STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2398 By: Steidley

AS INTRODUCED

An Act relating to agriculture; amending Section 1, Chapter 204, O.S.L. 1994, as amended by Section 1, Chapter 49, O.S.L. 1995 (2 O.S. Supp. 1997, Section 3-220), which relates to thistles; expanding the thistle eradication program statewide; requiring county commissioners and the Oklahoma Department of Transportation to provide for the eradication of thistles along certain roadways; and providing an effective date.

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

SECTION 1. AMENDATORY Section 1, Chapter 204, O.S.L. 1994, as amended by Section 1, Chapter 49, O.S.L. 1995 (2 O.S. Supp. 1997, Section 3-220), is amended to read as follows:

Section 3-220. 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, Mayes and Roger Mills Counties~~ all counties in this state. 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 any ~~of the counties specified by subsection A of this section~~ 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 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.

C. It shall be the duty of the county commissioners, in any county in which the thistles are growing, to cut, mow, spray, or otherwise eradicate all thistles growing along the right-of-way of any county road, along any easement, or upon any other property belonging to the county.

D. It shall be the duty of the Oklahoma Department of Transportation to cut, mow, spray, or otherwise eradicate all thistles growing along the right-of-way of any state highway or road subject to the jurisdiction of the Department, or any easement or other property belonging to the Department.

SECTION 2. This act shall become effective November 1, 1998.

46-2-7958 KSM