

Code of Virginia

Title 3.2. Agriculture, Animal Care, and Food

Chapter 8. Noxious Weeds.

§ 3.2-800. Definitions.

As used in this chapter, unless the context requires a different meaning:

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

"Infested" means the establishment of a noxious weed or exposure to such weed, which would be reasonable cause to believe that establishment could occur.

"Move" means to ship, offer for shipment, receive for transportation, carry, or otherwise transport, move, or allow to be moved.

"Noxious weed" means any living plant, or part thereof, declared by the Board through 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, the environment, or the economy, except when in-state production of such living plant, or part thereof, is commercially viable or such living plant is commercially propagated in Virginia.

"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.

"Person" means the term as defined in § 1-230. The term also means any society.

"Quarantine" means a legal declaration by the Board that specifies: (i) the noxious weed; (ii) the articles to be regulated; (iii) conditions governing movement; and (iv) exemptions.

"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.

1970, c. 175, § 3.1-296.12; 1996, c. 266; 2008, c. 860; 2016, c. 171.

§ 3.2-801. Powers and duties of Commissioner.

The Commissioner shall 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 § 3.2-802.

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.

1970, c. 175, § 3.1-296.13; 1996, c. 266;2008, c. 860;2015, cc. 158, 180.

§ 3.2-802. Powers and duties of Board; quarantine.

A. The Board shall establish by regulation, after a public hearing, those weeds deemed to be noxious weeds not otherwise so declared by the terms of this chapter. Prior to designating a living plant or part thereof as a noxious weed, the Board shall review the recommendations of an advisory committee established by the Commissioner to conduct a scientific risk assessment of the proposed plant. The assessment shall include the degree to which the plant is detrimental to crops; surface waters, including lakes; other desirable plants; livestock; land or other property; public health; the environment; and the economy. The advisory committee shall also include in its recommendations to the Board an analysis of the current and potential in-state commercial viability of the specific plant species and the economic impact on industries affected by the designation of the plant as a noxious weed.

B. The Board may establish a statewide quarantine and adopt 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 adopt other regulations as are necessary to carry out the purpose of this chapter. The Board may adopt regulations governing the movement of regulated articles entering the 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 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, § 3.1-296.14; 2008, c. 860;2016, c. 171.

§ 3.2-803. 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, § 3.1-296.15; 2008, c. 860.

§ 3.2-804. Prohibited acts; noxious weeds.

No person shall violate any provisions of this chapter or any regulation adopted hereunder. No person shall move, transport, deliver, ship, or offer for shipment into or within the 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, § 3.1-296.16; 2008, c. 860.

§ 3.2-805. Authority to stop sale or delivery of noxious weeds.

The Commissioner, in order to prevent the introduction or dissemination of noxious weeds, may 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 the Commonwealth, or if existing on any premises, or brought into the Commonwealth from any place outside thereof, if such is found by him to be infested with any noxious weed subject to the provisions of this chapter.

1970, c. 175, § 3.1-296.17; 2008, c. 860.

§ 3.2-806. Access to plants or plant products; 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 ordinances in the Commonwealth insofar as carrying out its intent.

1970, c. 175, § 3.1-296.19; 2008, c. 860.

§ 3.2-807. Inspection of premises and conveyances.

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

1970, c. 175, § 3.1-296.20; 2008, c. 860.

§ 3.2-808. Injunctions.

The Commissioner or landowner affected may apply to any appropriate court 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, § 3.1-296.21; 2008, c. 860.

§ 3.2-809. Penalty for violation.

Any person who fails to comply with the provisions of this chapter or the regulations adopted hereunder is guilty of a Class 1 misdemeanor.

1970, c. 175, § 3.1-296.18; 2008, c. 860.