs, which would be known as the regulated area and may, without further hearing, extend the regulated area to include additional portions of the Commonwealth upon publication of a notice to that effect in a newspaper distributed in the extended area or by direct written notice to those concerned.

(1970, c. 175.)

§ 3.1-296.15. Cost of controlling noxious weeds.

The cost of controlling or eradicating noxious weeds on all property owned or controlled by a State department or political subdivision thereof or control authority, agency, commission, or board, including highways, roadways, streets, alleys, and rights-of-way, shall be paid by the entity out of funds appropriated for its use. When it is not feasible for the entity to conduct the control program, the Commissioner may proceed with the control and the entity shall reimburse the cost and these moneys shall be refunded to the appropriation from which they were expended.

(1970, c. 175.)

§ 3.1-296.16. Prohibited acts; permit to transport, etc., noxious weeds.

No person shall violate any provisions of the law or any rule and regulation promulgated thereunder. No person shall move, transport, deliver, ship or offer for shipment into or within this Commonwealth any noxious weed, or part thereof, without first obtaining a permit from the Commissioner. Such permit shall be issued only after it has been determined that the noxious weed is generally present already or it is for scientific purposes subject to prescribed safeguards.

(1970, c. 175.)

§ 3.1-296.17. Authority to stop sale or delivery of noxious weeds, etc.

The Commissioner, in order to prevent the introduction or dissemination of noxious weeds, is hereby authorized to stop delivery, stop sale, seize, destroy, treat, or order returned to the point of origin, at the owner's expense, any noxious weed, article or

substance whatsoever, if transported or moved within this Commonwealth, or exists on any premise, or brought into this Commonwealth from any place outside thereof, if such is found by him to be infested with any noxious weed subject to this chapter.

(1970, c. 175.)

§ 3.1-296.18. Penalty for violation.

Any person who fails or refuses to comply with this chapter or the rules and regulations adopted thereunder shall be deemed guilty of a misdemeanor and if convicted shall be punished as provided by § [18.2-12](#).

(1970, c. 175.)

§ 3.1-296.19. Access to plants or plant products, or other articles or substances suspected of being infested; State and local police cooperation upon request.

The Commissioner shall have access to plants or plant products or any other article or substance suspected of being infested with a noxious weed for inspection and shall be provided with full information as to origin and destination of same by the person in possession of any plants or other articles.

State and local police, upon request in specific instances, shall cooperate with the Commissioner in the enforcement of this chapter. This chapter shall supersede any local ordinances in the Commonwealth insofar as carrying out its intent.

(1970, c. 175.)

§ 3.1-296.20. Inspection of premises and conveyances.

To effectuate the purpose of this chapter, the Commissioner may make reasonable inspections of any premises in this Commonwealth and any property therein or thereon and may stop and inspect in a reasonable manner any means of conveyance moving within this Commonwealth when there is probable cause to believe it maintains or carries any noxious weed subject to this chapter.

(1970, c. 175.)

§ 3.1-296.21. Injunctions.

The Commissioner or landowner affected is authorized to apply to any court of competent jurisdiction for an injunction and such court may grant a temporary or permanent injunction restraining a person from violating or continuing the violation of any provision of this chapter, or the Commissioner from the enforcement of any provision of this chapter, when the court determines that the testimony and evidence

presented warrants such action, without reference to adequacy of any remedy existing at law.

(1970, c. 175.)