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*** Bill No. ***

Introduced By *****

By Request of the (Agency or Department)

A Bill for an Act entitled: "An Act Creating More Court Proceeding and a Civil Fine Option When Counties Deal with Noncompliance for Noxious Weeds, ."

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 7-22-2123, MCA, is amended to read:

"7-22-2123. Procedure in case of noncompliance. (1) When a complaint has been made or the board has reason to believe that noxious weeds described in this part are present upon a person's land within the district, that person must be notified by mail or telephone of the complaint and the board may request inspection of the land. The board or its authorized agent and the landowner or the landowner's representative shall inspect the land at an agreeable time, within 310 days of notification of the landowner. If within 310 days after attempted notification the board is unable to gain cooperation of or contact with the person, the board or its authorized agent may seek a court order to enter and inspect the land to determine if the complaint is valid.

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(2) If noxious weeds are found, the board or coordinator shall attempt to notify the person or the person's representative and seek voluntary compliance with the district noxious weed management program. As part of the notice attempt, a copy of the order will be posted at the front of the property. If voluntary compliance or cooperation has not occurred within 10 days of the notification required under this subsection, the person is considered to be in noncompliance and is subject to appropriate control measures pursuant to 7-22-2124 or a civil fine equal 100 dollars per acre of infested land per month of non-compliance.

(3) A person is considered to be in compliance if the person submits and the board accepts a proposal to undertake specified control measures and is in compliance as long as the person performs according to the terms of the proposal. The proposal must include a requirement that the person notify the board as measures in the proposal are taken. If the measures proposed to be taken extend beyond the current growing season, the proposal and acceptance must be in writing.

(4) In accepting or rejecting a proposal, the board shall consider the economic impact on the person and the person's neighbors, practical biological and environmental limitations, and alternative control methods to be used."

{*Internal References to 7-22-2123:*

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7-22-2124 7-22-2124 7-22-2124 7-22-2146 }

Section 2. Section 7-22-2124, MCA, is amended to read:

"7-22-2124. Destruction of weeds by board. (1) If corrective action is not taken within the time specified in 7-22-2123(2) and a proposal is not made and accepted as provided in 7-22-2123(3), the board may seek a court order to enter upon the person's land and institute appropriate control measures. In that case, the board shall submit a bill to the person, itemizing hours of labor, material, and equipment time, together with a penalty not exceeding 25% of the total cost incurred ~~except that a penalty may not be assessed if contact was not made with the landowner or the landowner's representative pursuant to 7-22-2123.~~ When the penalty is collected, it must be credited to the noxious weed fund created pursuant to 7-22-2141 to be used for appropriate control measures pursuant to this section. Labor and equipment must be valued at the current rate paid for commercial management operations in the district. The bill must specify and order a payment due date of 30 days from the date the bill is sent. The board may enter into an agreement with a commercial applicator, as defined in 80-8-102, to destroy the weeds. The commercial applicator shall agree to carry any insurance required by the board.

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(2) A copy of the bill must also be submitted by the board to the county clerk and recorder.

(3) If a person receiving an order to take corrective action requests an injunction or stay of the corrective action in district court within 10 days of receipt of the order, the board may not institute control measures until the matter is finally resolved, except in case of an emergency. In that case, the person is liable for costs as provided in subsection (1) only to the extent determined appropriate by the board, commissioners, or court that finally resolves the matter."

{*Internal References to 7-22-2124:*

7-22-2117 7-22-2123 7-22-2144 7-22-2146
7-22-2148 7-22-2148 }

Section 3. Section 7-22-2148, MCA, is amended to read:

"7-22-2148. Tax liability for payment of weed control expenses.

(1) The expenses referred to in 7-22-2124 shall be paid by the county out of the noxious weed fund, and unless the sum to be repaid by the person billed under 7-22-2124 is repaid on or before the date due, the county clerk shall certify the amount thereof, with the description of the land to be charged, and shall enter the same on the assessment list of the county as a special tax on the land. If the land for any reason is exempt from general taxation, the amount of such charge may be recovered by direct claim against the lessee

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and collected in the same manner as personal taxes. When such charges are collected, they shall be credited to the noxious weed fund.

(2) In determining what lands are included as land covered by the special tax and are described in the certificate of the county clerk, it is presumed that all work done upon any of the land of any one landowner is for the benefit of all of the land within the district belonging to the owner, together with the parcel upon which the work was done, and the amount certified becomes a tax upon the whole thereof.

(3) The civil fine imposed by 7-22-2123 creates an automatic lien on all property of the landowner in the district in the same amount."

{*Internal References to 7-22-2148:*
7-22-2146 }

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