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The new Colorado weed law – HB90-1175

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The Colorado Weed Management Act, HB90-1175, was passed during the 1990 legislative session, signed by Governor Romer, and became effective on July 1, 1990. This bill requires that all persons in Colorado manage designated noxious weeds using integrated management systems. The bill recognizes two types of land; unincorporated land, or that land under the jurisdiction of counties, and incorporated land, or that land under the jurisdiction of cities or towns. Thus, two types of weed management districts can be formed; weed districts for unincorporated land governed by county commissioners and weed districts for incorporated land governed by towns or cities.

Several key definitions occur in the bill:

Advisory commission: comprised of individuals appointed by the local governing bodies to advise on matters of undesirable plant management.

Undesirable plant management: the planning of an integrated program to manage designated undesirable plant species.

Integrated undesirable plant management: the planning and implementation of a coordinated program using a variety of management methods including:

Education, preventive measures, good land stewardship, cultural control, biological control, mechanical, and chemical control; the purpose of integrated undesirable plant management is to achieve healthy and productive plant communities by the least environmentally damaging means.

Alien plant: any plant species not indigenous to Colorado or native to the plant community in which it is found.

Native plant: any plant species that is indigenous to Colorado.

Undesirable plant: any noxious plant species designated as undesirable by HB90-1175 or by the local governing body.

Noxious plant: any alien plant, or parts thereof, that meets one or more of the following criteria:

- aggressively invades or is detrimental to economic crops or native plant communities;
- is poisonous to livestock;
- is a carrier of detrimental insects, diseases, or parasites;
- its presence is detrimental to the environmentally sound management of natural or agricultural ecosystems.

Weed: is any noxious plant species.

HB90-1175 provides for the protection of native plant communities and agroecosystems from undesirable plant encroachment. HB90-1175 further protects native Colorado plants in that native plants cannot be designated as noxious or undesirable.

The statewide undesirable plants as designated by HB90-1175 include:

Euphorbia esula - the leafy spurge complex

Centaurea repens - Russian knapweed

Centaurea diffusa - diffuse knapweed

Centaurea maculosa - spotted knapweed

Other non-native plants can be designated as noxious or undesirable by local governing bodies.

Each county or city/town must adopt an undesirable plant management plan on or before January 1, 1992 for all the unincorporated lands under county jurisdiction or for all the incorporated lands under city/town jurisdiction. Each local governing body shall appoint an advisory commission and commission members must be residents of the respective county or city/town. Local governing bodies may cooperate with one another through written intergovernmental agreements to form multi-county, multi-city/town, or multi-county-city/town weed districts.

The advisory commissions of each district shall develop integrated management plans for designated undesirable plants for areas within their jurisdiction and recommend management criteria. The advisory commissions may designate additional undesirable plants for the area within their jurisdiction, but additional designated undesirable plants are subject to approval by the local governing body. The advisory commissions may recommend to their respective local governing bodies those landowners designated to submit individual integrated weed management plans. Local governing bodies have the sole and final authority over all advisory commission recommendations and actions.

Local governing bodies, or agents thereof, have the right to enter onto private lands for inspections if the landowner/occupant request such an inspection; if a neighbor requests such an inspection; or if the local governing body or its agent has made a visual observation of an undesirable plant infestation from a public right-of-way. No entry onto private lands is permitted until the landowner/occupant is notified of the pending inspection either orally or by certified mail. If entry is then denied by the landowner/occupant, a warrant for inspection can be obtained.

When the local governing body notifies a landowner/occupant of an undesirable plant infestation on their property, the local governing body must work with the affected landowner/occupant to provide advice on the best available integrated management plan. Within 10 days of notification of an undesirable plant infestation, the landowner/occupant shall comply with the notification terms; or acknowledge the terms, submit an acceptable plan and schedule for its completion; or request an arbitration panel. The arbitration panel will be comprised of a weed management specialist or weed scientist, a similar type of landowner/occupant, and a third member chosen by the first two. The landowner/occupant receiving the notification can challenge any single arbitration panel member and that member will be replaced. However, the decision of the arbitration panel is final.

If after due process, a landowner/occupant fails to comply with HB90-1175, the local governing body can enter and invoke the integrated undesirable plant management plan and assess the entire costs associated with the plan plus an additional 15%. The assessment shall be a lien upon the property in question, but shall not exceed 20% of the value of the entire contiguous parcel of land in any year. No local governing body shall provide for or compel undesirable plant management, or assess associated costs to private landowners/occupants until the local governing body has done the same or more on adjacent land under their jurisdiction.

Any Colorado department, agency, or state board that controls or supervises land must comply with the local governing body's undesirable plant management within the area of the local governing body's jurisdiction. State land will be treated as identical to private land under HB90-1175. Any local governing body is authorized under HB90-1175 to enter into written cooperative agreements with state or federal agencies.

The Federal Noxious Weed Act P.L. 93-629 Section 15, Management of Undesirable Plants on Federal Lands was signed into law by President Bush on November 27, 1990. P.L. 93-629 Section 15 requires all federal agencies to manage state designated undesirable plants in cooperation with affected states. The federal law requires all federal agencies to enter into written cooperative agreements with affected states that outline undesirable plants to be managed, means used to manage those plants, and means of implementing the plan. P.L. 93-629 Section 15 specifies that federal agencies are not required to do more than the affected state.

Weed laws, whether at the state or federal level, are powerful preventive tools that foster cooperation among all persons for weed management. They simply are vehicles to promote weed management. Effective weed management and reduction in weed populations only can be met when all persons involved are working together to achieve this common goal.