

February 21, 1949.
Passed on File.

House File 443
By COMMITTEE ON AGRICULTURE 1.

Passed House, Date
Vote: Ayes..... Nays.....
Passed Senate, Date.....
Vote: Ayes..... Nays.....
Approved

A BILL FOR

An Act to amend Chapter three hundred seventeen (317), Code 1946, and chapter one hundred sixty-eight (168) Acts of the Fifty-second General Assembly, relating to the control and destruction of noxious weeds.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. Section three hundred seventeen point one
2 (317.1), Code 1946, and section ten (10) chapter one hundred
3 sixty-eight (168) Acts of the Fifty-second General Assembly are
4 hereby repealed and the following enacted in lieu thereof:
5 "The following weeds are hereby declared to be noxious
6 weeds for the purpose of this chapter:
7 Quack grass (*Agropyron repens*), perennial sow thistle
8 (*Sonchus arvensis*), Canada thistle (*Cirsium arvense*) bull
9 thistle (*Cirsium lanceolatum*), European morning glory or field
10 bindweed (*Convolvulus arvensis*), horse nettle (*Solanum carolinense*),
11 leafy spurge (*Euphorbia esula*), perennial peppergrass (*Pepidium*
12 *draba*), Russian Knapweed (*Centaurea repens*), butterprint
13 (*Abutilon theophrasti*) annual, cocklebur (*Xanthium commune*),
14 annual, wild mustard (*Brassica arvensis*) annual, wild carrot
15 (*Daucus carolta*) biennial, buckhorn (*Plantago lanceolata*)

16 perennial, smooth dock (*Rumex altissimus*) perennial, puncture
17 vine (*Tribulus terrestris*) annual.

1 Sec. 2. Section three hundred seventeen point three (317.3),
2 Code 1946, is hereby repealed and the following enacted in lieu
3 thereof:

4 "The board of supervisors of each county shall annually
5 appoint a county weed commissioner who shall be a person not
6 otherwise employed by the county and one who is familiar with
7 the various types of weeds and the recognized methods for their
8 control and elimination. The county weed commissioner's
9 appointment shall be effective as of March 1 and continue for
10 a term of one year unless he is sooner removed from office as
11 provided for by law. The county weed commissioner may, with
12 the approval of the board of supervisors, appoint a deputy or
13 such number of deputies as are necessary to carry out the
14 purposes of this chapter. The name and address of the person
15 appointed as county weed commissioner shall, within ten (10)
16 days of the making of the appointment, be certified to the
17 county auditor and to the secretary of agriculture. The board
18 of supervisors shall fix the compensation of the county weed
19 commissioner and his deputies, if any, and in addition to said
20 compensation, they shall be paid their necessary travel expense;
21 said compensation and expense shall be paid from the county
22 general fund."

1 Sec. 3. Section three hundred seventeen point four (317.4),
2 Code 1946, is hereby amended by striking from lines four (4),

3 five (5) and six (6) the comma and words “, insofar as
4 applicable, to the county, town, and city weed commissioners”
5 and inserting in lieu thereof the words “to the county weed
6 commissioners and their deputies”.

7 Said section is hereby further amended by striking from
8 line seven (7) thereof the word “jurisdictions” and inserting
9 in lieu thereof the word “counties”.

10 Said section is hereby further amended by striking from
11 line eleven (11) the word and comma “jurisdiction,” and
12 inserting in lieu thereof the words: “county, including those
13 growing within the limits of incorporated towns and cities.”.

14 Said section is hereby further amended by adding at the
15 end thereof the following: “The county weed commissioner or his
16 deputies shall have the right at any time to enter upon any land
17 in his county without the consent of the owner or one in
18 possession or control thereof for the purpose of determining
19 whether any noxious weeds are growing thereon and the facts as
20 to the state of compliance with the weed control program, order
21 or orders.”

1 Sec. 4. Section three hundred seventeen point five (317.5),
2 Code 1946, is hereby repealed.

1 Sec. 5. Section three hundred seventeen point six (317.6),
2 Code 1946, and section three (3) chapter one hundred sixty-
3 eight (168), Acts of the Fifty-second General Assembly are hereby
4 repealed and the following enacted in lieu thereof: “In case of
5 a substantial failure by the owner or person in possession or

6 control of any land to comply with any order of destruction
7 pursuant to the provisions of this chapter, the county weed
8 commissioner, his deputies and employees acting under his
9 direction shall have full power and authority to enter upon any
10 land within their county for the purpose of destroying noxious
11 weeds. Such entry may be made without the consent of the land
12 owner or person in possession or control of the land but actual
13 work of destruction shall not be commenced until five (5) days
14 after the service of a notice in writing on the landowner and
15 on the person in possession or in control of the land. The
16 notice shall state the facts as to failure of compliance with
17 the county program of weed destruction order or orders made by
18 the board of supervisors and shall be served in the same manner
19 as an original notice except as hereinafter provided. The
20 notice may be served by the weed commissioner, his deputies
21 or any person designated in writing by the weed commissioner
22 and filed in the office of the county auditor. Provided,
23 however, that service on persons living temporarily or
24 permanently outside of the county may be made by sending the
25 written notice of non-compliance by registered mail to said
26 person at the last known address to be ascertained, if
27 necessary, from the last tax list in the county treasurer's office.
28 Where any person, firm or corporation owning land within the
29 county has filed a written instrument in the office of the county
30 auditor designating the name and address of its agent, the
31 notice herein provided may be served on that agent. In

32 computing time hereunder it shall be from the date of service
33 as evidenced on the return or if made by registered mail, from
34 the date of mailing as evidenced by the Registered Mail Book at
35 the Postoffice where mailed.

1 Sec. 6. Section three hundred seventeen point seven (317.7),
2 Code of 1946, is hereby amended by striking from line one (1)
3 of subsection (1) thereof the word "Primary".

1 Sec. 7. Section three hundred seventeen point eight
2 (317.8), Code 1946, is hereby amended by striking from subsection
3 two (2) thereof the comma and all that part of the subsection
4 following the word "post" in line four (4) and inserting in lieu
5 thereof a period (.).

1 Sec. 8. Section three hundred seventeen point ten (317.10),
2 Code of 1946, is hereby amended by striking from lines eight (8)
3 and nine (9) the words: "prevent said weeds from blooming or
4 coming to maturity" and inserting in lieu thereof the words:
5 "be prescribed in the program of weed destruction order or
6 orders made by the board of supervisors".

1 Sec. 9. Section three hundred seventeen point thirteen
2 (317.13), Code of 1946, is hereby amended by striking from line
3 seven (7) the words: "in five years".

4 Said section is hereby further amended by striking from
5 line eleven (11) the word "cutting" and inserting in lieu
6 thereof the word "destruction".

1 Sec. 10. Section three hundred seventeen point fourteen
2 (317.14), Code 146, is hereby amended by striking from said

3 section in lines five (5) to thirteen (13), inclusive, the
4 following sentences: "In cases where the cost appears likely
5 to exceed twenty-five dollars, notice to the property owners
6 shall be by registered letters. Provided, however, that where
7 any railroad company has filed a written instrument in the
8 county auditor's office, designating the name and address of
9 its agent, the county auditor shall send, by registered mail,
10 a copy of said notice to such agent."

11 Said section is further amended by striking from lines
12 twenty (20) and twenty-one (21) the words: "to be taxed to the
13 owner of the property" and inserting in lieu thereof the words:
14 "will be taxed against the real estate on which the noxious
15 weeds are destroyed".

1 Sec. 11. Section three hundred seventeen point sixteen
2 (317.16), Code of 1946, and section eleven (11) of chapter one
3 hundred sixty-eight (168), Acts of the Fifty-second General
4 Assembly are hereby repealed and the following enacted in lieu
5 thereof:

6 "In case of a substantial failure to comply by the date
7 prescribed in any order of destruction of weeds made pursuant
8 to the provisions of this chapter, the weed commissioner or
9 his deputies shall, subsequent to the time after service of the
10 notice provided for in three hundred seventeen point six (417.6)
11 enter upon the land and cause such weeds to be destroyed. The
12 actual cost and expense of such cutting, burning or otherwise
13 destroying of said weeds, the cost of serving notice and special

14 meetings or proceedings, if any, shall be paid from the county
15 general fund and, together with the additional assessment to
16 apply toward costs of supervision and administration, be
17 recovered by an assessment against the tract of real estate on
18 which the weeds were growing, as provided in section 317.20.”

1 Sec. 12. Section three hundred seventeen point eighteen
2 (317.18), Code 1946, is hereby amended by striking from line
3 five (5), the word “mowed” and inserting in lieu thereof the
4 words “cut, burned or otherwise destroyed”.

5 Said section is further amended by inserting following
6 the word “cut” in lines twelve (12), thirteen (13) and eighteen
7 (18) the words “burned or otherwise destroyed”.

8 Said section is further amended by inserting following the
9 word “cut” in line sixteen (16) the words “burn or otherwise
10 deströy”.

1 Sec. 13. Section three hundred seventeen point nineteen
2 (317.19), Code 1946, is hereby amended by inserting following
3 the word “cut” in line eight (8) the words “burn or otherwise
4 destroy”.

1 Sec. 14. Section nine (9) of Chapter one hundred sixty-eight
2 (168), Acts of the Fifty-second General Assembly is hereby amended
3 by inserting after the period in line five (5) the following:
4 “Whenever equipment or materials so purchased are used on private
5 property within the corporate limits of cities or towns by the
6 weed commissioner, the cost of materials used and an amount to
7 be fixed by the board of supervisors for the use of said

8 equipment shall be returned to this one-fourth ($\frac{1}{4}$) mill fund by
9 the county treasurer upon the collection of the special
10 assessment taxed against said property. In the certification
11 to the county auditor and the county treasurer by the clerk of
12 the board of supervisors this apportionment shall be designated
13 along with the special tax assessed under the provisions of
14 section 317.20.”

1 Sec. 15. Section three hundred seventeen point twenty
2 (317.20), Code 1946, is hereby amended by striking from line
3 four (4) the figure “317.17” and inserting in lieu thereof the
4 figure “317.18”.

5 Said section is further amended by inserting following the
6 word “against” in line eight (8) the words: “the land”.

7 Said section is further amended by striking all that part
8 of subsection 1 preceding the comma in line six (6) and
9 inserting in lieu thereof the following: “annually, after the
10 weed commissioner has completed his program of destruction of
11 weeds by reason of non-compliance by persons responsible therefor,
12 the board of supervisors shall determine as to each tract of
13 real estate the actual cost of labor and materials used by the
14 commissioner in cutting, burning or otherwise destroying said
15 weeds, the cost of serving notice and special meetings or
16 proceedings, if any. To the total of all such sums expended,
17 they shall add an amount equal to twenty-five per cent (25%)
18 thereof to compensate for the cost of supervision and
19 administration and assess the resulting sum against said tract

20 of real estate by a special tax”.

1 Sec. 16. Subsection two (2) of section three hundred
2 seventeen point twenty (317.20), Code 1946, is hereby amended
3 by inserting after the word “assessed” in line four (4) the
4 words: “which shall be in accord with the assessor’s records”.

5 Subsection three (3) of section three hundred seventeen
6 point twenty (317.20), Code 1946, is hereby amended by inserting
7 after the word “assessments” in line two (2) the words: “which
8 time shall not be later than December 15 of the year”.

EXPLANATION OF H. F. 443

Purpose of the proposed changes is that experience has proven that these changes would more clearly identify the duties and obligations of those responsible for the destruction of noxious weeds as well as clarify the rights and duties of the county weed commissioners and board of supervisors. In general, make the law more workable.