

**First Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 03-0225.01 Julie Hoerner

**HOUSE BILL 03-1140**

---

**HOUSE SPONSORSHIP**

**Larson** and Tochtrop

**SENATE SPONSORSHIP**

**Entz**, Chlouber, and Taylor

---

**House Committees**

Agriculture, Livestock, & Natural Resources

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING THE CLASSIFICATION OF STATE NOXIOUS WEEDS, AND, IN**  
102             **CONNECTION THEREWITH, IMPLEMENTING MANAGEMENT**  
103             **PROGRAMS FOR SUCH CLASSIFIED NOXIOUS WEEDS.**

---

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Amends legislative findings to include eradication, containment, and suppression of noxious weeds as being in the best interests of Colorado. Clarifies the definitions of "integrated management" and "state noxious weed", and adds a definition of "management objective".

Prohibits the intentional introduction of a designated noxious weed into Colorado. Creates specified exceptions for introduction of specified noxious weeds for research and entities granted a waiver by the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

*Capital letters indicate new material to be added to existing statute.*

*Dashes through the words indicate deletions from existing statute.*

commissioner of agriculture (the commissioner). Allows the commissioner to seek remediation costs associated with weed management related to the intentional introduction of designated noxious weeds from the entities involved in the introduction of the species.

Directs the department of agriculture (the department) to classify noxious weeds as either "list A", "list B", or "list C". Describes the nature of each list and creates enforcement duties and responsibilities of the commissioner, local governing bodies, and landowners with regard to the management of list A and list B species designated for eradication. Requires a local governing body to clearly identify its management objectives.

Establishes the state noxious weed advisory committee (the committee). Sets out the composition of the committee, terms of membership, and types of representatives to serve on the committee. States that the duties of the committee are to make recommendations to the commissioner concerning:

- Which weeds are state noxious weeds.
- Which state noxious weeds should be defined as list A, list B, or list C category of weed.
- What management techniques should be used to eradicate, contain, or suppress each listed weed.

Makes conforming amendments.

---

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 35-5.5-102 (1.5), Colorado Revised Statutes, is  
3 amended to read:

4 **35-5.5-102. Legislative declaration - rule of construction.**

5 (1.5) The general assembly hereby finds and declares that:

6 (a) Noxious weeds have become a threat to the natural resources  
7 of Colorado, as thousands of acres of crop, rangeland, and ~~natural~~ habitat  
8 FOR WILDLIFE AND NATIVE PLANT COMMUNITIES are being destroyed by  
9 noxious weeds each year; ~~The general assembly further finds and declares~~  
10 ~~that~~

11 (b) An organized and coordinated effort must be made to stop the  
12 spread of noxious weeds and that such an effort can best be facilitated by  
13 a state coordinator who will assist in building local coalitions and

1 coordinate the efforts of state, federal, local, and private ~~land owners~~  
2 LANDOWNERS in developing plans for the control of noxious weeds ~~The~~  
3 ~~general assembly further finds that, WITHOUT UNNECESSARILY DISRUPTING~~  
4 ~~THE DEVELOPMENT OF SUCH LANDS;~~

5 (c) THE DESIGNATION AND CLASSIFICATION OF NOXIOUS WEEDS  
6 INTO CATEGORIES FOR IMMEDIATE ERADICATION, CONTAINMENT, AND  
7 SUPPRESSION WILL FURTHER ASSIST THE STATE IN COORDINATING EFFORTS  
8 TO STOP THE SPREAD OF NOXIOUS WEEDS;

9 (d) Because the spread of noxious weeds can largely be attributed  
10 to the movement of seed and plant parts on motor vehicles, and BECAUSE  
11 noxious weeds are becoming an increasing maintenance problem on  
12 highway right-of-ways in this state, additional resources are needed to  
13 fight the spread of noxious weeds; ~~The general assembly declares that~~  
14 ~~grants from the noxious weed management fund shall be made to allow~~  
15 ~~local cooperative efforts to proceed with noxious weed management~~ AND

16 (e) THE USE OF MONEYS IN THE NOXIOUS WEED MANAGEMENT  
17 FUND TO ASSIST LOCAL GOVERNING BODIES AND AFFECTED LANDOWNERS  
18 IN THE ERADICATION, CONTAINMENT, OR SUPPRESSION OF NOXIOUS WEEDS  
19 BEST SERVES THE CITIZENS OF COLORADO.

20 **SECTION 2.** 35-5.5-103 (4), the introductory portion to  
21 35-5.5-103 (9), and 35-5.5-103 (10) and (18.5), Colorado Revised  
22 Statutes, are amended, and the said 35-5.5-103 is further amended BY  
23 THE ADDITION OF A NEW SUBSECTION, to read:

24 **35-5.5-103. Definitions.** As used in this article, unless the  
25 context otherwise requires:

26 (4) "Commissioner" means the commissioner of the department  
27 of agriculture OR HIS OR HER DESIGNEE.

1           (9) "Integrated management" means the planning and  
2 implementation of a coordinated program utilizing a variety of methods  
3 for managing noxious weeds, the purpose of which is to achieve  
4 SPECIFIED MANAGEMENT OBJECTIVES AND PROMOTE desirable plant  
5 communities. Such methods may include but are not limited to  
6 education, preventive measures, good stewardship, and the following  
7 techniques:

8           (10) "Landowner" means any owner of record of FEDERAL,  
9 TRIBAL, state, COUNTY, municipal, or private land and includes an owner  
10 of any easement, right-of-way, or estate in the land.

11           (11.7) "MANAGEMENT OBJECTIVE" MEANS THE SPECIFIC, DESIRED  
12 RESULT OF INTEGRATED MANAGEMENT EFFORTS AND INCLUDES:

13           (a) "ERADICATION" WHICH MEANS REDUCING THE REPRODUCTIVE  
14 SUCCESS OF A NOXIOUS WEED SPECIES OR SPECIFIED NOXIOUS WEED  
15 POPULATION IN LARGELY UNINFESTED REGIONS TO ZERO AND  
16 PERMANENTLY ELIMINATING THE SPECIES OR POPULATION WITHIN A  
17 SPECIFIED PERIOD OF TIME. ONCE ALL SPECIFIED WEED POPULATIONS ARE  
18 ELIMINATED OR PREVENTED FROM REPRODUCING, INTENSIVE EFFORTS  
19 CONTINUE UNTIL THE EXISTING SEED BANK IS EXHAUSTED.

20           (b) "CONTAINMENT" WHICH MEANS MAINTAINING AN INTENSIVELY  
21 MANAGED BUFFER ZONE THAT SEPARATES INFESTED REGIONS, WHERE  
22 SUPPRESSION ACTIVITIES PREVAIL, FROM LARGELY UNINFESTED REGIONS,  
23 WHERE ERADICATION ACTIVITIES PREVAIL.

24           (c) "SUPPRESSION" WHICH MEANS REDUCING THE VIGOR OF  
25 NOXIOUS WEED POPULATIONS WITHIN AN INFESTED REGION, DECREASING  
26 THE PROPENSITY OF NOXIOUS WEED SPECIES TO SPREAD TO SURROUNDING  
27 LANDS, AND MITIGATING THE NEGATIVE EFFECTS OF NOXIOUS WEED

1 POPULATIONS ON INFESTED LANDS. SUPPRESSION EFFORTS MAY EMPLOY  
2 A WIDE VARIETY OF INTEGRATED MANAGEMENT TECHNIQUES.

3 (d) "RESTORATION" WHICH MEANS THE REMOVAL OF NOXIOUS  
4 WEED SPECIES AND REESTABLISHMENT OF DESIRABLE PLANT COMMUNITIES  
5 ON LANDS OF SIGNIFICANT ENVIRONMENTAL OR AGRICULTURAL VALUE IN  
6 ORDER TO HELP RESTORE OR MAINTAIN SAID VALUE.

7 (18.5) "State noxious weed" means any noxious weed identified  
8 by the commissioner by rule after ~~surveying the local advisory boards and~~  
9 ~~prioritizing the top ten weeds. Said survey should be conducted every~~  
10 ~~three years~~ NOTIFYING AND CONSULTING WITH THE STATE NOXIOUS WEED  
11 ADVISORY COMMITTEE CREATED IN SECTION 35-5.5-108.7.

12 **SECTION 3.** Article 5.5 of title 35, Colorado Revised Statutes,  
13 is amended BY THE ADDITION OF THE FOLLOWING NEW  
14 SECTIONS to read:

15 **35-5.5-104.5. Intentional introduction, cultivation, or sale of**  
16 **noxious weeds - costs.** (1) (a) IT SHALL BE UNLAWFUL TO  
17 INTENTIONALLY INTRODUCE, CULTIVATE, SELL, OFFER FOR SALE, OR  
18 KNOWINGLY ALLOW TO GROW IN VIOLATION OF THIS ARTICLE OR ANY RULE  
19 PROMULGATED HEREUNDER IN THIS STATE ANY NOXIOUS WEED  
20 DESIGNATED PURSUANT TO SECTION 35-5.5-108 (2) (a); EXCEPT THAT THIS  
21 PROHIBITION SHALL NOT APPLY TO:

22 (I) RESEARCH SANCTIONED BY A STATE OR FEDERAL AGENCY OR  
23 AN ACCREDITED UNIVERSITY OR COLLEGE; OR

24 (II) ACTIVITIES SPECIFICALLY PERMITTED BY THE COMMISSIONER.

25 (b) IT SHALL NOT BE A VIOLATION OF THIS SECTION FOR A PERSON  
26 TO KNOWINGLY ALLOW TO GROW A STATE NOXIOUS WEED THAT IS BEING  
27 PROPERLY MANAGED IN ACCORDANCE WITH THE RULES PROMULGATED BY

1 THE COMMISSIONER.

2 (2) ANY ENTITY OR PERSON THAT VIOLATES THE PROVISIONS OF  
3 THIS SECTION SHALL BE RESPONSIBLE FOR THE COSTS ASSOCIATED WITH  
4 REMEDIATION OF THE NOXIOUS WEEDS. IN ASSESSING THE COST OF  
5 REMEDIATION, THE COMMISSIONER MAY INCLUDE BOTH ACTUAL  
6 IMMEDIATE AND ESTIMATED FUTURE COSTS TO ACHIEVE SPECIFIED  
7 MANAGEMENT OBJECTIVES.

8 **35-5.5-108.5. Responsibilities related to eradication of**  
9 **designated noxious weeds - commissioner - local governing bodies -**  
10 **affected landowners.** (1) THIS SECTION SHALL APPLY TO NOXIOUS  
11 WEEDS THAT HAVE BEEN CLASSIFIED AS LIST A SPECIES AND TO  
12 POPULATIONS OF LIST B SPECIES DESIGNATED FOR ERADICATION PURSUANT  
13 TO SECTION 35-5.5-108 (2) (a). THIS SECTION SHALL GOVERN THE  
14 RESPONSIBILITIES OF THE COMMISSIONER, LOCAL GOVERNING BODIES, AND  
15 AFFECTED LANDOWNERS.

16 (2) **Duties of commissioner.** (a) THE COMMISSIONER MAY  
17 ENFORCE THE PROVISIONS OF THIS SECTION AS NECESSARY TO ENSURE THE  
18 COOPERATION OF LOCAL GOVERNING BODIES AND AFFECTED  
19 LANDOWNERS.

20 (b) THE COMMISSIONER SHALL PROVIDE:

21 (I) EDUCATIONAL RESOURCES TO LOCAL GOVERNING BODIES AND  
22 AFFECTED LANDOWNERS REGARDING THE ERADICATION OF LIST A SPECIES  
23 AND POPULATIONS OF LIST B SPECIES DESIGNATED FOR ERADICATION.  
24 SUCH EDUCATION SHALL INCLUDE AN EXPLANATION OF WHY THE SPECIES  
25 HAS BEEN LISTED FOR ERADICATION, THE PRESCRIBED TECHNIQUES FOR  
26 ERADICATION IN THE MOST COST-EFFECTIVE MANNER, AND THE DUTIES OF  
27 THE LOCAL GOVERNING BODY AND AFFECTED LANDOWNER REGARDING

1 SUCH ERADICATION.

2 (II) FINANCIAL OR IN-KIND RESOURCES TO LOCAL GOVERNING  
3 BODIES OR AFFECTED LANDOWNERS TO ERADICATE LIST A SPECIES AND  
4 POPULATIONS OF LIST B SPECIES DESIGNATED FOR ERADICATION FROM THE  
5 AVAILABLE MONEYS IN THE NOXIOUS WEED MANAGEMENT FUND CREATED  
6 IN SECTION 35-5.5-116. SUCH FINANCIAL OR IN-KIND RESOURCE  
7 ALLOCATION SHALL BE DETERMINED BY THE COMMISSIONER ACCORDING  
8 TO THE IDENTIFIED BENEFITS TO THE CITIZENS OF COLORADO, THE  
9 SURROUNDING COMMUNITY, AND THE AFFECTED LANDOWNERS.

10 (III) THE INVENTORY AND MAPPING INFRASTRUCTURE NECESSARY  
11 TO FACILITATE THE CLASSIFICATION OF STATE NOXIOUS WEEDS AND THE  
12 DEVELOPMENT AND IMPLEMENTATION OF STATE NOXIOUS WEED  
13 MANAGEMENT PLANS.

14 (3) **Duties of local governing bodies.** (a) IN COMPLIANCE WITH  
15 THE RULES PROMULGATED BY THE COMMISSIONER, A LOCAL GOVERNING  
16 BODY SHALL INITIATE AND MAINTAIN COMMUNICATIONS WITH  
17 LANDOWNERS WHO ARE AFFECTED BY LIST A SPECIES AND POPULATIONS  
18 OF LIST B SPECIES DESIGNATED FOR ERADICATION BY THE COMMISSIONER.

19 (b) IN ADDITION TO THE EXISTING POWERS AND DUTIES OF A LOCAL  
20 GOVERNING BODY PROVIDED IN THIS ARTICLE A LOCAL GOVERNING BODY  
21 SHALL:

22 (I) PROVIDE AFFECTED LAND OWNERS WITH TECHNICAL  
23 ASSISTANCE FOR THE ERADICATION OF LIST A SPECIES AND POPULATIONS  
24 OF LIST B SPECIES DESIGNATED FOR ERADICATION BY THE COMMISSIONER;

25 (II) CARRY OUT SUFFICIENT MEASURES, INCLUDING PROJECT  
26 OVERSIGHT AND ENFORCEMENT, AS MAY BE NECESSARY TO ENSURE THE  
27 ERADICATION OF LIST A SPECIES AND POPULATIONS OF LIST B SPECIES

1 DESIGNATED FOR ERADICATION BY THE COMMISSIONER;

2 (III) PROVIDE THE COMMISSIONER WITH ASSISTANCE IN  
3 DISSEMINATING FINANCIAL RESOURCES TO AFFECTED LANDOWNERS AND  
4 MAPPING DATA PURSUANT TO RULES PROMULGATED BY THE  
5 COMMISSIONER; AND

6 (IV) DETERMINE THE COST OF ERADICATION TO BE BORNE BY  
7 AFFECTED LANDOWNERS.

8 (c) LOCAL GOVERNING BODIES MAY APPLY TO THE COMMISSIONER  
9 FOR A WAIVER OF COMPLIANCE WITH AN ERADICATION DESIGNATION  
10 PURSUANT TO SECTION 35-5.5-108 (2.7).

11 (d) IF THE COMMISSIONER DETERMINES, IN CONSULTATION WITH  
12 THE LOCAL GOVERNING BODY, THAT THE MOST COST-EFFECTIVE MANNER  
13 TO ERADICATE DESIGNATED NOXIOUS WEEDS IS FOR THE COMMISSIONER TO  
14 IMPLEMENT AN ERADICATION PROGRAM, THE COMMISSIONER MAY  
15 IMPLEMENT THE ERADICATION PROGRAM DIRECTLY.

16 (4) **Duties of affected landowners or occupants.** AN AFFECTED  
17 LANDOWNER OR OCCUPANT WHOSE PROPERTY MAY BE AFFECTED BY LIST  
18 A SPECIES OR BY POPULATIONS OF LIST B SPECIES DESIGNATED FOR  
19 ERADICATION SHALL ALLOW THE COMMISSIONER OR LOCAL WEED  
20 CONTROL OFFICIALS ACCESS TO SUCH PROPERTY FOR THE PURPOSE OF  
21 IMMEDIATE INSPECTION AND ERADICATION WHEN AT LEAST ONE OF THE  
22 FOLLOWING EVENTS HAS OCCURRED:

23 (a) THE AFFECTED LANDOWNER OR OCCUPANT HAS REQUESTED THE  
24 INSPECTION;

25 (b) A NEIGHBORING LANDOWNER OR OCCUPANT HAS REPORTED A  
26 SUSPECTED NOXIOUS WEED INFESTATION AND REQUESTED AN INSPECTION;

27 OR



1 (c) AN AUTHORIZED AGENT OF THE LOCAL GOVERNMENT OR  
2 COMMISSIONER HAS MADE A VISUAL OBSERVATION FROM A PUBLIC  
3 RIGHT-OF-WAY OR AREA AND HAS REASON TO BELIEVE THAT A NOXIOUS  
4 WEED INFESTATION EXISTS.

5 (5) (a) IF VERBAL PERMISSION TO INSPECT THE LAND BY THE  
6 AFFECTED LANDOWNER IS NOT OBTAINED, NO ENTRY UPON ANY PREMISES,  
7 LANDS, OR PLACES SHALL BE PERMITTED UNTIL THE LOCAL GOVERNING  
8 BODY HAS NOTIFIED THE AFFECTED LANDOWNER THAT SUCH INSPECTION  
9 IS PENDING BY CERTIFIED MAIL IF THE LANDOWNER'S MAILING ADDRESS IS  
10 WITHIN THE UNITED STATES OR MAILED IN A COMPARABLE MANNER TO A  
11 LANDOWNER WHOSE MAILING ADDRESS IS OUTSIDE OF THE UNITED  
12 STATES. WHERE POSSIBLE, INSPECTIONS SHALL BE SCHEDULED AND  
13 CONDUCTED WITH THE CONCURRENCE OF THE AFFECTED LANDOWNER OR  
14 OCCUPANT. A LOCAL GOVERNING BODY MAY NOTIFY AN AFFECTED  
15 LANDOWNER IN AN ELECTRONIC FORMAT, IN ADDITION TO NOTICE BY  
16 CERTIFIED MAIL.

17 (b) (I) IF, AFTER TEN DAYS WITH NO RESPONSE FROM THE  
18 AFFECTED LANDOWNER OR UPON DENIAL OF ACCESS BEFORE THE  
19 EXPIRATION OF TEN DAYS, THE INSPECTOR MAY SEEK AN INSPECTION  
20 WARRANT ISSUED BY A MUNICIPAL, COUNTY, OR DISTRICT COURT HAVING  
21 JURISDICTION OVER THE LAND. THE COURT SHALL ISSUE AN INSPECTION  
22 WARRANT UPON PRESENTATION BY THE LOCAL GOVERNING BODY OF AN  
23 AFFIDAVIT STATING:

24 (A) THE INFORMATION THAT GIVES THE INSPECTOR REASONABLE  
25 CAUSE TO BELIEVE THAT ANY PROVISION OF THIS SECTION, SECTION  
26 35-5.5-104.5, OR SECTION 35-5.5-108, IS BEING OR HAS BEEN VIOLATED;

27 (B) THE AFFECTED LANDOWNER HAS FAILED TO RESPOND OR THE

1 LANDOWNER OR OCCUPANT HAS DENIED ACCESS TO THE INSPECTOR; AND

2 (C) A GENERAL DESCRIPTION OF THE LOCATION OF THE AFFECTED  
3 LAND.

4 (II) NO AFFECTED LANDOWNER OR OCCUPANT SHALL DENY ACCESS  
5 TO AN AUTHORIZED AGENT OF THE LOCAL GOVERNING BODY OR THE  
6 COMMISSIONER IN POSSESSION OF AN INSPECTION WARRANT.

7 (6) AN AFFECTED LANDOWNER SHALL NOTIFY A LESSEE OR  
8 OCCUPANT OF AFFECTED LANDS OF ALL NOTICES OF INSPECTION AND  
9 ERADICATION EFFORTS ON SUCH LANDS AS SOON AS PRACTICABLE.

10 (7) THE LOCAL GOVERNING BODY OF THE COUNTY OR  
11 MUNICIPALITY HAVING JURISDICTION OVER PRIVATE AND PUBLIC LANDS ON  
12 WHICH LIST A SPECIES OR POPULATIONS OF LIST B SPECIES DESIGNATED  
13 FOR ERADICATION ARE FOUND SHALL NOTIFY THE AFFECTED LANDOWNER  
14 OR OCCUPANT OF SUCH LANDS BY CERTIFIED MAIL IF THE LANDOWNER'S  
15 MAILING ADDRESS IS WITHIN THE UNITED STATES OR MAILED IN A  
16 COMPARABLE MANNER TO A LANDOWNER WHOSE MAILING ADDRESS IS  
17 OUTSIDE OF THE UNITED STATES. THE [REDACTED] [REDACTED] NOTICE SHALL NAME THE  
18 NOXIOUS WEEDS, IDENTIFY ERADICATION AS THE REQUIRED MANAGEMENT  
19 OBJECTIVE, ADVISE THE AFFECTED LANDOWNER OR OCCUPANT TO  
20 COMMENCE ERADICATION EFFORTS WITHIN A SPECIFIED PERIOD OR  
21 CONDITION, AND STATE THE INTEGRATED WEED MANAGEMENT TECHNIQUES  
22 PRESCRIBED BY THE COMMISSIONER FOR ERADICATION. WHERE POSSIBLE,  
23 THE LOCAL GOVERNING BODY SHALL CONSULT WITH THE AFFECTED  
24 LANDOWNER OR OCCUPANT IN THE DEVELOPMENT OF A PLAN FOR THE  
25 ERADICATION OF NOXIOUS WEEDS ON THE PREMISES OR LAND.

26 (8) WITHIN FIVE DAYS AFTER THE LOCAL GOVERNING BODY MAILES  
27 NOTIFICATION, THE LANDOWNER SHALL COMPLY WITH THE TERMS OF THE

1 NOTIFICATION OR SUBMIT AN ACCEPTABLE PLAN AND SCHEDULE FOR THE  
2 COMPLETION OF THE MANAGEMENT OBJECTIVE.

3 (9) (a) IN THE EVENT THE AFFECTED LANDOWNER OR OCCUPANT  
4 FAILS TO COMPLY WITH THE NOTICE TO ERADICATE THE IDENTIFIED  
5 NOXIOUS WEEDS AND IMPLEMENT AN APPROPRIATE ERADICATION  
6 PROGRAM, THE LOCAL GOVERNING BODY HAVING AUTHORITY OVER THE  
7 PUBLIC OR PRIVATE LAND SHALL:

8 (I) PROVIDE FOR AND COMPLETE THE ERADICATION OF SUCH  
9 NOXIOUS WEEDS AT SUCH TIME, UPON SUCH NOTICE, AND IN SUCH MANNER  
10 CONSISTENT WITH ACHIEVING THE MANAGEMENT OBJECTIVE AS THE LOCAL  
11 GOVERNING BODY DEEMS APPROPRIATE; AND

12 (II) DO ONE OF THE FOLLOWING:

13 (A) ASSESS THE WHOLE COST OF THE ERADICATION, INCLUDING UP  
14 TO ONE HUNDRED PERCENT OF INSPECTION, ERADICATION, AND OTHER  
15 INCIDENTAL COSTS IN CONNECTION WITH ERADICATION, UPON THE LOT OR  
16 TRACT OF LAND WHERE THE NOXIOUS WEEDS ARE LOCATED; EXCEPT THAT  
17 NO LOCAL GOVERNING BODY SHALL LEVY A TAX LIEN AGAINST LAND IT  
18 ADMINISTERS AS A PART OF A PUBLIC RIGHT-OF-WAY. SUCH ASSESSMENT  
19 SHALL BE A LIEN AGAINST EACH LOT OR TRACT OF LAND UNTIL PAID AND  
20 SHALL HAVE PRIORITY OVER ALL OTHER LIENS EXCEPT GENERAL TAXES  
21 AND PRIOR SPECIAL ASSESSMENTS. SUCH ASSESSMENT MAY BE CERTIFIED  
22 TO THE COUNTY TREASURER OF THE COUNTY IN WHICH THE PROPERTY IS  
23 LOCATED AND COLLECTED AND PAID OVER IN THE SAME MANNER AS  
24 PROVIDED FOR THE COLLECTION OF TAXES. ANY FUNDS COLLECTED  
25 PURSUANT TO THIS SECTION SHALL BE UTILIZED IN FURTHERANCE OF THE  
26 LOCAL GOVERNING BODY'S WEED MANAGEMENT EFFORTS.

27 (B) IN THE EVENT THE STATE BOARD, DEPARTMENT, OR AGENCY

1 FAILS TO COMPLY WITH THE NOTICE TO ERADICATE THE IDENTIFIED  
2 NOXIOUS WEEDS, THE LOCAL GOVERNING BODY IN WHOSE JURISDICTION  
3 THE INFESTATION IS LOCATED MAY ENTER UPON SUCH LANDS AND  
4 UNDERTAKE THE MANAGEMENT OF SUCH NOXIOUS WEEDS OR CAUSE THE  
5 SAME TO BE DONE. THE EXPENSES ASSOCIATED WITH INSPECTION AND  
6 ERADICATION SHALL BE PAID BY THE STATE BOARD, DEPARTMENT, OR  
7 AGENCY THAT HAS JURISDICTION OVER THE LANDS. AN AGREEMENT FOR  
8 REIMBURSEMENT SHALL BE REACHED WITHIN TWO WEEKS AFTER THE DATE  
9 SUCH STATEMENT OF EXPENSE FOR ERADICATION IS SUBMITTED BY THE  
10 LOCAL GOVERNING BODY. SUCH REIMBURSEMENT AGREEMENT SHALL BE  
11 IN WRITING. IF NO REIMBURSEMENT AGREEMENT HAS BEEN REACHED OR  
12 THE AMOUNT REFLECTED IN THE AGREEMENT IS NOT PAID UPON  
13 PRESENTATION, THE AMOUNT IN THE AGREEMENT SHALL BE SUBMITTED TO  
14 THE STATE CONTROLLER, WHO SHALL TREAT SUCH AMOUNT AS AN  
15 ENCUMBRANCE ON THE BUDGET OF THE STATE BOARD, DEPARTMENT, OR  
16 AGENCY INVOLVED OR SUCH CHARGE MAY BE RECOVERED IN ANY COURT  
17 WITH JURISDICTION OVER SUCH LANDS. THE EXPENSE ASSOCIATED WITH  
18 ERADICATION MAY BE RECOVERED IN ANY COURT WITH JURISDICTION OVER  
19 SUCH INFESTED LAND.

20 (b) NO LOCAL GOVERNING BODY SHALL PROVIDE FOR OR COMPEL  
21 THE ERADICATION OF LIST A SPECIES AND POPULATIONS OF LIST B SPECIES  
22 DESIGNATED FOR ERADICATION OR LIST B NOXIOUS WEEDS ON PRIVATE OR  
23 PUBLIC PROPERTY PURSUANT TO THIS SUBSECTION (9) WITHOUT FIRST  
24 APPLYING THE SAME MEASURES TO ANY LAND OR RIGHTS-OF-WAY OWNED  
25 OR ADMINISTERED BY THE LOCAL GOVERNING BODY THAT ARE ADJACENT  
26 TO THE PROPERTY.

27 (10) THE LOCAL GOVERNING BODY, THROUGH ITS DELEGATES,

1 AGENTS, OR EMPLOYEES, SHALL HAVE THE RIGHT TO ENTER UPON ANY  
2 PREMISES, LANDS, OR PLACES DURING REASONABLE BUSINESS HOURS FOR  
3 THE PURPOSE OF ENSURING COMPLIANCE WITH THE REQUIREMENTS OF THIS  
4 SECTION CONCERNING NOXIOUS WEED ERADICATION.

5 (11) NO AGENT, EMPLOYEE, OR DELEGATE OF A LOCAL GOVERNING  
6 BODY SHALL HAVE A CAUSE OF ACTION AGAINST AN AFFECTED  
7 LANDOWNER OR OCCUPANT FOR PERSONAL INJURY OR PROPERTY DAMAGES  
8 WHILE ON PRIVATE OR PUBLIC LAND FOR PURPOSES OF ERADICATION OF  
9 NOXIOUS WEEDS EXCEPT WHEN SUCH DAMAGES WERE THE RESULT OF  
10 GROSS NEGLIGENCE, RECKLESSNESS, OR INTENTIONAL ACTION BY THE  
11 LANDOWNER.

12 (12) IF, IN THE OPINION OF THE COMMISSIONER, ANY LOCAL  
13 GOVERNING BODY FAILS TO ADEQUATELY PERFORM ANY OF THE DUTIES  
14 SET FORTH IN THIS SECTION, THE COMMISSIONER IS AUTHORIZED TO  
15 CONDUCT ANY OF THE FUNCTIONS OR DUTIES OF A LOCAL GOVERNING  
16 BODY PURSUANT TO THIS SECTION.

17 (13) THE COMMISSIONER OR THE LOCAL GOVERNING BODY MAY  
18 REQUIRE THE AFFECTED LANDOWNER TO PAY A PORTION OF THE COSTS  
19 ASSOCIATED WITH ERADICATION OF THE NOXIOUS WEEDS.

20 (14) AN AFFECTED LANDOWNER MAY APPLY TO THE  
21 COMMISSIONER FOR A WAIVER OF COMPLIANCE WITH AN ERADICATION  
22 DESIGNATION PURSUANT TO SECTION 35-5.5-108 (2.7).

23 **35-5.5-108.7. State noxious weed advisory committee -repeal.**

24 (1) (a) THERE IS HEREBY CREATED THE STATE NOXIOUS WEED ADVISORY  
25 COMMITTEE, REFERRED TO IN THIS SECTION AS THE "STATE ADVISORY  
26 COMMITTEE". THE STATE ADVISORY COMMITTEE SHALL CONSIST OF  
27 FIFTEEN MEMBERS. SUCH MEMBERS SHALL BE APPOINTED BY THE

1 COMMISSIONER AND SHALL SERVE WITHOUT PER DIEM COMPENSATION OR  
2 EXPENSES. OF THE FIFTEEN MEMBERS, ■■■ AT LEAST ONE MEMBER  
3 WHO SHALL REPRESENT PRIVATE AND PUBLIC LANDOWNERS OR LAND  
4 MANAGERS; AT LEAST TWO MEMBERS SHALL REPRESENT WEED  
5 MANAGEMENT PROFESSIONALS FROM THE FEDERAL, STATE, OR LOCAL  
6 LEVELS; AT LEAST ONE MEMBER SHALL REPRESENT PUBLIC OR PRIVATE  
7 WEED SCIENTISTS; AT LEAST TWO MEMBERS SHALL REPRESENT LOCAL  
8 GOVERNING BODIES; FOUR MEMBERS SHALL BE AGRICULTURAL  
9 PRODUCERS, AS DEFINED IN SECTION 35-1-102, C.R.S.; AND AT LEAST  
10 THREE MEMBERS SHALL REPRESENT KNOWLEDGEABLE RESOURCE  
11 SPECIALISTS OR INDUSTRIES, INCLUDING, BUT NOT LIMITED TO,  
12 ENVIRONMENTAL ORGANIZATIONS. REPRESENTATION ON THE STATE  
13 ADVISORY COMMITTEE SHALL REFLECT THE DIFFERENT GEOGRAPHIC AREAS  
14 OF THE STATE EQUALLY, TO THE GREATEST EXTENT POSSIBLE. MEMBERS  
15 OF THE STATE ADVISORY COMMITTEE THAT REPRESENT THE VARIOUS  
16 STAKEHOLDERS AND REGIONS SHALL SOLICIT INPUT FROM SIMILAR  
17 STAKEHOLDERS WITHIN EACH MEMBER'S AREA OF EXPERTISE AND REGION  
18 OF THE STATE. MEMBERS OF THE STATE ADVISORY COMMITTEE SHALL  
19 COMMUNICATE THE COMMITTEE'S RECOMMENDATIONS TO THE REGION AND  
20 STAKEHOLDERS REPRESENTED BY EACH MEMBER.

21 (b) STAGGERED APPOINTMENTS SHALL BE MADE SO THAT NOT  
22 MORE THAN EIGHT MEMBERS' TERMS EXPIRE IN ANY ONE YEAR, AND  
23 THEREAFTER APPOINTMENTS SHALL BE FOR TERMS OF TWO YEARS EACH.  
24 APPOINTEES SHALL BE LIMITED TO TWO FULL TERMS EACH. EACH STATE  
25 ADVISORY COMMITTEE MEMBER SHALL HOLD OFFICE UNTIL THE  
26 EXPIRATION OF THE TERM FOR WHICH SUCH MEMBER IS APPOINTED OR  
27 UNTIL A SUCCESSOR HAS BEEN DULY APPOINTED.

1 (c) IN THE EVENT OF A VACANCY ON THE STATE ADVISORY  
2 COMMITTEE, THE COMMISSIONER SHALL FILL SUCH VACANCY PROMPTLY  
3 TO ALLOW A QUORUM OF THE STATE ADVISORY COMMITTEE TO FUNCTION.

4 (d) THE COMMISSIONER MAY REMOVE ANY MEMBER OF THE STATE  
5 ADVISORY COMMITTEE FOR MISCONDUCT, INCOMPETENCE, OR NEGLECT OF  
6 DUTY.

7 (e) A QUORUM OF THE STATE ADVISORY COMMITTEE SHALL ELECT  
8 OR APPOINT ANNUALLY A CHAIRMAN AND A VICE-CHAIRMAN.

9 (f) A QUORUM OF THE STATE ADVISORY COMMITTEE SHALL BE A  
10 MAJORITY OF THE MEMBERS APPOINTED TO THE STATE ADVISORY  
11 COMMITTEE.

12 (g) THE STATE ADVISORY COMMITTEE SHALL MEET AT LEAST  
13 QUARTERLY.

14 (2) THE STATE ADVISORY COMMITTEE SHALL MAKE  
15 RECOMMENDATIONS TO THE COMMISSIONER CONCERNING THE:

16 (a) DESIGNATION OF STATE NOXIOUS WEEDS;

17 (b) CLASSIFICATION OF STATE NOXIOUS WEEDS;

18 (c) DEVELOPMENT AND IMPLEMENTATION OF STATE WEED  
19 MANAGEMENT PLANS; AND

20 (d) PRESCRIBED TECHNIQUES FOR ERADICATION, CONTAINMENT,  
21 AND SUPPRESSION OF STATE NOXIOUS WEEDS.

22 (3) RECOMMENDATIONS OF THE STATE ADVISORY COMMITTEE  
23 SHALL BE MADE BY A MAJORITY VOTE OF THE MEMBERS OF THE STATE  
24 ADVISORY COMMITTEE.

25 (4) THE STATE ADVISORY COMMITTEE SHALL PERIODICALLY ASSESS  
26 THE PROGRESS MADE TO IMPLEMENT THE PROVISIONS OF SECTIONS  
27 35-5.5-104.5, 35-5.5-108.5, 35-5.5-108.7, AND 35-5.5-108 (2) (a);

1 MEASURE THE RESULTS AND EFFECTIVENESS OF ENDEAVORS TO  
2 ERADICATE, CONTAIN, AND SUPPRESS NOXIOUS WEEDS WITHIN THIS STATE;  
3 AND RECOMMEND TO THE COMMISSIONER WAYS TO ENHANCE STATEWIDE  
4 EFFORTS TO STOP THE SPREAD OF NOXIOUS WEEDS.

5 (5) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2013.

6 **SECTION 4.** 35-5.5-108 (2) and (3), Colorado Revised Statutes,  
7 are amended, and the said 35-5.5-108 is further amended BY THE  
8 ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

9 **35-5.5-108. Designated noxious weeds - legislative declaration.**

10 (2) (a) The state list of plant species that are designated as noxious weeds  
11 shall be designated by rule and shall be managed under the provisions of  
12 this article. ON AND AFTER THE EFFECTIVE DATE OF THIS SUBSECTION (2),  
13 AS AMENDED, THE COMMISSIONER SHALL CLASSIFY NOXIOUS WEEDS INTO  
14 ONE OF A MINIMUM OF THREE CATEGORIES, INCLUDING:

15 (I) "LIST A", WHICH MEANS RARE NOXIOUS WEED SPECIES THAT  
16 ARE SUBJECT TO ERADICATION WHEREVER DETECTED STATEWIDE IN ORDER  
17 TO PROTECT NEIGHBORING LANDS AND THE STATE AS A WHOLE;

18 (II) "LIST B", WHICH MEANS NOXIOUS WEED SPECIES WITH  
19 DISCRETE STATEWIDE DISTRIBUTIONS THAT ARE SUBJECT TO ERADICATION,  
20 CONTAINMENT, OR SUPPRESSION IN PORTIONS OF THE STATE DESIGNATED  
21 BY THE COMMISSIONER IN ORDER TO STOP THE CONTINUED SPREAD OF  
22 THESE SPECIES;

23 (III) "LIST C", WHICH MEANS WIDESPREAD AND  
24 WELL-ESTABLISHED NOXIOUS WEED SPECIES FOR WHICH CONTROL IS  
25 RECOMMENDED BUT NOT REQUIRED BY THE STATE, ALTHOUGH LOCAL  
26 GOVERNING BODIES MAY REQUIRE MANAGEMENT.

27 (b) A LOCAL GOVERNING BODY MAY ADOPT ERADICATION,



1 CONTAINMENT, OR SUPPRESSION STANDARDS THAT ARE MORE STRINGENT  
2 THAN THE STANDARDS ADOPTED BY THE COMMISSIONER.

3 (2.1) THE COMMISSIONER SHALL REVIEW AND REVISE, AS  
4 NECESSARY, THE STATE NOXIOUS WEED LIST AT LEAST ONCE EVERY THREE  
5 YEARS.

6 (2.3) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT BY  
7 RULE STATE NOXIOUS WEED MANAGEMENT PLANS FOR NOXIOUS WEED  
8 SPECIES CLASSIFIED AS LIST A OR LIST B SPECIES. FOR EACH NOXIOUS  
9 WEED SPECIES, EACH MANAGEMENT PLAN SHALL DESIGNATE THE  
10 MANAGEMENT OBJECTIVES FOR ALL LANDS OF THE STATE APPROPRIATE TO  
11 ACHIEVE THE STATED PURPOSE OF THE SPECIES CLASSIFICATION.

12 (2.5) THE COMMISSIONER SHALL PRESCRIBE INTEGRATED  
13 MANAGEMENT TECHNIQUES TO ACHIEVE SPECIFIED MANAGEMENT  
14 OBJECTIVES FOR EACH LISTED SPECIES AFTER CONSULTING WITH THE STATE  
15 NOXIOUS WEED ADVISORY COMMITTEE. THE PRESCRIBED MANAGEMENT  
16 TECHNIQUES SHALL BE MANDATORY TECHNIQUES FOR LIST A SPECIES AND  
17 POPULATIONS OF LIST B SPECIES DESIGNATED FOR ERADICATION. THE  
18 COMMISSIONER SHALL DEVELOP MANAGEMENT TECHNIQUES PURSUANT TO  
19 SCIENCE-BASED METHODOLOGIES, PEER REVIEWED STUDIES, OR ANY  
20 OTHER METHOD THAT IS BASED ON CREDIBLE RESEARCH.

21 (2.6) THE CLASSIFICATIONS MADE PURSUANT TO PARAGRAPH (a) OF  
22 SUBSECTION (2) OF THIS SECTION SHALL PRIMARILY REFLECT THE KNOWN  
23 DISTRIBUTION OF THE DESIGNATED SPECIES, THE FEASIBILITY OF CURRENT  
24 CONTROL TECHNOLOGIES TO ACHIEVE SPECIFIED MANAGEMENT  
25 OBJECTIVES, AND THE COSTS OF CARRYING OUT THE PRESCRIBED STATE  
26 WEED MANAGEMENT PLAN.

27 (2.7) (a) THE COMMISSIONER SHALL ALSO ADOPT RULES FOR

1 GRANTING COMPLIANCE WAIVERS TO LOCAL GOVERNING BODIES AND  
2 LANDOWNERS; EXCEPT THAT A WAIVER MAY NOT BE GRANTED TO THE  
3 AFFECTED LANDOWNER WHEN A LANDOWNER HAS WILFULLY OR  
4 WANTONLY VIOLATED THE PROVISIONS OF THIS SECTION OR SECTION  
5 35-5.5-104.5 OR 35-5.5-108.5 ATTEMPTS TO DELAY ERADICATION OF A  
6 SPECIES WITHOUT JUST CAUSE.

7 (b) SUCH RULES SHALL INCLUDE:

8 (I) A PROCESS BY WHICH A LOCAL GOVERNING BODY OR AN  
9 AFFECTED LANDOWNER MAY PETITION THE COMMISSIONER TO CHANGE THE  
10 MANAGEMENT OBJECTIVES SPECIFIED IN A STATE NOXIOUS WEED  
11 MANAGEMENT PLAN;

12 (II) THE CRITERIA USED TO EVALUATE SUCH PETITIONS; AND

13 (III) TIME FRAMES IN WHICH THE COMMISSIONER SHALL GRANT OR  
14 DENY SUCH PETITIONS.

15 (c) ACTIONS SUFFICIENT TO IMPLEMENT THE MANAGEMENT  
16 OBJECTIVE FOR A NOXIOUS WEED SPECIES SHALL CONTINUE UNTIL THE  
17 COMMISSIONER GRANTS A WAIVER PURSUANT TO THIS SUBSECTION (2.7).

18 (3) The board of county commissioners or governing body of a  
19 municipality may declare additional noxious weeds, within its  
20 jurisdictional boundaries, after a public hearing with thirty days prior  
21 notice to the public. ANY DECLARATION OF ADDITIONAL NOXIOUS WEEDS  
22 PURSUANT TO THIS SUBSECTION (3) SHALL INCLUDE THE MANAGEMENT  
23 OBJECTIVES FOR ALL AFFECTED LANDOWNERS.

24 **SECTION 5.** 35-5.5-118, Colorado Revised Statutes, is amended  
25 to read:

26 **35-5.5-118. Civil penalties.** (1) (a) Any person who violates this  
27 article or any rule adopted pursuant to this article is subject to a civil

1 penalty, as determined by the commissioner. The penalty shall not  
2 exceed one thousand dollars per violation; except that such penalty may  
3 be doubled if it is determined that the person has violated the provision  
4 or rule more than once. No civil penalty shall be imposed unless and  
5 until the person charged is given notice and opportunity for a hearing  
6 pursuant to article 4 of title 24, C.R.S.

7 (b) IN ADDITION TO ANY CIVIL PENALTIES ASSESSED PURSUANT TO  
8 PARAGRAPH (a) OF THIS SUBSECTION (1), ANY PERSON WHO VIOLATES THE  
9 PROVISIONS OF SECTION 35-5.5-104.5, 35-5.5-108, OR 35-5.5-108.5, OR  
10 ANY RULE ADOPTED TO IMPLEMENT THESE SECTIONS, SHALL, UPON AN  
11 ORDER OF THE COMMISSIONER, PAY THE COST OF INSPECTION AND  
12 ERADICATION OF LIST A OR LIST B NOXIOUS WEED SPECIES, INCLUDING,  
13 BUT NOT LIMITED TO, ANY IMMEDIATE REMEDIATION COSTS, THE  
14 ESTIMATED COST OF FUTURE ERADICATION, ANY ADMINISTRATIVE COSTS,  
15 AND ANY COURT COST AND ATTORNEY FEES INCURRED BY THE  
16 COMMISSIONER IN ENFORCING SECTION 35-5.5-104.5, 35-5.5-108, OR  
17 35-5.5-108.5, OR ANY RULE ADOPTED TO IMPLEMENT THESE SECTIONS.  
18 THE COMMISSIONER MAY NOT ENFORCE SUCH ORDER UNLESS AND UNTIL  
19 THE PERSON CHARGED IS GIVEN NOTICE AND OPPORTUNITY FOR A HEARING  
20 PURSUANT TO ARTICLE 4 OF TITLE 24, C.R.S. ALL MONEYS DUE AND  
21 OWING PURSUANT TO THIS PARAGRAPH (b) SHALL BE PAYABLE TO THE  
22 DEPARTMENT FOR THE PAYMENT AND REIMBURSEMENT OF ENFORCEMENT  
23 AND COSTS ASSOCIATED WITH SUCH ENFORCEMENT AND ARE HEREBY  
24 CONTINUOUSLY APPROPRIATED TO THE DEPARTMENT FOR SUCH PURPOSE.

25 (2) If the commissioner is unable to collect ~~such~~ A civil penalty,  
26 PAYMENT OF COSTS IMPOSED PURSUANT TO SUBSECTION (1) OF THIS  
27 SECTION, or if the person fails to pay all or a specified portion of ~~the~~

1 ~~penalty~~ SUCH PENALTY OR PAYMENT, the department may bring suit in any  
2 court of competent jurisdiction to recover such amount plus costs and  
3 attorney fees.

4 (3) Before imposing any civil penalty OR PAYMENT OF COSTS, the  
5 commissioner may consider the effect of such penalty OR PAYMENT OF  
6 COSTS on the ability of the person charged to stay in business.

7 (4) ALL civil penalties AND PAYMENT OF COSTS collected pursuant  
8 to this section shall be deposited in the noxious weed management fund  
9 created in section 35-5.5-116.

10 **SECTION 6.** 2-3-1203 (3), Colorado Revised Statutes, is  
11 amended BY THE ADDITION OF A NEW PARAGRAPH to read:

12 **2-3-1203. Sunset review of advisory committees.** (3) The  
13 following dates are the dates for which the statutory authorization for the  
14 designated advisory committees is scheduled for repeal:

15 (z) JULY 1, 2013, THE STATE NOXIOUS WEED ADVISORY COMMITTEE  
16 CREATED IN SECTION 35-5.5-108.7, C.R.S.

17 **SECTION 7. Effective date - applicability.** (1) This act shall  
18 take effect at 12:01 a.m. on the day following the expiration of the  
19 ninety-day period after final adjournment of the general assembly that is  
20 allowed for submitting a referendum petition pursuant to article V,  
21 section 1 (3) of the state constitution; except that, if a referendum petition  
22 is filed against this act or an item, section, or part of this act within such  
23 period, then the act, item, section, or part, if approved by the people, shall  
24 take effect on the date of the official declaration of the vote thereon by  
25 proclamation of the governor.

26 (2) The provisions of this act shall apply to noxious weeds

1 designated by the commissioner of agriculture pursuant to section  
2 35-5.5-108 (2), Colorado Revised Statutes, on or after the applicable  
3 effective date of this act.