

## CHAPTER 177A

## CROP PESTS

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**177A.1 Short title.**

This chapter shall be known by the short title of “*The Iowa Crop Pest Act*”.

[C27, 31, 35, §4062-b1; C39, §4062.01; C46, 50, 54, 58, 62, 66, 71, 73, §267.1; C75, 77, 79, 81, §177A.1]

**177A.2 Definitions.**

1. As used in this chapter, unless the context otherwise requires, “*book*”, “*list*”, “*record*”, or “*schedule*” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. For the purposes of this chapter, the following terms shall be construed, respectively, to mean:

a. “*Insect pests and diseases.*” Insect pests and diseases injurious to plants and plant products, including any of the stages of development of such insect pests and diseases.

b. “*Places.*” Vessels, cars, boats, trucks, automobiles, aircraft, wagons and other vehicles or carriers, whether air, land or water, buildings, docks, nurseries, greenhouses, orchards, fields, gardens, and other premises or any container where plants and plant products are grown, kept or handled.

c. “*Plants and plant products.*” Trees, shrubs, vines, berry plants, greenhouse plants and all other nursery plants; forage and cereal plants, and all other parts of plants; cuttings, grafts, scions, buds, and all other parts of plants; and fruit, vegetables, roots, bulbs, seeds, wood, lumber, and all other plant products.

[C27, 31, 35, §4062-b2; C39, §4062.02; C46, 50, 54, 58, 62, 66, 71, 73, §267.2; C75, 77, 79, 81, §177A.2]

2000 Acts, ch 1148, §1

**177A.3 State entomologist.**

There is hereby created and established within the department of agriculture and land stewardship the office of state entomologist. The state entomologist shall be appointed by, responsible to and under the authority of the secretary of agriculture in the issuance of all rules, the establishment of quarantines and other official acts. The secretary of agriculture shall provide the state entomologist with suitable office space.

[S13, §2575-a47; C24, §4045; C27, 31, 35, §4062-b3; C39, §4062.03; C46, 50, 54, 58, 62, 66, 71, 73, §267.3; C75, 77, 79, 81, §177A.3; 81 Acts, ch 70, §1]

**177A.4 Employees — expenses.**

For the purpose of carrying out the provisions of this chapter, the state entomologist with the approval of the secretary of agriculture shall employ, prescribe the duties of, and fix the compensation of, such inspectors, and other employees as needed and incur such expenses as may be necessary, within the limits of appropriations made by law. The state entomologist

shall co-operate with other departments, boards and officers of the state and of the United States as far as practicable.

[S13, §2575-a47; C24, §4046; C27, 31, 35, §4062-b4; C39, §4062.04; C46, 50, 54, 58, 62, 66, 71, 73, §267.4; C75, 77, 79, 81, §177A.4]

#### **177A.5 Duties — public nuisances.**

The state entomologist shall keep informed as to known species and varieties of insect pests and diseases, the origin, locality, nature and appearance thereof, the manner in which they are disseminated, and approved methods of treatment and eradication. In the rules made pursuant to this chapter the state entomologist shall list the dangerously injurious insect pests and diseases which the entomologist shall find should be prevented from being introduced into, or disseminated within, this state in order to safeguard the plants and plant products likely to become infested or infected with such insect pests and diseases. Every such insect pest and disease listed, and every plant product infested or infected therewith, is hereby declared to be a public nuisance. Every person who has knowledge of the presence in or upon any place of any insect pest or disease so listed, shall immediately report the fact and location to the state entomologist, or the assistant state entomologist, giving such detailed information relative thereto as the person may have. Every person who deals in or engages in the sale of plants and plant products shall furnish to the state entomologist or the entomologist's inspectors, when requested, a statement of the names and addresses of the persons from whom and the localities where the person purchased or obtained such plants and plant products.

[S13, §2575-a47; C24, §4047; C27, 31, 35, §4062-b5; C39, §4062.05; C46, 50, 54, 58, 62, 66, 71, 73, §267.5; C75, 77, 79, 81, §177A.5]

[P] Nuisances in general, chapter 657

#### **177A.6 Rules.**

1. The state entomologist shall, from time to time, adopt rules for carrying out the provisions and requirements of this chapter, including rules under which the inspectors and other employees shall:

a. Inspect places, plants and plant products, and things and substances used or connected therewith,

b. Investigate, control, eradicate and prevent the dissemination of insect pests and diseases, and

c. Supervise or cause the treatment, cutting and destruction of plants and plant products infested or infected therewith.

2. The state entomologist, the entomologist's inspectors, employees, or other authorized agents shall have authority to enforce these rules which shall be published in the same manner as are the other rules of the department.

3. A nursery stock dealer shall not sell, offer for sale, or distribute nursery products by any method, or under any circumstances or condition, which has the capacity and tendency or effect of deceiving purchasers or prospective customers as to quantity, size, grade, kind, species, age, maturity, viability, condition, vigor, hardiness, number of times transplanted, growth ability, growth characteristics, rate of growth or time required before flowering or fruiting, price, origin or place where grown, or in any other material respect.

4. When under the provisions of this section it becomes necessary for the state entomologist to verify sizes and grades of nursery stock, or either of them, the entomologist shall use as a guide the "American Standard for Nursery Stock" as revised and approved by the American standards association, inc.

[S13, §2575-a48; C24, §4050, 4051, 4054; C27, 31, 35, §4062-b6; C39, §4062.06; C46, 50, 54, 58, 62, 66, 71, 73, §267.6; C75, 77, 79, 81, §177A.6]

2009 Acts, ch 41, §73

#### **177A.7 Infection — eradication — notice.**

Whenever inspection discloses that any places, or plants or plant products, or things and substances used or connected therewith, are infested or infected with any dangerously

injurious insect pest or disease listed as a public nuisance, written notice thereof shall be given the owner or person in possession or control of the place where found, who shall proceed to control, eradicate or prevent the dissemination of such insect pest or disease, and to remove, cut or destroy infested and infected plants and plant products, or things and substances used or connected therewith, as prescribed in the notice or the rules. Whenever such owner or person in possession cannot be found, or shall fail, neglect or refuse to obey the requirements of the notice and the rules, such requirements shall be carried out by the state entomologist, as required by section 177A.17.

[S13, §2575-a48; C24, §4050, 4052, 4053, 4055; C27, 31, 35, §4062-b7; C39, §4062.07; C46, 50, 54, 58, 62, 66, 71, 73, §267.7; C75, 77, 79, 81, §177A.7]

#### **177A.8 Importation — regulations.**

It shall be unlawful for any person to bring or cause to be brought into this state any plant or plant product listed in the rules, unless there be plainly and legibly marked thereon or affixed thereto, or on or to the carrier, or the bundle, package, or container, in a conspicuous place, a statement or tag or device showing the names and addresses of the consignors or shippers and the consignees or persons to whom shipped, the general nature and quantity of the contents, and the name of the locality where grown, together with a certificate of inspection of the proper official of the state, territory, district, or country from which it was brought or shipped, showing that such plant or plant product was found or believed to be free from dangerously injurious insect pests and diseases, and giving any other information required by the state entomologist.

[S13, §2575-a50; C24, §4058; C27, 31, 35, §4062-b8; C39, §4062.08; C46, 50, 54, 58, 62, 66, 71, 73, §267.8; C75, 77, 79, 81, §177A.8]

#### **177A.9 Inspection — certificate — fees.**

It shall be unlawful for any person to sell, give away, carry, ship, or deliver for carriage or shipment, within this state, any plants or plant products listed in the rules unless such plants or plant products have been officially inspected and a certificate issued by an inspector of the state entomologist's office stating that such plants or plant products have been inspected and found to be apparently free from dangerously injurious insect pests and diseases, and giving any other facts provided for in the rules. For the issuance of such certificate, the state entomologist may require the payment of a reasonable fee to cover the expense of such inspection and certification. Provided, that if such plants or plant products were brought into this state in compliance with section 177A.8, the certificate required by that section may be accepted in lieu of the inspection and certificate required by this section, in such cases as shall be provided for in the rules. If it shall be found at any time that a certificate of inspection, issued or accepted under the provisions of this section, is being used in connection with plants and plant products which are infested or infected with dangerously injurious insect pests or diseases or in connection with uninspected plants, its further use may be prohibited, subject to such inspection and disposition of the plants and plant products involved as may be provided for by the state entomologist. All moneys collected under the provisions of this chapter shall be turned over to the secretary who shall deposit them in the state treasury.

The fees for inspections and certifications shall not be less than twenty-five dollars nor more than five hundred dollars. Certificates shall be issued to nursery stock growers and dealers on an annual basis. Inspection and certification fees for nursery stock growers shall be twenty-five dollars plus five dollars per acre or part thereof, according to the amount of stock inspected. The inspection and certification fee for nursery stock dealers shall be twenty-five dollars. All fees shall be paid at the time of inspection or before a certificate is issued. Inspection and certification shall take place when necessary to enforce this chapter and the rules pursuant to it. Certificates issued in accordance with this chapter may be revoked when inspection results determine that conditions violate the standards for which certification was issued.

[S13, §2575-a47, -a49; C24, §4047, 4048, 4057; C27, 31, 35, §4062-b9; C39, §4062.09; C46, 50, 54, 58, 62, 66, 71, 73, §267.9; C75, 77, 79, 81, §177A.9; 81 Acts, ch 70, §2]

88 Acts, ch 1272, §19

**177A.10 Report of violations.**

Any person who receives from without the state any plant or plant product without section 177A.8 having been complied with, or who receives any plant or plant product sold, given away, carried, shipped or delivered for carriage or shipment within this state without section 177A.9 having been complied with, shall immediately inform the state entomologist or one of the entomologist's inspectors of such facts and isolate and hold the plant or plant product unopened or unused, subject to such inspection and disposition as may be provided for by the state entomologist.

[S13, §2575-a49; C24, §4057; C27, 31, 35, §4062-b10; C39, §4062.10; C46, 50, 54, 58, 62, 66, 71, 73, §267.10; C75, 77, 79, 81, §177A.10]

**177A.11 Quarantine — general powers.**

Whenever the state entomologist shall find that there exists outside of this state any insect pest or disease, and that its introduction into this state should be prevented in order to safeguard plants and plant products in this state, the state entomologist is authorized to quarantine and promulgate quarantine restrictions covering areas within the states affected by the pest and may adopt, issue, and enforce rules supplemental to such quarantines for the control of the pest. Under such quarantines, the state entomologist or the state entomologist's authorized agents may prohibit and prevent the movement within the state without inspection, or the shipment or transportation within the state, of any agricultural or horticultural product, or any other material of any character whatsoever, capable of carrying any dangerously injurious insect pest or disease in any living state of its development; and, in the enforcement of such quarantine, may intercept, stop, and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon, vehicles or carriers or any container, material, or substance believed or known to be carrying the insect pest or plant disease in any living state of its development in violation of said quarantines or of the rules issued supplemental thereto, and may seize, possess, and destroy any agricultural or horticultural product or other material of any character whatsoever, moved, shipped, or transported in violation of such quarantines or the rules.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b11; C39, §4062.11; C46, 50, 54, 58, 62, 66, 71, 73, §267.11; C75, 77, 79, 81, §177A.11]

**177A.12 Federal quarantine — seizures.**

1. Until the secretary of agriculture of the United States shall have made a determination that a federal quarantine is necessary, and has duly established the same with reference to any dangerous plant disease or insect infestation, the state entomologist of this state is authorized to promulgate and enforce quarantine regulations prohibiting or restricting the transportation of any class of plant material or product or article into this state from any state, territory or district of the United States, when the entomologist shall have information that a dangerous plant disease or insect infestation exists in such state, territory, district, or portion thereof.

2. The state entomologist, the entomologist's inspectors or duly authorized agents are authorized to seize, destroy, or return to the point of origin any material received in this state in violation of any state quarantine established under the authority of subsection 1, or in violation of any federal quarantine established under the authority of the Act of August 20, 1912, 37 Stat. ch 308, or any amendment to that Act.

[C27, 31, 35, §4062-b12; C39, §4062.12; C46, 50, 54, 58, 62, 66, 71, 73, §267.12; C75, 77, 79, 81, §177A.12]

2006 Acts, ch 1010, §58

**177A.13 Quarantines — seizure and destruction.**

Whenever the state entomologist shall find that there exists in this state, or any part thereof, any dangerously injurious insect pest or plant disease, and that its dissemination should be controlled or prevented, the entomologist may institute quarantines and promulgate quarantine restrictions covering areas within the state affected by such pest or disease, and may adopt, issue and enforce rules supplemental to such quarantines for

the control of this pest. Under such quarantines, the state entomologist, the entomologist's inspectors or authorized agents may prohibit and prevent the movement within the state without inspection or the shipment or transportation within this state, of any agricultural or horticultural product, or any other material of any character whatsoever, capable of carrying any dangerously injurious insect pest or disease in any living state of its development; and, in the enforcement of such quarantine, may intercept, stop, and detain for official inspection any person, car, vessel, boat, truck, automobile, aircraft, wagon, or other vehicles or carriers of any kind or character, whether air, land, or water, or any container or material believed or known to be carrying such insect pest or plant disease in any living state of its development or any such material, in violation of said quarantine or of the rules issued supplemental thereto, and may seize, possess, and destroy any agricultural or horticultural product or other material of any character whatsoever, moved, shipped, or transported in violation of such quarantines or the said rules.

The state entomologist shall give public notice of such quarantines, specifying the plants and plant products infested or infected, or likely to become infested or infected; and the movement, planting or other use of any such plant or plant product, or other thing or substance specified in such notice as likely to carry and disseminate such insect pest or disease, except under such conditions as shall be prescribed as to inspection, treatment and disposition, shall be prohibited within such area as the entomologist may designate. When the state entomologist shall find that the danger of the dissemination of such insect pest or disease has ceased to exist, the entomologist shall give public notice that the quarantine is raised.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b13; C39, §4062.13; C46, 50, 54, 58, 62, 66, 71, 73, §267.13; C75, 77, 79, 81, §177A.13]

#### **177A.14 Right of access.**

The state entomologist and the entomologist's authorized inspectors, employees, and agents shall have free access within reasonable hours to any farm, field, orchard, nursery, greenhouse, garden, elevator, seedhouse, warehouse, building, cellar, freight or express office or car, freight yard, truck, automobile, aircraft, wagon, vehicle, carrier, vessel, boat, container or any place which it may be necessary or desirable for such authorized agents to enter in carrying out the provisions of this chapter. It shall be unlawful to deny such access to such authorized agents or to hinder, thwart, or defeat such inspection or entrance by misrepresentation or concealment of facts or conditions, or otherwise.

[S13, §2575-a48; C24, §4049; C27, 31, 35, §4062-b14; C39, §4062.14; C46, 50, 54, 58, 62, 66, 71, 73, §267.14; C75, 77, 79, 81, §177A.14]

#### **177A.15 Right to hearing.**

Any person affected by any rule made or notice given may have a review thereof by the secretary of agriculture for the purpose of having such rule or notice modified, suspended or withdrawn.

[C27, 31, 35, §4062-b15; C39, §4062.15; C46, 50, 54, 58, 62, 66, 71, 73, §267.15; C75, 77, 79, 81, §177A.15]

#### **177A.16 Violations.**

Any person, partnership, association or corporation, or any combination of individuals, violating any provision of a quarantine promulgated under the authority of this chapter, or of any rules issued supplemental thereto, shall be guilty of a simple misdemeanor.

[S13, §2575-a50; C24, §4059; C27, 31, 35, §4062-b16; C39, §4062.16; C46, 50, 54, 58, 62, 66, 71, 73, §267.16; C75, 77, 79, 81, §177A.16]

2008 Acts, ch 1032, §106

#### **177A.17 Duty of owner — assessment of costs.**

When treatment or destruction of an agricultural or horticultural plant or product, in field, feedlot, place of assemblage or storage, or elsewhere, or when a special type of plowing or any other agricultural or horticultural operation is required under the rules, the owner or

person having charge of the plants, plant products or places, upon due notice from the state entomologist or the entomologist's authorized agents, shall take the action required within the time and in the manner designated by the notice. If the owner or person in charge refuses or neglects to obey the notice, the secretary of agriculture, or the secretary's authorized agents, may do what is required, and the secretary shall assess the expense to the owner after giving the owner legal notice and a hearing. No expense other than that incidental to normal and usual farm operations shall be so assessed. If the assessment is not paid, the secretary shall certify it to the treasurer of the proper county who shall enter it on the tax books and collect it as ordinary taxes are collected and remit it to the secretary.

[S13, §2575-a48; C24, §4055, 4056; C27, 31, 35, §4062-b17; C39, §4062.17; C46, 50, 54, 58, 62, 66, 71, 73, §267.17; C75, 77, 79, 81, §177A.17; 81 Acts, ch 70, §3]

#### **177A.18 Violations.**

Any person who shall violate any provision or requirement of this chapter, or of the rules made or of any notice given pursuant thereto, or who shall forge, counterfeit, deface, destroy, or wrongfully use, any certificate provided for in this chapter, or in the rules and regulations made pursuant thereto, shall be deemed guilty of a simple misdemeanor.

[S13, §2575-a50; C24, §4059; C27, 31, 35, §4062-b18; C39, §4062.18; C46, 50, 54, 58, 62, 66, 71, 73, §267.18; C75, 77, 79, 81, §177A.18]

#### **177A.19 Harmful barberry.**

1. No person, firm, or corporation shall receive, ship, accept for shipment, transport, sell, offer for sale, give away, deliver, plant, or permit to exist on the person's, firm's, or corporation's premises any plant of the harmful barberry, or any plant of a species that shall be designated by the state entomologist in published regulations to be a host or carrier of a dangerous plant disease or insect pest.

2. The state entomologist and the entomologist's inspectors, and authorized agents, are hereby empowered to eradicate any such plant found growing in the state. If the owner shall refuse or neglect to eradicate such plants within ten days after receiving a written notice, the expense of such eradication shall be assessed, collected, and enforced against the premises upon which such expense was incurred as taxes are assessed, collected and enforced.

3. The term "harmful barberry" shall be interpreted to consist of any species of *Berberis* or *Mahonia* susceptible to infection by *Puccinia graminis*, commonly called black stem rust of grain, but not including Japanese barberry (*B. thunbergii*), which does not propagate the rust.

4. The procedures provided in section 177A.17 and all other applicable provisions of sections 177A.5 to 177A.18 shall govern and apply to the enforcement of this section.

[C24, §4053; C27, 31, 35, §4062-b19; C39, §4062.19; C46, 50, 54, 58, 62, 66, 71, 73, §267.19; C75, 77, 79, 81, §177A.19]

#### **177A.20 Liability of principal.**

In construing and enforcing the provisions of this chapter, the act, omission, or failure of any official, agent, or other person acting for or employed by an association, partnership or corporation within the scope of the person's authority shall, in every case, also be deemed the act, omission, or failure of such association, partnership, or corporation as well as that of the person.

[C27, 31, 35, §4062-b20; C39, §4062.20; C46, 50, 54, 58, 62, 66, 71, 73, §267.20; C75, 77, 79, 81, §177A.20]

#### **177A.21 Party plaintiff.**

The secretary of agriculture, the state entomologist, or any of their inspectors or authorized agents shall be a proper party plaintiff in any action in any court of equity brought for the purpose of carrying out any of the provisions of this chapter.

[C27, 31, 35, §4062-b21; C39, §4062.21; C46, 50, 54, 58, 62, 66, 71, 73, §267.21; C75, 77, 79, 81, §177A.21]

**177A.22 Construction.**

This chapter shall not be so construed or enforced as to conflict in any way with any Act of Congress regulating the movement of plants and plant products in interstate or foreign commerce.

[C27, 31, 35, §4062-b22; C39, §**4062.22**; C46, 50, 54, 58, 62, 66, 71, 73, §267.22; C75, 77, 79, 81, §177A.22]