

STATE OF OKLAHOMA

2nd Session of the 44th Legislature (1994)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
HOUSE BILL NO. 1473

BY: Adair, Leist and Beutler
of the House

and

Littlefield of the Senate

COMMITTEE SUBSTITUTE

An Act relating to agriculture; designating certain plants as noxious weeds; stating legislative findings; requiring eradication in certain counties; authorizing board of county commissioners to eradicate such weeds; requiring notice and hearings; providing for costs; requiring liens; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3-220 of Title 2, unless there is created a duplication in numbering, reads as follows:

A. The plants musk thistle (*Carduus nutans* L.), Scotch thistle (*Onoprodum acanthium* L.) and Canada thistle (*Cirsium arvense*) are hereby designated as noxious weeds. The Legislature finds that such thistles are a public nuisance in Craig, Delaware, Ottawa and Mayes Counties. It shall be the duty of every landowner in such counties to eradicate all Canada, musk, or Scotch thistles growing thereon so often in each and every year as shall be sufficient to prevent said thistles from going to seed.

B. Upon complaint, or upon their own motion, the board of county commissioners of the county in which the thistles are growing may cause such thistles within the county to be cut, mowed, sprayed or otherwise eradicated in accordance with the following procedure:

1. At least ten (10) days' notice shall be given to the owner of the property by certified mail with return receipt requested at the address shown by the current year's tax rolls in the county treasurer's office before the board of county commissioners holds a hearing or takes action. However, if the property owner cannot be located as shown by the return receipt, notice may be given by publication one time not less than ten (10) days prior to any hearing or action by the board of county commissioners;

2. The owner of the property may give his or her written consent to the board of county commissioners authorizing the cutting, mowing, spraying or other method of eradication of the thistles. By giving said written consent, the owner waives his or her right to a hearing by the county;

3. A hearing may be held by the board to determine whether:

- a. the defendant is the owner of the land, and
- b. the plant so designated is a musk thistle, Scotch thistle or a Canada thistle, and
- c. the plant has not been sufficiently eradicated to prevent the plant from going to seed;

4. Upon a finding that the defendant is the owner of the property and the plant is a musk, Scotch or Canada thistle, the agents of the county are granted the right of entry on the property for the cutting, mowing, spraying or other method of eradication of the thistles and performance of the necessary duties as a governmental function of the county;

5. The board of county commissioners shall determine the actual cost of such cutting, mowing, spraying or other method of eradication and any other expenses as may be necessary in connection therewith, including the cost of notice and mailing. The county clerk shall forward by certified mail with return receipt requested to the property owner at the address specified in paragraph 1 of this subsection a statement of such actual cost and demanding payment. If the cutting, mowing, spraying or other method of eradication is done by the county, the cost to the property owner for said eradication shall not exceed the actual cost of the labor, maintenance, and equipment required. If the

cutting, mowing, spraying or other method of eradication is done on a private contract basis, the contract shall be awarded to the lowest and best bidder; and

6. If payment is not made within thirty (30) days from the date of the mailing of the statement, the county clerk shall forward a certified statement of the amount of the cost to the county treasurer of the county in which the property is located and the same shall be levied on the property and collected by the county treasurer as other taxes authorized by law. The cost and the interest thereon shall be a lien against the property from the date the cost is certified to the county treasurer, coequal with the lien of ad valorem taxes and all other taxes and special assessments, and the lien shall continue until the cost shall be fully paid. Upon receiving payment, if any, the county clerk shall forward to the county treasurer a notice of such payment and directing discharge of the lien.

SECTION 2. This act shall become effective September 1, 1994.

44-2-2358

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