EHB 1048

THE STATE SENATE
Wednesday, March 17, 1999

ENGROSSED

House Bill No. 1048

As Amended

ENGROSSED HOUSE BILL NO. 1048 - By: ADAIR of the House and LITTLEFIELD of the Senate.

[agriculture – thistles – adding to list of counties – emergency]

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

SECTION 1. AMENDATORY Section 1, Chapter 204, O.S.L. 1994, as last amended by Section 1, Chapter 294, O.S.L. 1998 (2 O.S. Supp. 1998, Section 3-220), is amended to read as follows:

Section 3-220. A. 1. 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 all counties across this state.

2. It shall be the duty of every landowner in each county 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.

(Bold face denotes Committee Amendments)

B. Upon complaint, or upon their own motion, the board of county commissioners of Adair, Cherokee, Craig, Delaware, Ottawa, Mayes, Roger Mills, McCurtain, Rogers and Leflore Counties 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 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 the 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. 1. In all counties of this state, the conservation districts shall publish a notice in newspapers of general circulation in the conservation districts stating that thistles are a public nuisance and that it is the duty of every landowner to eradicate such thistles growing on any property owned by the landowner. The notice shall be published for at least two (2) consecutive weeks at the beginning of the cycle of growth of the thistles and at such other times as deemed necessary by the conservation districts to inform landowners of the provisions of this subsection. The notice shall also include:

a. information detailing the process by which an interested landowner may receive assistance pursuant to this subsection for the removal of thistles from infested property, and

b. the telephone number of the local conservation district office.

2. Upon request of the conservation district, the designated Oklahoma State University extension agent for a particular county or district shall inspect the type of thistle infestation, assess the nature and extent of the thistle infestation on the property of the landowner, and determine the most appropriate thistle eradication method available and proper for the type of thistle and location of the property.

3. Upon the determination of the most appropriate thistle eradication method, the agent will contact appropriate personnel in the conservation district in which the property is located. At the request of the landowner, the conservation district shall assist the landowner with the thistle eradication using the method prescribed by the agent.

D. It shall be the duty of the county commissioners of each county with regards to county roads and highways, and the Department of Transportation with regards to state roads and highways, to

remove any thistle infestation along the rights-of-way for the roads within the jurisdiction of each such county or Department.

SECTION 2. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

COMMITTEE REPORT BY: COMMITTEE ON AGRICULTURE & RURAL DEVELOPMENT, dated 3-15-99 - DO PASS, As Amended.