
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 567 Session of
2017

INTRODUCED BY ARGALL, SCHWANK, BARTOLOTTA, RESCHENTHALER,
BREWSTER, GORDNER, RAFFERTY AND LAUGHLIN, APRIL 5, 2017

REFERRED TO AGRICULTURE AND RURAL AFFAIRS, APRIL 5, 2017

AN ACT

1 Regulating controlled plants and noxious weeds; establishing the
2 Controlled Plant and Noxious Weed Committee; providing for
3 powers and duties of the Controlled Plant and Noxious Weed
4 Committee; imposing powers and duties on the Secretary of
5 Agriculture and municipalities; prescribing penalties;
6 establishing a category of controlled plants and providing
7 for the permitting of controlled plants intended to be grown
8 for biomass and biofuel production or for other beneficial
9 purposes; and repealing the Noxious Weed Control Law.

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23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 CHAPTER 1

26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

28 This act shall be known and may be cited as the Controlled
29 Plant and Noxious Weed Act.

30 Section 102. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Class A noxious weed." A weed listed in section 307(a) or a
5 weed that has been determined by the committee to be a Class A
6 noxious weed and that:

7 (1) Is established in this Commonwealth.

8 (2) Is geographically limited.

9 (3) Is intended to be eradicated.

10 "Class B noxious weed." A weed listed in section 307(b) or a
11 weed that has been determined by the committee to be a Class B
12 noxious weed and that:

13 (1) Is widely established in this Commonwealth.

14 (2) Cannot feasibly be eradicated.

15 "Class C noxious weed." A weed listed in section 307(c) or a
16 weed that has been determined by the committee to be a Class C
17 noxious weed and that:

18 (1) Is not known to exist in this Commonwealth.

19 (2) Poses a potential threat if introduced in this
20 Commonwealth.

21 "Committee." The Controlled Plant and Noxious Weed Committee
22 established in section 301.

23 "Control." The management of the population of a noxious
24 weed or controlled plant to an acceptable level, including
25 eradication, as determined by the department.

26 "Control order." A written order issued by the department to
27 a person detailing required treatment measures to control
28 noxious weeds or controlled plants.

29 "Controlled plant." A plant that has been determined by the
30 committee to be a "controlled plant" and is regulated to prevent

1 uncontained growth and to negate undesirable characteristics.

2 "Department." The Department of Agriculture of the
3 Commonwealth.

4 "Designee." A person who is duly authorized or appointed by
5 the secretary to act as the representative of the department.

6 "Distribute or distribution." To barter, consign, exchange,
7 give away, import, in any way transfer, offer for sale, sell or
8 otherwise supply or transport a noxious weed or controlled plant
9 in this Commonwealth.

10 "Eradication." The elimination or removal of a noxious weed
11 or controlled plant so that no further growth occurs for at
12 least three consecutive years.

13 "Established." Either:

14 (1) a plant or plant population found growing in this
15 Commonwealth as a wild population and capable of
16 reproduction; or

17 (2) a plant that has escaped from cultivation and is
18 reproducing.

19 "Federal noxious weed." A weed listed in 7 CFR 360.200
20 (relating to designation of noxious weeds).

21 "General permit." A regional or Statewide permit that is
22 issued by the department for a controlled plant and specifies
23 terms and conditions for distribution, cultivation or
24 propagation of the controlled plant.

25 "Geographically limited." Found in discrete, limited
26 locations of this Commonwealth.

27 "Individual permit." A permit that is issued by the
28 department and includes site-specific terms and conditions for:

29 (1) research, marketing, warehousing, holding,
30 retailing, wholesaling, transporting, distributing,

1 cultivating or propagating of a controlled plant; or
2 (2) research and educational purposes related to a
3 noxious weed.

4 "Infested." The presence of a noxious weed in any stage of
5 development in a specific geographic area.

6 "Landlord." A person who is the owner of an estate in land
7 or a rental property and has leased it to another person.

8 "Landowner." A person:

9 (1) In whom is vested the ownership, dominion or title
10 of property and in whom one or more interests are vested for
11 the person's own benefit.

12 (2) Who owns the fee and who has the right to dispose of
13 the property and includes one having a possessory right to
14 land or the person occupying or cultivating it.

15 The term includes a department, board, commission, agency and
16 instrumentality of the Federal Government and the Commonwealth
17 and any of its political subdivisions.

18 "Land tenant." A person actually in possession of land.

19 "Land trust." A trust in which the corpus consists of real
20 estate and of the trustee of which appears to have full powers
21 with the real estate and complete legal and equitable title to
22 the trust property.

23 "Lessee." A person who has entered into a contract granting
24 the person occupation or use of property during a certain period
25 in exchange for a specified rent.

26 "Lessor." A person who grants a lease or rents property to
27 another for a definite or indefinite period of time, by a
28 written or oral lease, irrespective of whether a statute of
29 fraud requires the lease to be in writing.

30 "Noxious weed." Either:

1 (1) a plant part or plant in any stage of development
2 that is determined to be injurious to crops, livestock,
3 agricultural land or other property, including forest land
4 and bodies of water; or

5 (2) any weed listed in 7 CFR 360.200 (relating to
6 designation of noxious weeds).

7 "Noxious weed control area." A geographic area of this
8 Commonwealth, including the entire State, municipality or any
9 part or tract of land or body of water where a noxious weed is
10 to be controlled as prescribed under this act.

11 "Noxious weed permit." An individual permit issued by the
12 department that specifies terms and conditions for distribution,
13 cultivation or propagation of a noxious weed for research and
14 educational purposes.

15 "Person." An individual, corporation, association,
16 partnership, municipality or any other entity.

17 "Plant Pest Management Account" or "account." The Plant Pest
18 Management Account established under section 27 of the act of
19 December 16, 1992 (P.L.1228, No.162), known as the Plant Pest
20 Act.

21 "Propagate." To increase, multiply or spread a plant or crop
22 through planting, cultivation or any means of reproduction.

23 "Secretary." The Secretary of Agriculture of the
24 Commonwealth.

25 "Stop-sale order." A written notice, issued by the
26 department to the person in possession of a noxious weed or
27 controlled plant, which prohibits its distribution.

28 "Treatment measure." A method of eradicating, managing,
29 regulating or controlling noxious weeds or controlled plants
30 utilizing biological, chemical or mechanical means or a

1 combination thereof.

2 "Widely established." Growing throughout multiple counties
3 and municipalities of this Commonwealth.

4 CHAPTER 3
5 REGULATION AND ADMINISTRATION

6 Section 301. Designation of noxious weeds and controlled
7 plants.

8 (a) Controlled Plant and Noxious Weed Committee.--

9 (1) The Controlled Plant and Noxious Weed Committee is
10 established and shall have the powers of a departmental
11 administrative board in the department.

12 (2) The committee shall be composed of:

13 (i) the secretary, who shall be the chairperson of
14 the committee;

15 (ii) the Secretary of Conservation and Natural
16 Resources;

17 (iii) the Secretary of Environmental Protection;

18 (iv) the Secretary of Transportation;

19 (v) the Executive Director of the Pennsylvania Fish
20 and Boat Commission and the Executive Director of the
21 Pennsylvania Game Commission;

22 (vi) the chairperson and minority chairperson of the
23 Agriculture and Rural Affairs Committee of the Senate and
24 the chairperson and minority chairperson of the
25 Agriculture and Rural Affairs Committee of the House of
26 Representatives;

27 (vii) three persons, to be appointed by the
28 secretary, who must represent the interests and concerns
29 of the following groups, organizations or industries:

30 (A) One member of a Statewide general farm

1 organization.

2 (B) One member representing the ornamental, turf
3 and horticultural industry.

4 (C) One member from an institution of higher
5 education within this Commonwealth.

6 (3) Except for appointed members, who may be represented
7 by designees selected by the secretary, members may be
8 represented by a designee selected by the member.

9 (4) The appointed members shall serve four-year terms
10 except that such terms shall initially be staggered with one
11 of the three members serving a two-year term.

12 (5) Successors to fill expired terms of appointed
13 members shall be appointed by the secretary. The secretary
14 may appoint the same member to successive terms.

15 (6) An appointed member may continue to hold the
16 position after the member's term has expired and until a
17 successor has been appointed, but in no case may that time
18 period be longer than six months beyond the member's original
19 term of office.

20 (b) Powers and duties of committee.--

21 (1) A majority of the committee shall constitute a
22 quorum. A quorum of the committee shall be required to take
23 an action. All actions of the committee shall be by a
24 majority vote.

25 (2) Prior to taking an action, the committee shall be
26 required to convene a public meeting to elicit comments from
27 the regulated community and other interested parties. The
28 notice and agenda for a meeting of the committee shall
29 contain a list of the plants to be considered for addition to
30 or deletion from the noxious weed list or controlled plant

1 list. The notice and agenda for a meeting shall be published
2 in the Pennsylvania Bulletin at least one week prior to the
3 meeting, except in the case of a special meeting or
4 rescheduled meeting as allowed under 65 Pa.C.S. § 709(a)
5 (relating to public notice). All meetings shall be open to
6 the public and shall comply with the requirements of 65
7 Pa.C.S. Ch. 7 (relating to open meetings).

8 (3) The committee shall have the following powers and
9 duties:

10 (i) To establish a noxious weed list inclusive of
11 the list provided under section 307. The committee may
12 add weeds to or delete weeds from the noxious weed list,
13 or move noxious weeds to the controlled plant list, in
14 accordance with the provisions of this act.

15 (ii) To establish a controlled plant list and to add
16 plants to or delete plants from the controlled plant list
17 in accordance with the provisions of this act. A
18 controlled plant, upon approval of the committee, may be
19 moved from the controlled plant list to the noxious weed
20 list.

21 (iii) To propose the addition or deletion of plants
22 to or from the noxious weed list or controlled plant
23 list. The committee may request that the department
24 perform a study and risk assessment related to a plant
25 the committee may consider for addition to or deletion
26 from the noxious weed list or controlled plant list.

27 (iv) To publish the noxious weed list and the
28 controlled plant list and any additions or deletions or
29 changes to the noxious weed list and controlled plant
30 list as a notice in the Pennsylvania Bulletin. Additions

1 to or deletions from the noxious weed list or the
2 controlled plant list shall become effective 60 days from
3 publication.

4 (c) Prohibitions.--

5 (1) The growth, propagation or existence of a Class A
6 noxious weed, Class B noxious weed or Class C noxious weed on
7 any land or water or in any vessel or carrier within this
8 Commonwealth, except for permitted research or educational
9 purposes, is strictly prohibited.

10 (2) A person, including a landowner, municipality,
11 landlord, land tenant, land trust, lessor or lessee of
12 property where these weeds are introduced or exist, may be
13 subject to a control order.

14 (3) An individual permit shall be required for research
15 and educational purposes.

16 (d) Noxious weed and controlled plant seeds.--

17 (1) Upon the determination of the committee that a plant
18 falls within the classification of a noxious weed or
19 controlled plant, the seed of that plant shall fall within
20 that same classification under 3 Pa.C.S. Ch. 71 (relating to
21 seed) and relevant regulations.

22 (2) If no regulatory criteria exist for controlled plant
23 seeds, the department may regulate controlled plant seeds
24 through permit, for a period of two years from the effective
25 date of this section, at which time the department shall
26 promulgate regulatory standards.

27 Section 302. Permits.

28 (a) General rule.--The following permitting rules apply with
29 regard to noxious weeds for research or educational purposes and
30 to controlled plants for research or marketing purposes,

1 cultivation, propagation, growing, storing, warehousing or
2 display, and for retail, wholesale or production or
3 distribution.

4 (1) For noxious weeds, the department may issue
5 individual permits. The permits may allow for the cultivation
6 and propagation of a noxious weed for research and
7 educational purposes only. The department shall establish the
8 criteria for a noxious weed individual permit through the
9 issuance of a temporary order, as set forth in paragraph (4).

10 (2) For controlled plants, the department may issue
11 individual permits or general permits. The permits shall be
12 required for research, marketing, retail, wholesale or
13 production, growth, cultivation or propagation of a
14 controlled plant and the storage, warehousing, display or
15 distribution of any controlled plant.

16 (3) General permits may be issued for the research,
17 marketing, retail, wholesale, production, growth, storage,
18 warehousing, display, distribution, cultivation or
19 propagation of controlled plants under the following
20 circumstances:

21 (i) General permits may be issued on a regional or
22 Statewide basis for controlled plants where the
23 controlled plants have similar characteristics and are
24 capable of being cultivated, propagated, processed and
25 controlled or eradicated in a similar fashion. Where
26 possible, the department shall issue general permits for
27 controlled plants for research purposes and those being
28 marketed, cultivated, propagated or distributed for the
29 purpose of biofuel production.

30 (ii) General permits shall be published in the

1 Pennsylvania Bulletin effective upon publication.

2 (4) Individual permits may be issued for research or the
3 marketing, distribution, cultivation or propagation of
4 controlled plants under the following circumstances:

5 (i) Individual permits may be issued for a
6 controlled plant where:

7 (A) The controlled plant has individual
8 characteristics that make it difficult or impossible
9 for the department to govern or contain its
10 cultivation, propagation, control or eradication
11 through a general set of requirements.

12 (B) The land or area on which the controlled
13 plant will be cultivated has characteristics that
14 would make it difficult or impossible for the
15 department to govern, contain, control or eradicate
16 the controlled plant.

17 (C) The controlled plant is highly regulated or
18 requires additional scrutiny because of a
19 characteristic of the plant that would be hard to
20 control under a general permit or where Federal law
21 preempts and requires such permitting.

22 (ii) Individual permits shall be issued in writing
23 to the specific permit holder, contain the temporary
24 order or reference the regulations establishing the
25 requirements of the individual permit and be published in
26 the Pennsylvania Bulletin and effective as enumerated in
27 paragraph (6).

28 (5) The department may establish through regulation or a
29 temporary order, as provided in paragraph (6), standards and
30 requirements addressing the issuance and criteria of an

1 individual permit for noxious weeds and controlled plants.

2 (6) For each noxious weed, the department shall issue a
3 temporary order establishing the criteria for the individual
4 permit to be issued. For a controlled plant, upon determining
5 that a set of characteristics or circumstances requires the
6 issuance of an individual permit, the department shall issue
7 a temporary order establishing the criteria for the
8 individual permit to be issued. The following shall apply:

9 (i) Through the temporary order, the department may
10 establish restrictions, standards, including bonding
11 requirements, and penalties as the department determines
12 are necessary to:

13 (A) Identify the specific characteristics of the
14 noxious weed or controlled plant or the
15 circumstances, including Federal laws, regulations or
16 orders, that require the issuance of the individual
17 permit.

18 (B) Assure the permit holder institutes proper
19 containment, remediation and eradication criteria to
20 protect the interests of the public, the native plant
21 and animal populations in this Commonwealth and this
22 Commonwealth's flora, fauna and natural resources.

23 (C) Assure the permit holder is responsible for
24 and has the means to cover costs of remediation,
25 containment or eradication.

26 (D) Assure that the permit holder does not
27 abandon the permitted site prior to notifying the
28 department and taking remediation, containment or
29 eradication measures as the department may determine
30 are necessary.

1 (ii) The department shall publish the temporary
2 order as a notice in the Pennsylvania Bulletin. A copy of
3 the order shall also be delivered to the person seeking
4 to research, market, plant or cultivate the noxious weed
5 or to research, market, plant, cultivate, warehouse,
6 store, display, grow, produce, hold, distribute, retail,
7 wholesale or propagate the controlled plant under the
8 individual permit.

9 (iii) The provisions of the temporary order shall be
10 applicable as of the date of actual or constructive
11 notice of the temporary order or any later date specified
12 in the temporary order. Publication of the temporary
13 order in the Pennsylvania Bulletin shall be constructive
14 notice.

15 (iv) The temporary order shall remain in effect for
16 a period not to exceed the length of time for which the
17 individual permit was issued, unless the permit is
18 reissued or extended, or until the criteria stated in the
19 temporary order are established in regulation, whichever
20 occurs first.

21 (b) Permit required.--

22 (1) No person may conduct research, market, distribute,
23 transport, cultivate, hold, retail, wholesale, propagate or
24 reproduce a noxious weed or controlled plant without first
25 obtaining a permit from the department in accordance with the
26 provisions of this act.

27 (2) Noxious weeds may not be distributed, transported,
28 cultivated, propagated or reproduced by any manner, except
29 for research and educational purposes. A person proposing to
30 distribute, transport, cultivate, propagate or reproduce

1 noxious weeds for research or educational purposes shall
2 apply for and receive an individual permit, for each location
3 at which the research or educational classes will be
4 conducted, from the department prior to undertaking the
5 activities.

6 (3) Controlled plants may not be utilized in research,
7 marketed, retailed, wholesaled, distributed, transported,
8 produced, cultivated, propagated or reproduced by any manner
9 without a permit issued by the department. The following
10 provisions shall apply:

11 (i) A person who seeks to conduct research on,
12 market, retail, wholesale, distribute, transport,
13 produce, cultivate, propagate or reproduce a controlled
14 plant for which an individual permit is required shall
15 apply for and receive an individual permit from the
16 department, for each location at which research will be
17 conducted or a controlled plant will be marketed,
18 retailed, wholesaled, distributed, transported from,
19 produced, cultivated, propagated or reproduced, prior to
20 undertaking the activity.

21 (ii) Where the department has established a general
22 permit requirement for a controlled plant, a person
23 seeking to conduct research on, market, retail,
24 wholesale, produce, distribute, transport, cultivate,
25 propagate or reproduce the controlled plant shall, prior
26 to undertaking the activity, inform the department of the
27 intent and complete an application for approval to
28 operate under the general permit requirements. The
29 application shall include a plan establishing the
30 practices and methods the applicant will utilize in order

1 to assure compliance with the general permit requirements
2 established by the department. In addition to the written
3 plan, the application shall state, at a minimum, all of
4 the information required in subsection (c)(1), (2), (3),
5 (4), (5), (6), (7) and (8).

6 (4) Prior to the approval and issuance of an individual
7 permit or authorization to begin research, marketing,
8 distribution, transportation, retailing, wholesaling,
9 production, cultivation, propagation or reproduction of a
10 controlled plant under a general permit, the department may
11 enter onto and inspect the land and premises and all areas of
12 the land and premises, including buildings and conveyances,
13 that will be utilized for or where the permitted activity
14 will be conducted. The inspection shall be limited to normal
15 business hours and to the areas where the permitted
16 activities will be or are occurring.

17 (c) Individual permit application.--A written application
18 for an individual permit shall meet the criteria established by
19 the department through a temporary order or regulation as
20 authorized by this act, be made on a form and a manner
21 prescribed by the department and shall contain at least the
22 following:

23 (1) Legal name, address and daytime and evening
24 telephone numbers of the applicant.

25 (2) Physical location, including a detailed plot map and
26 description of the site to be planted or site at which the
27 noxious weed or controlled plant will be propagated,
28 cultivated, stored or distributed. The description of the
29 location shall also include the county, municipality and the
30 name of the road or roads bordering the physical location.

1 The plot map shall be attached to the application and shall
2 state the GPS coordinates outlining the boundaries of the
3 site and other important landmarks.

4 (3) For a seller, distributor, holder or depository of
5 propagation material, the name and address and the applicable
6 Federal or Commonwealth license or certification number or
7 both, where applicable.

8 (4) The United States Department of Agriculture Plants
9 Database scientific and common names of the noxious weed or
10 controlled plant that the applicant desires to propagate,
11 possess, import, introduce, purchase or transport, including
12 classification of species by sterile biotype, cultivar,
13 variety F1 parent, variety F2 parent or other name.

14 (5) Identity of the intended plant parts to be used and
15 the stage of development at planting, including seed, rhizome
16 and cutting.

17 (6) Attestation that the plant materials have been
18 selected from apparently disease-free and pest-free sources.

19 (7) A description of the packaging and biosecurity
20 safeguards to be utilized. Plant material shall be packaged
21 and safeguarded sufficiently to maintain isolation from the
22 domestic environment during transportation.

23 (8) An attestation by the permit holder stating the
24 permit holder shall continue to comply with the permit
25 requirements for the duration of time the plant materials are
26 in the permit holder's possession and that the permit holder
27 understands and agrees to the following:

28 (i) If the permit holder intends to transfer
29 possession or ownership of the noxious weed or controlled
30 plant, the permit holder shall, prior to the transfer of

1 possession or ownership, notify the department and assure
2 the person to whom the noxious weed or controlled plant
3 will be transferred or sold that the permit holder has
4 obtained the required individual permit.

5 (ii) If the permit holder intends to stop growing or
6 cultivating the noxious weed or controlled plant, the
7 permit holder shall notify the department and implement
8 all measures ordered by the department to destroy the
9 noxious weed or controlled plant, unless another person
10 assumes responsibility for the noxious weed or
11 controlled plant and submits a new permit.

12 (iii) If the permit holder abandons, relinquishes
13 possession or ownership of, control over or
14 responsibility for the noxious weed or controlled plant,
15 in a manner inconsistent with the provisions of this act,
16 all plant material regulated by the permit shall be
17 destroyed in a manner approved by the department. The
18 original permit holder shall continue to be responsible
19 for the noxious weed or controlled plant, the cost of
20 destruction and eradication of the noxious weed or
21 controlled plant and any plant material associated with
22 the noxious weed or controlled plant. The original permit
23 holder shall continue to be subject to all penalty
24 provisions established under this act.

25 (9) Identify the use of the noxious weed or controlled
26 plant to be permitted, including ornamental landscape,
27 agricultural crop, feed crop, research, education, biofuel,
28 biomass, further sale or distribution or any other particular
29 use.

30 (10) Detailed description of the activity, including the

1 intended size of area to be planted and the intended date of
2 planting.

3 (11) Whether the noxious weed or controlled plant will
4 be further distributed, sold, transported, replanted, used
5 for seed or other purposes. If so, the permit shall include
6 the name and address of the persons and locations to which
7 the noxious weed or controlled plant will be distributed,
8 sold or transported. If sold or distributed for further
9 propagation, the permit shall include the information
10 required by paragraphs (1) and (2) and the name and address
11 of the person to which the noxious weed or controlled plant
12 was sold or distributed for further propagation.

13 (12) A written contingency plan for each site for
14 eradication or recapture in the event of an unauthorized
15 escape or introduction of the controlled plant.

16 (13) An attestation that the applicant shall comply with
17 all terms and conditions contained in the permit.

18 (d) Additional information.--The secretary may request
19 additional information from the applicant in writing after the
20 application is received, if necessary, to evaluate the potential
21 risk to this Commonwealth.

22 (e) Expiration date and renewal.--

23 (1) An individual noxious weed and controlled plant
24 permit shall expire on December 31 of each year, unless
25 otherwise specified in the permit. An application for renewal
26 of a permit must be made by October 1 of the year the permit
27 expires. An application for renewal shall describe any change
28 to the required information previously submitted. Failure to
29 renew an individual permit shall be a violation of this act.

30 (2) Information regarding general permit compliance

1 shall be updated on a calendar year basis. Updated
2 information shall be submitted to the department no later
3 than January 10 of each new calendar year. Failure to submit
4 the required information within the time period established
5 in this paragraph shall be a violation of this act.

6 (f) Notice of closing, change of name or moving location.--

7 (1) A person who holds a permit or is required to hold a
8 permit under this act shall notify the department, in
9 writing, prior to a change of status related to the permit,
10 including:

11 (i) Intent to close, sell or change the name of the
12 business or entity holding the permit.

13 (ii) Intent to move the location of the business or
14 entity or the location of the activity specifically
15 authorized by the permit.

16 (iii) Intent to discontinue the activities
17 specifically authorized by the permit.

18 (2) Upon notification, the department, in performance of
19 its duties to protect the interests of the public, the native
20 plant and animal populations and natural resources in this
21 Commonwealth, may enter onto the land and premises, including
22 buildings and conveyances that were utilized for or where the
23 permitted activity is taking place, and conduct inspections
24 of the premises as are necessary to determine what remedial,
25 eradication or containment practices are necessary prior to
26 the closure or other change of status occurring.

27 (3) Failure to notify the department or otherwise comply
28 with the provisions of this subsection shall be a violation
29 of this act.

30 (g) Revocation or suspension.--Within 30 days of receipt of

1 a notice of revocation, the permit holder may apply for an
2 amendment to the permit or request a hearing as outlined in
3 section 312. The secretary may revoke or suspend all or part of
4 a permit issued under this section when:

5 (1) The secretary determines that a permittee has failed
6 to comply with the requirements of this act.

7 (2) It is necessary to protect the interests of the
8 public, to protect native plant and animal populations in
9 this Commonwealth, or to otherwise protect this
10 Commonwealth's natural resources.

11 Section 303. Prohibited acts.

12 (a) General compliance.--It shall be a violation of this act
13 to fail to comply with any provision of this act or any
14 regulation, permit requirement or order established under this
15 act.

16 (b) Noxious weeds.--Except as established in an individual
17 permit allowing educational or research purposes, it shall be a
18 violation of this act to distribute, cultivate or propagate any
19 noxious weed within this Commonwealth.

20 (c) Controlled plants.--It shall be a violation of this act
21 to conduct research, market, hold, warehouse, retail, wholesale,
22 produce, distribute, cultivate or propagate a controlled plant
23 without a permit issued by the department.

24 (d) Abandonment.--It shall be a violation of this act for a
25 person holding or required to hold or comply with a permit
26 requirement of this act to abandon a noxious weed or controlled
27 plant site or premises without first notifying the department
28 and taking the actions necessary or ordered by the department to
29 remediate the site.

30 (e) Concealment or misrepresentation.--It shall be unlawful

1 for a person to:

2 (1) conceal a noxious weed or controlled plant from
3 inspection; or

4 (2) make a false declaration of acreage, square footage
5 or any other information required to comply with the permit
6 requirements of this act.

7 (f) Noncompliance with permit requirements.--It shall be a
8 violation of this act to fail to comply with the requirements
9 established in a general or individual permit.

10 Section 304. Noxious weed control areas.

11 (a) General rule.--The department may establish a noxious
12 weed control area through a noxious weed control order issued by
13 the department. The order shall be published in the Pennsylvania
14 Bulletin and disseminated to persons in the noxious weed control
15 area that will be affected by the order. A noxious weed control
16 order shall remain in effect until such time as it is rescinded
17 by the department or until the criteria set forth in the noxious
18 weed control order are established by regulation. The purpose of
19 a noxious weed control order shall be to prevent the
20 dissemination of noxious weeds within this Commonwealth.

21 (b) Notice.--The department shall give notice of the
22 establishment of a noxious weed control area and the noxious
23 weed control order. Within the noxious weed control area, the
24 department may prohibit, without inspection, the movement,
25 shipment or transportation of a noxious weed or other material
26 capable of carrying the noxious weed from the area under the
27 noxious weed control order.

28 (c) Compliance.--The department shall require an affected
29 landowner or lessee or other person within the noxious weed
30 control area to comply with the provisions of the noxious weed

1 control order within the time frame indicated in the order. A
2 noxious weed control order may require treatment measures,
3 including remedial, containment and eradication requirements,
4 for the noxious weeds to be implemented by the landowner, lessee
5 or other affected person.

6 (d) Publication.--Every designated noxious weed control area
7 and any accompanying noxious weed control order created under
8 this section shall be published in the Pennsylvania Bulletin
9 under the act of July 31, 1968 (P.L.769, No.240), referred to as
10 the Commonwealth Documents Law.

11 Section 305. Control orders.

12 (a) Noxious weeds.--

13 (1) The department may issue a control order requiring a
14 person to implement treatment measures for noxious weeds. The
15 control order shall state the general factual and legal basis
16 for the action and shall advise the affected person that,
17 within 15 days of receipt of the control order, the affected
18 person may file with the department a written request for an
19 administrative hearing. The hearing shall be conducted in
20 accordance with 2 Pa.C.S. (relating to administrative law and
21 procedure).

22 (2) The written control order of the department shall be
23 served upon the affected person by personal service or by
24 registered or certified mail, return receipt requested.

25 (3) The control order shall become final upon the
26 expiration of the 15-day period for requesting an
27 administrative hearing, unless a timely request for a hearing
28 has been filed with the department.

29 (b) Controlled plants.--

30 (1) The department may issue a control order requiring a

1 controlled plant permit holder or a person required to have a
2 permit to implement treatment measures for a controlled
3 plant. The department may issue a control order requiring a
4 person to implement treatment measures for controlled plants
5 if the department finds that a controlled plant is growing on
6 a premises or property without a valid permit. The order
7 shall state the general factual and legal basis for the
8 action and advise the affected person that within 15 days of
9 receipt of the order, the affected person may file with the
10 department a written request for an administrative hearing.
11 The hearing shall be conducted in accordance with 2 Pa.C.S.

12 (2) The written control order of the department shall be
13 served upon the affected person by personal service or by
14 registered or certified mail, return receipt requested.

15 (3) The control order shall become final upon the
16 expiration of the 15-day period for requesting an
17 administrative hearing, unless a timely request for a hearing
18 has been filed with the department.

19 (c) Description of situation in order.--The control order
20 shall describe the noxious weed or controlled plant situation
21 that exists and prescribe the required remediation, control,
22 eradication or treatment measures and the date by which the
23 measures must be completed.

24 Section 306. Compliance with orders.

25 (a) General rule.--The person subject to a control order
26 issued under section 305 shall comply with the control order
27 within the time frame specified in the control order or, if
28 appealed, the time frame established in the final adjudication
29 of the secretary. The cost of the remediation, control,
30 eradication or treatment measures shall be borne by the person

1 subject to the control order.

2 (b) Notice and duty of municipality.--

3 (1) If the person subject to the control order fails to
4 comply with the control order, the department shall notify
5 that person and the municipality within which the person
6 resides or where the person's property is located by
7 certified mail. After receipt of the notice, the appropriate
8 officials of the municipality shall take the necessary steps
9 to carry out the measures established in the control order
10 within the time frame specified in the notification by the
11 department.

12 (2) A municipality which acts to control a noxious weed
13 or controlled plant on a noncomplying person's property may
14 recover the expenses and costs incurred by the municipality
15 in carrying out the measures established in the control order
16 from the person who was the subject of the department's
17 control order.

18 Section 307. Noxious weed list.

19 (a) Class A noxious weeds.--The following are Class A
20 noxious weeds:

21 (1) *Amaranthus palmeri* S. Watson (commonly known as
22 Palmer amaranth).

23 (2) *Amaranthus rudis* (commonly known as common
24 waterhemp).

25 (3) *Amaranthus tuberculatus* (commonly known as tall
26 waterhemp).

27 (4) *Avena sterilis* L. (commonly known as animated oat).

28 (5) *Cuscuta* L. (commonly known as dodder).

29 (6) *Galega officinalis* L. (commonly known as goatsrue).

30 (7) *Heracleum mantegazzianum* Sommier & Levier (commonly

1 known as giant hogweed).

2 (8) *Hydrilla verticillata* (L.f.) Royle (commonly known
3 as hydrilla).

4 (9) *Oplismenus hirtellus* (L.) P. Beauv. Subsp.
5 *undulatifolius* (commonly known as wavyleaf basketgrass).

6 (10) *Orobanche* L. (commonly known as broomrape).

7 (11) *Pueraria* DC. (commonly known as kudzu).

8 (b) Class B noxious weeds.--The following are Class B
9 noxious weeds:

10 (1) *Carduus nutans* L. (commonly known as musk thistle).

11 (2) *Cirsium arvense* L. (commonly known as Canada
12 thistle).

13 (3) *Cirsium vulgare* L. (commonly known as bull thistle).

14 (4) Exotic *Lythrum* species, including *Lythrum salicaria*
15 L. (commonly known as purple loosestrife), the *Lythrum*
16 *salicaria* complex and *Lythrum virgatum* L. (commonly known as
17 European wand loosestrife), their cultivars and any
18 combination thereof.

19 (5) *Persicaria perfoliata* (L.) H. Grass (formerly known
20 as *Polygonum perfoliatum* L.) (commonly known as mile-a-minute
21 weed).

22 (6) *Rosa multiflora* L. (commonly known as multiflora
23 rose).

24 (7) *Sorghum bicolor* L. Moench (commonly known as
25 shattercane).

26 (8) *Sorghum halepense* L. Pers. (commonly known as
27 Johnson grass).

28 (c) Class C noxious weeds.--Class C noxious weeds are any
29 Federal noxious weeds listed in 7 CFR 360.200 (relating to
30 designation of noxious weeds) not established in this

1 Commonwealth which are not referenced above.

2 (d) Committee determination.--The committee shall determine
3 if a plant or weed shall be designated as a noxious weed as
4 authorized by section 301.

5 Section 308. Fees.

6 (a) General rule.--The following fees, which shall be
7 deposited into the account are established:

8 (1) General permit - \$150 per permit with a \$50 annual
9 renewal fee.

10 (2) Individual permit - \$250 per permit with a \$100
11 annual renewal fee.

12 (3) Inspection fees for field locations - \$50 minimum
13 inspection fee for up to 10 acres, with a \$5 per acre fee for
14 each additional acre up to a maximum fee of \$500.

15 (4) Inspection fees for greenhouses - Greenhouse
16 locations shall be assessed a fee based on square footage as
17 follows:

18 (i) \$50 for less than 5,000 square feet.

19 (ii) \$100 for 5,000-25,000 square feet.

20 (iii) \$150 if greater than 25,000 square feet.

21 (5) Plant identification - \$40 per sample.

22 (6) Laboratory testing - Fees as established in 3
23 Pa.C.S. Ch. 71 (relating to seed).

24 (b) Adjustment of fees.--The department may fix, adjust,
25 assess and collect, or cause to be collected, fees as
26 established in this act. The fees shall be large enough to meet
27 the reasonable expenses incurred by the department or its agents
28 in administering this act, including issuing permits, conducting
29 inspections and carrying out necessary testing. If the secretary
30 determines that money derived from all authorized fees is either

1 greater or less than that required to administer this act, the
2 secretary may reduce or increase the fees to maintain revenues
3 sufficient to administer this act.

4 (c) Notice of fee adjustment.--The secretary shall announce
5 the adjustment of fees by publishing a notice in the
6 Pennsylvania Bulletin. The adjusted fees shall take effect 60
7 days after publication of the notice in the Pennsylvania
8 Bulletin.

9 (d) Payment of fees.--Fees shall be paid by check or money
10 order made payable to the Commonwealth of Pennsylvania. Failure
11 to pay a fee on time shall be a violation of this act. A late
12 fee of \$25 shall be assessed for every month that a fee is past
13 due.

14 Section 309. Powers and duties of secretary and department.

15 (a) General rule.--The secretary shall enforce this act and
16 may employ all proper means for the enforcement of this act,
17 including issuing notices of violation and orders, filing
18 violations for criminal prosecution, seeking injunctive relief,
19 imposing civil penalties and entering into consent agreements.

20 (b) General powers and duties of department.--The
21 department, in carrying out the provisions of this act and in
22 addition to all other authority granted to the secretary and the
23 department by this act, shall have the authority to:

24 (1) Enter upon a public or private premises or carrier
25 during regular business hours in order to have access to
26 noxious weeds and controlled plants subject to provisions of
27 this act and the records relating to this act.

28 (2) Enter upon a public or private premises or carrier
29 for the purpose of controlling noxious weeds or controlled
30 plants and enforcing the provisions of this act.

1 (3) Issue and enforce a written control order to a
2 person in possession of a noxious weed or controlled plant.

3 (4) Issue and enforce written permits and permit
4 requirements to a person who wishes to conduct research on,
5 market, hold, warehouse, retail, wholesale, produce,
6 propagate, transport, cultivate or distribute a controlled
7 plant under terms and conditions that are reasonably required
8 to carry out the provisions of this act.

9 (5) When utilizing an enforcement tool authorized by
10 this act to control, remediate, contain or eradicate a
11 noxious weed or controlled plant, and to recover, from the
12 noncomplying person or landowner, expenses and costs incurred
13 in enforcement and compliance actions. The department may
14 impose additional civil or criminal penalties for failure to
15 comply. Penalties shall include the reasonable cost of
16 eradication and compliance expenses incurred by the
17 department.

18 (6) If the department is denied access to a building,
19 conveyance, equipment, land or vehicle where access was
20 sought for the purposes and under the authority provided in
21 this act, the secretary may apply to an issuing authority for
22 a search warrant authorizing access to the building,
23 conveyance, equipment, land or vehicle for that purpose. The
24 court may, upon application by the department, issue the
25 search warrant for the purposes requested.

26 (c) Right of entry and inspection.--

27 (1) In the performance of the duties required by this
28 act, the department and its inspectors, employees and agents
29 shall have free access, during reasonable hours, to any land
30 or premises on which noxious weeds or controlled plants are

1 present or found or where there is reasonable suspicion that
2 noxious weeds or controlled plants are present.

3 (2) The department may enter onto and inspect the land
4 and premises and any areas of the land and premises,
5 including buildings and conveyances, that are or will be
6 utilized for permitted activities or where the permitted
7 activities are or will be conducted.

8 (d) Refusal of entry.--It shall be unlawful for a person to:

9 (1) refuse or delay access to the inspector, employee or
10 agent of the department;

11 (2) hinder, thwart or defeat inspection by
12 misrepresentation or concealment of regulated articles, facts
13 or conditions;

14 (3) prevent an inspector, employee or agent from gaining
15 entry through an act of omission; or

16 (4) interfere with an inspector, employee or agent as
17 specified under section 502.

18 (e) Search warrants.--

19 (1) If an inspector, employee or agent of the department
20 has probable cause to believe a noxious weed or controlled
21 plant exists on a property or premises or if access or entry
22 as described in subsections (b), (c) and (d) is denied or
23 hindered, the department's inspector, employee or agent may,
24 upon oath or affirmation, declare before a court of competent
25 jurisdiction that the inspector, employee or agent has
26 probable cause to believe that noxious weeds or controlled
27 plants exist on the land or premises.

28 (2) Upon review of the declaration, the court may issue
29 a search warrant for the property or premises. The search
30 warrant shall describe the property or premises, which may be

1 searched under authority of the search warrant, but need not
2 describe the exact or all possible noxious weeds or
3 controlled plants that exist or may exist on the property or
4 premises.

5 (3) An inspector, employee or agent of the department
6 possessing a search warrant shall have all the authority of a
7 constable or peace officer in the execution of the warrant.

8 (4) It shall be sufficient probable cause to show either
9 of the following:

10 (i) That in cases involving a person who holds or is
11 required to hold an individual or general permit under
12 this act, the inspector, employee or agent has been
13 refused or delayed entry for the purpose of inspection.

14 (ii) The inspector, employee or agent has reasonable
15 grounds to believe that a violation of this act or
16 regulations promulgated or orders issued under the
17 authority of this act has been or is occurring.

18 (f) Inspections and sampling authority.--

19 (1) The department, through its inspectors, employees
20 and agents, may inspect land, premises, buildings, vehicles,
21 vessels, articles, locations, machinery, conveyances or other
22 places of a person holding or required to hold a permit under
23 this act.

24 (2) The department may inspect records required to be
25 kept under the individual or general permitting requirements
26 of this act and its attendant orders and regulations.

27 (3) The department may collect samples and take pictures
28 of noxious weeds or controlled plants. The department and its
29 inspectors, employees and agents may enter onto the land or
30 premises of a person where noxious weeds or controlled plants

1 are viewed or found for the purpose of this act.

2 (g) Delegation.--The secretary may delegate a power or duty
3 under this act to an agent acting on behalf of the department,
4 with the exception of the powers and duties of the committee.

5 Section 310. Stop-sale orders.

6 (a) General rule.--The department may issue and enforce a
7 stop-sale order to a person holding or required to hold a permit
8 under this act or to a person where a noxious weed or controlled
9 plant exists. The stop-sale order shall require a person to
10 hold, at a designated place, the noxious weed or controlled
11 plant. Noxious weeds or controlled plants under a stop-sale
12 order issued under the authority of this subsection shall
13 continue to be held at the designated place until the department
14 is notified by the person to whom the stop-sale order was
15 directed that the prescribed treatment or action has been taken
16 and a reinspection of the premises indicates the treatment has
17 been completed and was effective.

18 (b) Official marking of noxious weeds and controlled plants
19 under a stop-sale order.--

20 (1) Noxious weeds and controlled plants under a stop-
21 sale order shall be clearly identified and, where
22 practicable, conspicuously marked.

23 (2) It shall be unlawful for a person to remove markings
24 placed by the department for this purpose unless instructed
25 by the department to do so.

26 (c) Violation of a stop-sale order.--It shall be unlawful to
27 violate a stop-sale order issued under this section. The
28 department may impose penalties authorized under this act for a
29 violation of the order.

30 Section 311. Seizure and condemnation.

1 (a) General rule.--Where the distribution, transportation,
2 cultivation, propagation, reproduction, research or educational
3 practices of a noxious weed or controlled plant is not in
4 compliance with the provisions of this act or any regulation
5 promulgated or order issued under this act, the department, in
6 addition to any other action allowed under this act, may file a
7 complaint before a court of competent jurisdiction in the area
8 in which the noxious weed or controlled plant is located, or
9 before Commonwealth Court, requesting injunctive relief as
10 necessary to prevent harm and requesting an order of seizure and
11 condemnation be issued.

12 (b) Relief.--In the event that the court finds the noxious
13 weed or controlled plant to be in violation of this act, or any
14 regulation promulgated or order issued under this act, the court
15 shall order the condemnation of the noxious weed or controlled
16 plant. Upon execution of the court order, the condemned noxious
17 weed or controlled plant shall be disposed of in a manner
18 consistent with the laws of this Commonwealth.

19 Section 312. Appeal process.

20 An administrative appeal shall be taken and hearing conducted
21 in accordance with the provisions of 2 Pa.C.S. Chs. 5 Subch. A
22 (relating to practice and procedure of Commonwealth agencies)
23 and 7 Subch. A (relating to judicial review of Commonwealth
24 agency action). A person must file an appeal of an enforcement
25 action by the department within 15 days of the date of the
26 enforcement action.

27 Section 313. Cooperation with other entities.

28 The department may cooperate and enter into agreements with
29 an individual, person, organization or Federal, State, county,
30 or municipal agency for the purpose of implementing the

1 provisions of this act. The department may assist in the
2 enforcement of a Federal noxious weed quarantine established
3 under Federal act or regulations.

4 Section 314. Rules and regulations.

5 The department may promulgate rules and regulations and
6 establish and enforce orders necessary for the administration
7 and implementation of this act.

8 CHAPTER 5

9 ENFORCEMENT

10 Section 501. Unlawful conduct.

11 It shall be unlawful for a person to fail to comply with or
12 to cause or assist in the violation of an order or provision of
13 this act.

14 Section 502. Interference with inspector, agent or employee of
15 department.

16 A person who willfully or intentionally interferes with an
17 inspector, employee or agent of the department in the
18 performance of the inspector's, employee's or agent's duties or
19 activities authorized under this act commits a misdemeanor of
20 the third degree and shall, upon conviction, be subject to a
21 term of imprisonment of not more than one year or a fine of not
22 more than \$2,500, or both.

23 Section 503. Enforcement and penalties.

24 (a) Criminal penalties.--Unless otherwise specified, a
25 person who violates a provision of this act or a rule or
26 regulation adopted under this act or an order issued under this
27 act:

28 (1) For the first offense, commits a summary offense and
29 shall, upon conviction, be sentenced to pay a fine of not
30 less than \$100 and costs of prosecution or to imprisonment

1 for not more than 90 days, or both.

2 (2) For a subsequent offense committed within three
3 years of a prior conviction for a violation of this act or a
4 rule, regulation or order made under this act, commits a
5 misdemeanor of the second degree and shall, upon conviction,
6 be sentenced to pay a fine of not less than \$500 and costs of
7 prosecution or to imprisonment for not more than two years,
8 or both.

9 (b) Civil penalties.--

10 (1) In addition to any other remedy available at law or
11 in equity for a violation of this act, the department may
12 assess a civil penalty of not more than \$10,000, plus cost of
13 remediation, containment or eradication, upon a person for
14 each violation of this act or a regulation promulgated or
15 order issued under authority of this act. The civil penalty
16 assessed shall be payable to the department for deposit into
17 the account. The penalty amount shall be collectible in any
18 manner provided by law for the collection of debt, including
19 referring any collection matter to the Office of Attorney
20 General, which shall recover the amount by action in the
21 appropriate court.

22 (2) No civil penalty shall be assessed unless the person
23 assessed the penalty has been given notice and an opportunity
24 for a hearing on the assessment in accordance with the
25 provisions of 2 Pa.C.S. Chs. 5 Subch. A (relating to practice
26 and procedure of Commonwealth agencies) and 7 Subch. A
27 (relating to judicial review of Commonwealth agency action).
28 Section 504. Injunctive relief.

29 In addition to any other remedies provided for in this act,
30 the Attorney General, at the request of the secretary, may

1 initiate, in Commonwealth Court or the court of common pleas of
2 the county in which the defendant resides or has the defendant's
3 place of business, an action in equity for an injunction to
4 restrain violations of this act or the rules and regulations
5 promulgated under this act.

6 Section 505. De minimis violations.

7 Nothing in this act shall be construed as requiring the
8 department to report a violation or to institute seizure
9 proceedings or other enforcement actions under this act as a
10 result of de minimis violations of this act if the department
11 concludes that the public interest will be best served by a
12 suitable notice of violation or warning in writing.

13 CHAPTER 7

14 MISCELLANEOUS PROVISIONS

15 Section 701. Transfer.

16 The amount of \$300,000 shall be transferred from the General
17 Fund to the Plant Pest Management Account established under
18 section 702(a) to be utilized for the purposes enumerated under
19 this act.

20 Section 702. Disposition of funds.

21 (a) Plant Pest Management Account.--Money received from all
22 fees, enforcement actions, control work reimbursement, fines and
23 penalties under this act shall be paid into the Plant Pest
24 Management Account.

25 (b) Supplements.--The account may be supplemented by money
26 received from the following sources:

27 (1) Federal funds appropriated to the department for
28 purposes of this act.

29 (2) State funds appropriated to the department for
30 purposes of this act.

1 (3) Gifts and other contributions from public or private
2 sources for purposes of this act.

3 (c) Status of funds.--The account shall not be subject to 42
4 Pa.C.S. Ch. 37 Subch. C (relating to judicial computer system).
5 Section 703. Preemption.

6 All local laws contrary to this act are preempted.
7 Section 704. Abrogation.

8 The regulations under 7 Pa. Code §§ 111.22 (relating to
9 prohibited noxious weed seeds) and 111.23 (relating to
10 restricted noxious weed seeds) are abrogated insofar as they are
11 inconsistent with this act.

12 Section 705. Repeals.

13 Repeals are as follows:

14 (1) The General Assembly declares that the repeals under
15 paragraphs (2) and (3) are necessary to effectuate this act.

16 (2) The act of April 7, 1982 (P.L.228, No.74), known as
17 the Noxious Weed Control Law, is repealed.

18 (3) 3 Pa.C.S. Ch. 71 is repealed insofar as it is
19 inconsistent with this act.

20 Section 706. Effective date.

21 This act shall take effect in 60 days.