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## States' Noxious Weed Statutes and Regulations:

*Indiana*



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**States' Noxious Weed Statutes: Indiana**

**Indiana Code**

**Title 8. Utilities and Transportation**

**Article 3. Railroads Generally**

**Chapter 7. Railroad Rights-of-Way—Weed Control**

**IC 8-3-7-1 Time for cutting**

Sec. 1. All railroad corporations doing business in this state shall, between July 1 and August 20 in each year, destroy detrimental plants (as defined in IC 15-16-8-1), noxious weeds, and rank vegetation growing on lands occupied by them.

**IC 8-3-7-2 Violation; penalty; action to recover**

Sec. 2. In case any railroad company shall refuse or neglect to comply with the requirements specified in section 1 of this chapter, such company shall be liable in a penalty of twenty-five dollars (\$25), to be prosecuted for in an action of debt by any person feeling himself aggrieved. Said suit may be brought before any court in the county, who shall require of the complainant surety to pay costs in case he fails to maintain his action. Summons may be served on any agent or officer of the company.

**Title 15. Agriculture and Animals**

**Article 16. Horticulture Control**

**Chapter 7 Weed Control Board**

**IC 15-16-7-1 "Authorizing body"**

Sec. 1. As used in this chapter, "authorizing body" means the body that has the power to adopt ordinances under [IC 36-1-3-6](#).

**IC 15-16-7-2 "Noxious weed"**

Sec. 2. As used in this chapter, "noxious weed" refers to the following:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass (*Sorghum halepense*).
- (3) Columbus grass (*Sorghum almum*).
- (4) Bur cucumber (*Sicyos angulatus*).

- (5) Shattercane (*Sorghum bicolor* (L.) Moench spp. *drummondii* (Steud.) deWet).
- (6) Common waterhemp (*Amaranthus rudis*) and tall waterhemp (*Amaranthus tuberculatus*).
- (7) Marehail or horseweed (*Conyza canadensis*).
- (8) Palmer amaranth or carelessweed (*Amaranthus palmeri*).
- (9) Poison hemlock (*Conium maculatum*).
- (10) Powell amaranth (*Amaranthus powellii*).
- (11) Rough pigweed (*Amaranthus retroflexus*).
- (12) Smooth pigweed (*Amaranthus hybridus*).

### **IC 15-16-7-3 Establishment of weed control board**

Sec. 3. The authorizing body of any county may establish a weed control board by adopting an ordinance:

- (1) on the authorizing body's own initiative; or
- (2) after receiving a petition signed by five percent (5%) of the registered voters of the county.

### **IC 15-16-7-4 Board members; terms; officers; traveling expenses**

Sec. 4. (a) The weed control board consists of the following members to be appointed by the authorizing body:

- (1) One (1) township trustee of the county.
- (2) One (1) soil and water conservation district supervisor.
- (3) One (1) representative from the agricultural community of the county.
- (4) One (1) representative from the county highway department or an appointee of the county commissioners.
- (5) One (1) cooperative extension service agent from the county to serve in a nonvoting advisory capacity.

(b) Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments.

(c) The board shall elect a chairperson and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to any traveling and other expenses that are necessary in the discharge of the members' duties.

### **IC 15-16-7-5 Executive director; employees**

Sec. 5. The weed control board may:

- (1) appoint an executive director; and
- (2) employ necessary technical, professional, and other assistants.

The board shall fix the qualifications, duties, and salaries of these employees subject to the approval of the county council.

### **IC 15-16-7-6 County highway supervisor and soil and water conservation district supervisor duties**

Sec. 6. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall:

- (1) serve as inspectors for the weed control board;
- (2) make periodic inspections; and
- (3) report their findings to the board and the executive director, if any.

### **IC 15-16-7-7 Board's powers and duties**

Sec. 7. The powers and duties of the weed control board include the following:

- (1) Taking all necessary and proper steps to control and contain noxious weeds that have adverse significance on agricultural production in Indiana.
- (2) Entering upon any land, public or private, at any reasonable time after giving forty-eight (48) hours notice to the person in possession of the land to inspect for noxious weeds, unless permission is granted to enter earlier.
- (3) Purchasing supplies, material, and equipment.
- (4) Acquiring by gift or purchase, holding, or disposing of, any real property in the name of the board, to include facilities as offices, laboratories, operational buildings, rights-of-way, and easements.
- (5) Making contracts to carry out the duties of the board.
- (6) Entering into cooperative agreements with appropriate organizations to assure technical assistance in developing and carrying out the purposes of the board.
- (7) Identifying problems determined to be of importance to the public welfare and developing control programs appropriate to a situation.
- (8) Undertaking investigations to determine the extent of infestation of noxious weed species, along with the effect of the infestation on agricultural production in the county.
- (9) Employing the latest technological advances to control and contain noxious weeds in the county.
- (10) Accepting gifts, grants of money, services, or property for any use consistent with the objectives of the board.
- (11) Exercising all other powers necessary to carry out the purposes of this chapter.
- (12) Performing additional duties as the authorizing body may prescribe.

### **IC 15-16-7-8 Marijuana eradication program**

Sec. 8. In addition to the weed control board's powers and duties under section 7 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county:

- (1) under IC 33-37-8; and
- (2) from the county general fund.

### **IC 15-16-7-9 Property owners; obligation to control noxious weeds; removal notice**

Sec. 9. (a) The weed control board shall require persons who own:

- (1) real estate; or
  - (2) easements, rights-of-way, or other similar interests in real estate;
- in the county to control and contain noxious weeds growing on the real estate.

(b) A five (5) day written notice to remove any noxious weeds shall be issued by the board. The notice may be served:

- (1) by certified or registered mail addressed to the latest address of the person or to the person's resident agent; or
- (2) personally by the sheriff.

(c) The weed control board shall notify the township trustee when the board has sent a notice to a person to remove noxious weeds growing on real estate in the township.

### **IC 15-16-7-10 Cutting or destroying noxious weeds by board; itemized bill for work; certified statement of costs to property owner**

Sec. 10. (a) If a person fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed in section 9 of this chapter, the weed control board may pay the following costs incurred in cutting or destroying noxious weeds under this chapter:

- (1) Chemicals.
- (2) Equipment.
- (3) Labor at a rate per hour to be fixed by the weed control board commensurate with local hourly wages.

(b) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the weed control board. When the bill has been approved, the weed control board shall pay the bill from the county general fund unless the county has established a separate fund for the weed control board. The weed control board shall certify the cost of the work, adding to the bill twenty dollars (\$20) per day for each day that a member of the weed control board or the board's agent supervises the performance of the services required under this chapter as compensation for services. The certified statement of costs must include a description of the real estate on which the labor was performed.

(c) The certified statement of costs prepared under subsection (b) must be provided:

- (1) to the owner or person possessing the real estate by:
  - (A) certified mail; or
  - (B) personal service; and

- (2) by mail to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

The statement must request that the person pay the cost of performing the service under subsection (b) to the weed control board.

**IC 15-16-7-11 Failure of owner to pay costs; placement on tax duplicate; deposit of funds disposition of funds; government property; loss of tax exemption**

Sec. 11. (a) If the owner or person in possession of the property does not pay the amount set forth in the statement under section 10(b) of this chapter within ten (10) days after receiving the certified statement under section 10(c) of this chapter, the weed control board shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 12 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds must be deposited in the weed control board fund, if one has been established by the county, for use at the discretion of the weed control board. If a weed control board fund has not been established by the county, the funds collected must be deposited in the county general fund.

**IC 15-16-7-12 Cutting and destroying weeds by the board on governmental property**

Sec. 12. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 10(b) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16). The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the weed control board the amount set forth in the certified statement under section 10(b) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 10(b) of this chapter for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

### **IC 15-16-7-13 Duties of the county auditor concerning certified statement of costs**

Sec. 13. Except as provided in section 12 of this chapter, the county auditor, upon receiving and filing the weed control board's certified statement as prescribed in this chapter, shall:

- (1) immediately place the amounts on the tax duplicate of the county;
- (2) collect the amounts at the next tax paying time, in the same manner as other state, county, or township taxes are collected, including penalties, forfeitures, and sales; and
- (3) after the amount has been collected, place the amount in the proper fund.

### **IC 15-16-7-14 Cooperative extension service; technical assistance**

Sec. 14. The Purdue University cooperative extension service shall provide technical assistance to any weed control board in order to control and contain the growth and spread of noxious weeds.

### **IC 15-16-7-15 Violation; failure to comply with board**

Sec. 15. Any person who fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed under section 9 of this chapter commits a Class C infraction.

## **Chapter 8. Destruction of Detrimental Plants**

### **IC 15-16-8-1 "Detrimental plant"**

Sec. 1. As used in this chapter, "detrimental plant" includes the following:

- (1) Canada thistle (*Cirsium arvense*).
- (2) Johnson grass (*Sorghum halepense*).
- (3) Columbus grass (*Sorghum almum*).
- (4) Bur cucumber (*Sicyos angulatus*).
- (5) Shattercane (*Sorghum bicolor* (L.) Moench spp. *drummondii* (Steud.) deWet).
- (6) Common waterhemp (*Amaranthus rudis*) and tall waterhemp (*Amaranthus tuberculatus*).
- (7) Marestalk (*Conyza canadensis*).
- (8) Palmer amaranth or carelessweed (*Amaranthus palmeri*).
- (9) Poison hemlock (*Conium maculatum*).
- (10) Powell amaranth (*Amaranthus powellii*).

- (11) Rough pigweed (*Amaranthus retroflexus*).
- (12) Smooth pigweed (*Amaranthus hybridus*).
- (13) In residential areas only, noxious weeds and rank vegetation.

The term does not include agricultural crops.

#### **IC 15-16-8-2 "Person"**

Sec. 2. As used in this chapter, "person" means:

- (1) an individual;
- (2) an incorporated or unincorporated organization or association;
- (3) a trustee or legal representative;
- (4) the state or an agency of the state;
- (5) a political subdivision (as defined in [IC 36-1-2-13](#)) or an agency of a political subdivision; or
- (6) any combination of persons listed under subdivisions (1) through (5) acting in concert.

#### **IC 15-16-8-3 Duty to destroy detrimental plants**

Sec. 3. A person owning or possessing real estate in Indiana shall destroy detrimental plants by:

- (1) cutting or mowing and, if necessary, by plowing, cultivating, or smothering; or
- (2) using chemicals in the bud stage of growth or earlier, to prevent detrimental plants from maturing on the person's real estate.

#### **IC 15-16-8-4 Township trustee; investigation of detrimental plants; notice**

Sec. 4. (a) If a township trustee:

- (1) has reason to believe that detrimental plants may be on real estate; and
- (2) gives the owner or person in possession of the real estate forty-eight (48) hours notice under subsection (e);

the township trustee may enter the real estate to investigate whether there are detrimental plants on the real estate.

(b) Except as provided in subsection (d), if the township trustee determines by:

- (1) investigating real estate located in the trustee's township; or
- (2) visual inspection without entering real estate located in the trustee's township;

that a person has detrimental plants growing on real estate, the trustee shall give written notice under subsection (e) to the owner or person in possession of the real estate to

destroy the detrimental plants. The owner or person in possession of the real estate shall destroy the plants in a manner provided in section 3 of this chapter not more than five (5) days after the notice is received under subsection (f).

(c) If the detrimental plants are not destroyed as provided in subsection (b), the trustee shall cause the detrimental plants to be destroyed in a manner most practical to the trustee not more than eight (8) days after notice is received by the owner or person in possession of the real estate under subsection (f). The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon the real estate where the detrimental plants are growing to destroy the detrimental plants and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out the work, except for gross negligence or willful or wanton destruction.

(d) If the county has established a county weed control board under [IC 15-16-7](#), the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(e) Notice required in subsection (a) or (b) may be given by:

- (1) certified mail; or
- (2) personal service.

(f) Notice under subsection (e) is considered received by the owner or person in possession of the real estate:

- (1) if sent by mail, on the earlier of:
  - (A) the date of signature of receipt of the mailing; or
  - (B) three (3) business days after the date of mailing; or
- (2) if served personally, on the date of delivery.

#### **IC 15-16-8-5 Certification of costs; use of power equipment**

Sec. 5. (a) The township trustee may pay the following costs incurred in cutting or destroying detrimental plants under this chapter:

- (1) Chemicals.
- (2) Work.
- (3) Labor, at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) If the trustee believes the infestation of the real estate with detrimental plants is so great and widespread that cutting or eradication by hand methods is impractical, the trustee shall use the necessary power machinery or equipment. The trustee may pay for

the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the township trustee. When the bill has been approved, the trustee shall pay the bill out of the township fund. If there is no money available in the township fund for that purpose, the township board, upon finding an emergency exists, shall act under [IC 36-6-6-14\(b\)](#) or [IC 36-6-6-15](#) to borrow money sufficient to meet the emergency.

(d) The trustee, when submitting estimates to the township board for action, shall include in the estimates an item sufficient to cover those expenditures.

#### **IC 15-16-8-6 Cost statement; information required; notice**

Sec. 6. (a) The township trustee shall prepare a statement that contains the following:

(1) A certification of the following costs:

(A) The cost or expense of the work.

(B) The cost of the chemicals.

(C) Twenty dollars (\$20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services.

(2) A description of the real estate on which the labor was performed.

(3) A request that the owner or person in possession of the real estate pay the costs under subdivision (1) to the township trustee.

(b) The certified statement prepared under subsection (a) shall be provided:

(1) to the owner or person possessing the real estate by:

(A) mail, using a certificate of mailing; or

(B) personal service; or

(2) by mailing the certified statement to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in [IC 5-11-1-16](#)) for real estate owned by the municipality.

#### **IC 15-16-8-7 Failure to pay for weed removal; amount collected as taxes; disposition of funds**

Sec. 7. (a) If the owner or person in possession of the property does not pay the amount set forth in the certified statement under section 6(a) of this chapter within ten (10) days after receiving the notice under section 6(b) of this chapter, the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 8 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds shall be deposited in the trustee's township funds for use at the discretion of the trustee.

#### **IC 15-16-8-8 Cutting and destroying weeds by the board on governmental property**

Sec. 8. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in [IC 5-11-1-16](#)) other than the township. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 6(a) of this chapter for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

#### **IC 15-16-8-9 Duties of the county auditor concerning certified statement of costs; disposition of amounts collected**

Sec. 9. Except as provided in sections 5 through 8 of this chapter, the county auditor, upon receiving and filing a certified statement under section 7(a) of this chapter, shall:

- (1) immediately place the amounts on the certified statement on the tax duplicate of the county; and
- (2) collect the amounts at the next tax paying time for the proper township or townships, the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales.

After the amounts are collected, the amounts shall be paid to the proper trustee and placed in the township fund.

#### **IC 15-16-8-10 Budget**

Sec. 10. When the annual township budget is prepared, a sufficient amount shall be appropriated to enable the township officials to comply with this chapter.

### **IC 15-16-8-11 Exemption of land subject to program**

Sec. 11. The director of the department of natural resources or the dean of agriculture of Purdue University may totally or partially exempt land that is subject to a program of the department or station from this chapter or any other statute concerning the destruction of detrimental plants.

### **IC 15-16-8-12 Assistance to township trustees**

Sec. 12. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

### **IC 15-16-8-13 Violation; failure of trustee to perform duties**

Sec. 13. A township trustee who fails to perform the duties required of the trustee by this chapter commits a Class C infraction.

### **IC 15-16-8-14 Violations; failure to eradicate; selling certain seed**

Sec. 14. (a) A person who:

- (1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;
  - (2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate the plants by chemicals each year, as prescribed in this chapter;
  - (3) having charge of or control over any highway:
    - (A) knowingly allows detrimental plants to grow or mature on the right-of-way of the highway; or
    - (B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter;
  - (4) having charge of or control over the right-of-way of a railroad or interurban company:
    - (A) knowingly allows detrimental plants to grow and mature on the right-of-way; or
    - (B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter; or
  - (5) knowingly sells Canada thistle (*cirsium arvense*) seed;
- commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the trustee's township funds for use at the discretion of the trustee.

## **Chapter 9. Control of Johnson Grass**

### **IC 15-16-9-1 Duties of certain public and quasi-public bodies**

Sec. 1. Between July 1 and September 15:

- (1) the Indiana department of transportation;
- (2) railroads;
- (3) drainage districts;
- (4) township boards;
- (5) public utilities; and
- (6) other public and quasi-public corporations;

shall do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of Indiana.

### **IC 15-16-9-2 Cooperative extension service technical assistance**

Sec. 2. The Purdue University cooperative extension service shall provide technical assistance to property owners to control the growth or spread of Johnson grass.

### **IC 15-16-9-3 Violations; exceptions**

Sec. 3. (a) Except as provided in subsection (b), a person who knowingly:

- (1) contaminates uninfested land with Johnson grass; or
  - (2) transports Johnson grass in any form capable of germination;
- commits a Class C infraction.

(b) A person does not violate this section if the person has written approval of the dean of agriculture of Purdue University or the dean's designee before performing an act described in subsection (a).

## **Chapter 18. Weed Cutting on County Roadsides**

### **36-2-18-1 Duty of county highway department**

Sec. 1. Each county highway department shall control detrimental plants (as defined in IC 15-16-8-1), and noxious weeds as required by law.