

CHAPTER 18

PLANT AND ANIMAL PEST CONTROL

Sec.	Definition.	Sec.	Authority of commissioner.
18.011	Policy.	18.332	Destruction of bushes.
18.012	LOCAL PEST CONTROL	18.333	Certificate of commissioner.
	18.021 Definitions.	18.335	Penalty.
18.022	Insect pests, plant diseases, bee diseases, and destructive or nuisance animals.		FOREST PESTS, GENERALLY
18.023	Shade tree disease control.	18.341	Definitions.
	MOSQUITO ABATEMENT	18.351	Surveys, investigations.
18.041	Definitions.	18.361	Control of forest pests.
18.051	Declaration of policy.	18.371	Zones of infestation, establishment.
18.061	Mosquito abatement; procedure.	18.381	Infestation control, costs.
18.071	Abatement board.	18.391	Expenses.
18.081	Officers; meetings.	18.401	Dissolution of zone infestation.
18.091	Powers of board.	18.411	Forest pest control fund.
18.101	Cooperate with state departments.	18.421	Cooperation.
18.111	Tax levy; collection; certificates of indebtedness.	18.422	Duties, rules; commissioner.
18.121	Rules, mosquito abatement.		Act supplemental.
18.131	Cooperation between governmental units.	18.431	WHITE PINE BLISTER RUST
18.141	Unorganized towns; powers of county board.	18.432	White pine blister rust definitions.
18.151	Cost of state's service; refundment.	18.433	White pine blister rust declared a pest.
18.161	Public funds, expenditure, limitation.	18.434	Diseased plants, destruction.
	NOXIOUS WEEDS, GENERALLY	18.435	Control areas.
18.171	Noxious weed definitions.	18.436	Suppression and control, generally.
18.181	Enforcement; regulations.		Penalty.
18.191	Destruction of noxious weeds.		PLANT PEST ACT
18.201	Railroad companies to destroy noxious weeds on their lands.	18.44	Plant pest act.
18.211	Public highways, noxious weeds destroyed.	18.45	Policy.
18.221	Threshing outfits cleaned before moving.	18.46	Definitions.
18.231	Inspectors.	18.47	Commissioner to employ entomologists.
18.241	Duties of local weed inspectors.	18.48	Authority.
18.251	Weeds; cutting in growing crops.	18.49	Inspection required.
18.261	Reports by inspectors.	18.50	The sale of viable nursery stock.
18.271	Destroying weeds; notices; expenses.	18.51	Certificate of inspection.
18.272	Penalty.	18.52	Dealers' and agents' certificates.
18.281	Enforcement of noxious weed quarantines; assistants; equipment.	18.53	Greenhouse certification.
18.291	Commissioner may quarantine and destroy weeds.	18.54	Local sales and miscellaneous.
18.301	Must give written notice.	18.55	Reciprocity with other states.
18.311	Expenses.	18.56	Tags.
18.312	Penalty.	18.57	Carriers not to accept untagged stock.
18.315	Control of weeds on state lands.	18.58	Cooperation with the United States department of agriculture.
	HEMP CONTROL		Violations.
18.321	Growing hemp ( <i>cannabis sativa</i> L.) for commercial purposes; licenses.	18.59	Penalties.
18.322	License to notify commissioner.	18.60	Enforcement.
18.323	Penalty.		INTERSTATE PEST CONTROL COMPACT
	BARBERRY AND MAHONIA BUSHES	18.62	Enactment; insurance fund; administration; finance.
18.331	Certain barberry and mahonia bushes declared nuisances.	18.63	State cooperation.
		18.64	Bylaws and amendments; filing.
		18.65	Administrator; commissioner of agriculture.
		18.66	Request for assistance.
		18.67	Appropriation; acceptance of funds.
		18.68	Filing of documents; notices.
		18.69	Budget; limitations.
		18.70	Legislative auditor.
		18.71	Governor as executive head.

18.01 [ Repealed, 1959 c 35 s 19 ]

18.011 DEFINITION. Subdivision 1. Except where the context otherwise indicates, for the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. "Commissioner" means the commissioner of the department of agriculture.

[ 1961 c 113 s 1; 1961 c 128 s 3 ]

18.012 POLICY. The purpose of this local pest control act is to authorize subdivisions of state government to establish and fund their own programs to control pests that may be detrimental to the health and welfare of man or animals and to the environment. To assure that these local programs are conducted in a safe and proper manner, these programs must be formulated and conducted in accordance with the direc-

tions and recommendations prescribed by the commissioner.

[ 1975 c 180 s 1 ]

#### LOCAL PEST CONTROL

**18.02** [ Repealed, 1959 c 35 s 19 ]

**18.021 DEFINITIONS.** Subdivision 1. **Terms.** Unless the language or context clearly indicates that a different meaning is intended, the following terms shall, for the purposes of section 18.022, be given the meanings subjoined to them.

**Subd. 2. Insect pest.** "Insect pest" includes grasshoppers, cutworms, army worms, European corn borers, Japanese beetles, European elm bark beetles, native elm bark beetles, forest tent caterpillars, bee diseases, and any other insects which the commissioner may designate as dangerous to crops or the welfare of the people.

**Subd. 3. Destructive or nuisance animals.** "Destructive or nuisance animals" includes such animals as rats, gophers, mice, and other unprotected wild animals as defined in Minnesota Statutes 1961, Section 100.26, and acts amendatory thereof, which the commissioner may designate as dangerous to the welfare of the people.

**Subd. 4. Diseases.** The term "diseases" refers to such dangerous plant diseases and bee diseases as the commissioner may designate as dangerous to agriculture, horticulture, and forestry.

[ 1935 c 29 s 9-11; 1953 c 641 s 2; 1957 c 552 s 14; 1965 c 768 s 1; 1967 c 799 s 1 ] (6145-24,6145-25,6145-26)

**18.022 INSECT PESTS, PLANT DISEASES, BEE DISEASES, AND DESTRUCTIVE OR NUISANCE ANIMALS.** Subdivision 1. **Control.** When recommended so to do by the commissioner of agriculture, the governing body of any county, city, or town of this state is hereby authorized and empowered to appropriate money for the control of insect pests, plant diseases, bee diseases, or destructive or nuisance animals. Such money shall be expended according to technical and expert opinions and plans as shall be designated by the commissioner and the work shall be carried on under the direction of the commissioner.

**Subd. 2. Cost.** (a) In order to defray the cost of such activities, the governing body of any such political subdivision may levy a special tax which, except when levied by a county, shall not exceed two-thirds mill in any year in excess of charter or statutory millage limitations, but not in any event more than 50 cents per capita, and any such political subdivision may make such a levy, where necessary, separate from the general levy and at any time of the year. (b) If, because of the prevalence of Dutch elm disease, the governing body of such a political subdivision is unable to defray the cost of control activities authorized by this section within the limits set by this subdivision, the limits set by this subdivision are increased to 1 1/3 mills, but not in any event more than one dollar per capita.

**Subd. 3. Certificates of indebtedness.** To provide funds for such activities in advance of collection of the tax levies under subdivision 2, the governing body may, at any time after the tax has been levied and certified to the county auditor for collection, issue certificates of indebtedness in anticipation of the collection and payment of such tax. The total amount of such certificates, including principal and interest, shall not exceed 90 percent of the amount of such levy and shall be payable from the proceeds of such levy and not later than two years from the date of issuance. They shall be issued on such terms and conditions as the governing body may determine and shall be sold as provided in section 475.60. If the governing body determines that an emergency exists, it may make appropriations from the proceeds of such certificates for authorized purposes without complying with statutory or charter provisions requiring that expenditures be based on a prior budget authorization or other budgeting requirement.

**Subd. 4. Deposit of proceeds in separate fund.** The proceeds of any tax levied under subdivision 2 or of any issue of certificates of indebtedness under subdivision 3 shall be deposited in the municipal treasury in a separate fund and expended only for purposes authorized by this section. If no disbursement is made from the fund for a period of five years, any moneys remaining therein may be transferred to the general fund.

Subd. 5. **Penalty.** Any person who shall prevent, obstruct, or in any manner interfere with the county authorities or their agents in carrying out the provisions of subdivisions 1 to 4, or neglects to comply with the rules and regulations of the county commissioners promulgated under authority thereof, shall be guilty of a misdemeanor.

Subd. 6. **Regulations, scope.** The council of any city by ordinance and the board of county commissioners of any county and the town board of any town by resolution may adopt and enforce regulations to control and prevent the spread of plant pests and diseases. Such regulations may authorize appropriate officers and employees to enter and inspect any public or private place which might harbor plant pests, as defined in section 18.46, subdivision 13, may provide for the summary removal of diseased trees from public or private places where deemed necessary to prevent the spread of the disease, may require the owner to destroy or treat plant pests, diseased plants or other disease bearing material and in default thereof to provide for such work at the expense of the owner, which expense shall be a lien upon the property and may be collected as a special assessment as provided by section 429.101 or by charter. In this subdivision, the term private place means every place except a private home.

Subd. 7. **Failure of political subdivision to act; commissioner's duties.** If the governing body of a political subdivision does not appropriate money for the control of Dutch elm disease pursuant to subdivision 1, or does not adopt and enforce regulations to control and prevent the spread of Dutch elm disease pursuant to subdivision 6, and if the commissioner determines that economic, recreational, or esthetic losses will result, the commissioner shall proceed as provided in section 18.48, subdivisions 1 and 4, to control the spread of Dutch elm disease. However, the expense of these control activities performed on land owned by a county, city, or town is a charge upon the county, city, or town owning the land and shall be paid by the governing body from money which it shall appropriate pursuant to subdivision 1 and, if necessary, for which it shall levy taxes pursuant to subdivision 2. The purpose of this subdivision and of the increased maximum tax levies authorized by subdivision 2, clause (b), is to protect elm trees from Dutch elm disease and thus prevent the economic, recreational, and esthetic losses which occur when elm trees are killed by Dutch elm disease.

Subd. 8. **Rules and regulations.** The commissioner may make reasonable rules and regulations after a public hearing, in a manner provided by law, to properly carry out the purposes of this section and section 18.012.

Subd. 9. **Rules and regulations.** The commissioner may adopt rules and regulations in accordance with sections 15.0411 to 15.0422 prescribing control measures to be used to prevent the spread of shade tree diseases and shall include the following: (a) A definition of shade tree, (b) qualifications for inspectors, (c) methods of identifying diseased shade trees, (d) procedures for giving reasonable notice of inspection of private real property, (e) measures for the treatment and removal of any shade tree which may contribute to the spread of shade tree disease, and (f) such other matters as shall be determined to be necessary by the commissioner to prevent the spread of shade tree disease and enforce the provisions of this section. The rules and regulations of the commissioner shall apply in a county, city or town unless the county, city or town adopts an ordinance or resolution pursuant to subdivision 6 which is determined by the commissioner to be more stringent than the rules and regulations of the commissioner. The rules and regulations of the commissioner or the more stringent ordinance or resolution of the city, county or town shall apply to all state agencies and special purpose districts which own or control land within any county, city or town exercising the powers granted in this section.

[ 1935 c 29 s 1,8; 1953 c 641 s 1; 1957 c 552 s 12; 1961 c 113 s 1; 1965 c 323 s 1; 1965 c 768 s 2; 1967 c 799 s 2,3; 1973 c 123 art 5 s 7; 1973 c 583 s 3; 1973 c 773 s 1; 1975 c 180 s 2; 1975 c 253 s 6 ] (6145-16,6145-23)

**18.023 SHADE TREE DISEASE CONTROL.** Subdivision 1. **Definitions.** As used in subdivisions 1 to 12 the terms defined in this subdivision shall have the meanings given them.

(a) "Metropolitan area" means the area comprising the counties of Hennepin, Ramsey, Anoka, Dakota, Washington, Scott and Carver.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Municipality" means any home rule charter or statutory city or any town exercising municipal powers pursuant to section 368.01, or any general or special law,

located in the metropolitan area; or any special park district as organized under chapter 398; or any special purpose park and recreation board organized under the city charter of a city of the first class located in the metropolitan area; or any county in the metropolitan area for the purposes of county owned property or any portion of a county located outside the geographic boundaries of a city or town exercising municipal powers; and any municipality or county located outside the metropolitan area with an approved disease control program.

(d) "Shade tree disease" means Dutch elm disease or oak wilt disease.

(e) "Wood utilization or disposal system" means facilities, equipment or systems used for the removal and disposal of diseased shade trees which includes the collection, transportation, processing or storage of wood and which aids in the recovery of materials or energy from wood.

(f) "Approved disease control program" means the municipal plan as approved by the commissioner to control shade tree disease.

(g) "Disease control area" means an area approved by the commissioner within which a municipality will conduct an approved disease control program.

(h) "Sanitation" means the identification, inspection, disruption of a common root system, girdling, trimming, removal and disposal of dead or diseased wood of elm or oak shade trees, including subsidies for trees removed pursuant to subdivision 4, on public or private property within a disease control area.

(i) "Reforestation" means the replacement of shade trees removed from public property as part of an approved disease control program. For purposes of this clause, "public property" shall include private property within five feet of the boulevard or street terrace in any city which has enacted an ordinance on or before January 1, 1977, that prohibits or requires a permit for the planting of trees in the public right of way.

**Subd. 1a. Purpose.** The legislature finds that an epidemic of Dutch elm disease and oak wilt disease is occurring in Minnesota which threatens the natural environment. Immediate action is therefore necessary to provide funds to assist local units of government in the implementation of shade tree disease control programs by conducting sanitation and reforestation programs, expanding diseased wood destruction programs, increasing public awareness of shade tree disease, accelerating training of tree inspectors and research for disease prevention and subsidizing private property owners for the removal of diseased elm and oak trees.

**Subd. 2. Commissioner to adopt rules.** The commissioner shall adopt and may amend rules relating to shade tree disease control in any municipality, as defined in subdivision 1. The rules shall prescribe control measures to be used to prevent the spread of shade tree diseases and shall include the following: (a) A definition of shade tree, (b) qualifications for tree inspectors, (c) methods of identifying diseased shade trees, (d) procedures for giving reasonable notice of inspection of private real property, (e) measures for the removal of any shade tree which may contribute to the spread of shade tree disease, and for reforestation of disease control areas, (f) approved methods of treatment of shade trees, (g) criteria for priority designation areas in an approved disease control program, and (h) any other matters determined necessary by the commissioner to prevent the spread of shade tree disease and enforce the provisions of this section. After reasonable notice of inspection an owner of the real property on which a diseased shade tree is located shall remove or treat the tree within the period of time and in the manner established by the commissioner. Diseased shade trees which are not removed or treated in compliance with the commissioner's rules shall be declared a public nuisance and removed or treated by approved methods by the municipality which may assess the total expense, which shall be limited to the lowest contract rates available, provided said rates include wage levels which meet Minnesota minimum wage standards, or any part thereof to the property and the expense shall become a lien on the property. A municipality may assess not more than 50 percent of the expense of treating with an approved method or removing diseased shade trees located on street terraces or boulevards to the abutting properties and the assessment shall become a lien on the property.

**Subd. 3. Rules and regulations; applicability to municipalities.** The rules and regulations of the commissioner shall apply in a municipality unless the municipality adopts an ordinance which is determined by the commissioner to be more stringent than the rules and regulations of the commissioner. The rules and regulations of the

commissioner or the more stringent ordinance of the municipality shall be in effect 60 days from March 31, 1974. The rules and regulations of the commissioner or the municipality shall apply to all state agencies, special purpose districts and metropolitan commissions as defined in section 473.121, subdivision 7, which own or control land adjacent to or within a shade tree disease control area in Laws 1975, Chapter 253.

Subd. 3a. **Grants to municipalities.** (a) The commissioner may, in the name of the state and within the limit of appropriations provided, make grants-in-aid to a municipality with an approved disease control program for the partial funding of municipal sanitation and reforestation programs. The commissioner may make grants-in-aid to any home rule charter or statutory city of more than 40,000 population in the metropolitan area as defined in subdivision 1 or a combination of such cities of 40,000 combined population under a joint powers agreement pursuant to section 471.59, or a home rule charter or statutory city of more than 20,000 population outside the metropolitan area or a combination of such cities of 20,000 combined population under a joint powers agreement pursuant to section 471.59, any special purpose park and recreation board organized under a charter of a city of the first class or any non-profit corporation serving a city of the first class or any county having an approved disease control program for the acquisition or implementation of a wood utilization or disposal system.

(b) The commissioner shall promulgate rules for the administration of grants authorized by this subdivision. The rules shall establish and contain as a minimum:

- (1) Procedures for grant applications;
- (2) Conditions and procedures for the administration of grants;
- (3) Criteria of eligibility for grants including, but not limited to, those specified in this subdivision; and
- (4) Such other matters as the commissioner may find necessary to the proper administration of the grant program.

(c) Grants-in-aid payments for wood utilization and disposal systems made by the commissioner pursuant to this subdivision shall not exceed 50 percent of the total cost of the system. Grants to any municipality for sanitation shall not exceed 45 percent of sanitation costs approved by the commissioner including any amount of sanitation costs paid by special assessments, ad valorem taxes, federal grants or other funds. A municipality shall not specially assess a property owner any amount greater than the amount of the tree's sanitation cost minus the amount of the tree's sanitation cost reimbursed by the commissioner. Grants to municipalities for reforestation shall not exceed the lesser of 50 percent of the cost or \$40 multiplied by the number of trees planted pursuant to the reforestation program and shall be limited for any municipality in any year to grants for not more than the number of trees removed on public property in the sanitation program in the previous year, except during the first year of any approved disease control program; provided that a reforestation grant to any county may include up to 90 percent of the cost of the first 50 trees planted on public property in a town not described in subdivision 1 and of less than 1,000 population upon the town's application to the county. Reforestation grants to towns as described in subdivision 1 of less than 1,000 population with an approved disease control program may include up to 90 percent of the first 50 trees planted on public property. For the purpose of this subdivision, "cost" shall not include the value of a gift or dedication of trees required by a municipal ordinance but shall include documented "in kind" services or voluntary work for municipalities with a population of less than 1,000 according to the 1970 census.

(d) Based upon estimates submitted by the municipality to the commissioner, which shall state the estimated costs of sanitation and reforestation in the succeeding quarter under an approved program, the commissioner shall direct quarterly advance payments to be made by the state to the municipality commencing April 1, 1977. The commissioner shall direct adjustment of any overestimate in a succeeding quarter. A municipality may elect to receive the proceeds of its sanitation and reforestation grants on a periodic cost reimbursement basis.

(e) A home rule charter or statutory city, or county outside the metropolitan area or any municipality, as defined in subdivision 1, may submit an application for a grant authorized by this subdivision concurrently with its request for approval of a disease control program.

Subd. 4. **Subsidies to certain owners.** A municipality may provide subsidies to nonprofit organizations, to owners of private residential property of five acres or less, to owners of property used for a homestead of more than five acres but less than 20 acres and to nonprofit cemeteries, however organized, for the approved treatment or removal of diseased shade trees.

Notwithstanding any law to the contrary, an owner of property on which shade trees are located may contract with a municipality to provide protection against the cost of approved treatment or removal of diseased shade trees or shade trees that will contribute to the spread of shade tree diseases. Under such contracts, the municipality shall pay for the removal or approved treatment under such terms and conditions as may be determined by the governing body of the municipality.

Subd. 5. **Tree inspector.** (a) Within 75 days from March 31, 1974, the governing body of each municipality shall appoint a qualified person to administer the rules and regulations of the commissioner or the more stringent shade tree disease control ordinance who shall be known as the tree inspector. In accordance with the provisions of section 471.59, two or more municipalities may jointly appoint a tree inspector for the purpose of administering the regulations or ordinance within their communities. In those municipalities which have not appointed a tree inspector upon the expiration of 75 days from March 31, 1974, the commissioner may appoint a tree inspector to serve the municipality until the municipality has made an appointment. If the commissioner is unable to make such appointment he may assign a qualified employee of the department of agriculture to perform the duties of the tree inspector. The expense of a tree inspector appointed by the commissioner shall be paid by the municipality. If an employee of the department of agriculture performs such duties the expense shall be billed to the municipality and paid into the state treasury and credited to the general fund.

(b) Upon a determination by the commissioner that a candidate for the position of the inspector is qualified, he shall issue a certificate to the tree inspector that he is so qualified. Any person certified as a tree inspector by the commissioner is authorized upon prior notification to enter and inspect any public or private property which might harbor diseased shade trees.

(c) The commissioner may upon notice and hearing, decertify any tree inspector when it appears to him that said tree inspector has failed to act competently or in the public interest in the performance of his duties. Such notice shall be provided and the hearing conducted in accordance with the provisions of chapter 15, governing contested case proceedings. Nothing in this clause shall limit or otherwise affect the authority of a municipality to dismiss or suspend a tree inspector at its discretion; except as otherwise provided by law.

Subd. 6. [ Repealed, 1977 c 90 s 15 ]

Subd. 7. **Financing.** (a) A municipality may collect the amount assessed against the property under subdivision 2 as a special assessment and may issue obligations as provided in section 429.101, subdivision 1, provided that a municipality at its option make any assessment levied payable with interest in installments not to exceed five years from the date of the assessment.

(b) After a contract for the sanitation or approved treatment of trees on private property has been let, or the work commenced, the municipality may issue obligations to defray the expense of any such work financed by special assessments imposed upon private property. Section 429.091 shall apply to such obligations with the following modifications:

(1) Such obligations shall be payable not more than five years from the date of issuance; and

(2) No election shall be required.

Obligations issued under the provisions of this clause shall not be considered bonded indebtedness for the purposes of section 273.13, subdivisions 6 and 7. The certificates shall not be included in the net debt of the issuing municipality.

Subd. 8. **Deposit of proceeds in separate fund.** The proceeds of any tax levied, assessments and interest collected, or any bonds or certificates of indebtedness issued under subdivision 7 and section 275.50, subdivision 6, and any grants received under subdivision 3a, shall be deposited in the municipal treasury in a separate fund and expended only for the purposes authorized by this section.

Subd. 9. **Diagnostic laboratory.** The commissioner of agriculture shall operate a diagnostic laboratory for culturing diseased trees for positive identification of diseased shade trees.

Subd. 10. **Cooperation by university.** The university of Minnesota college of agriculture shall cooperate with the department of agriculture in control of shade tree disease. The college of agriculture shall also conduct research into means for identifying diseased shade trees, shall develop and evaluate control measures, shall develop means for disposing of and utilizing diseased shade trees.

Subd. 10a. **Experimental programs.** The commissioner may establish experimental programs for sanitation or treatment of shade tree diseases. The commissioner may make grants to municipalities, or enter into contracts with municipal, state or federal agencies in connection with experimental shade tree programs including research to assist municipalities in establishing priority designation areas in an approved disease control program.

Subd. 11. **Report to the legislature.** On or before January 31 of each year, the commissioner shall report to the legislature on the preceding year's approved disease control programs and any experimental programs conducted pursuant to subdivision 10a. The commissioner, with the assistance of the Minnesota energy agency, shall investigate and evaluate the potential uses of wood infected with shade tree disease, including the uses as an alternative energy source and as a component in the construction or manufacture of new products. The commissioner shall include the results of the investigation and any recommendations for proposed relevant legislation in the report to the legislature due on or before January 31, 1979.

Subd. 12. **Sections 18.021 to 18.022 superseded.** The provisions of sections 18.021 to 18.022, which are inconsistent with Laws 1974, Chapter 355 are hereby superseded for any municipality as defined in subdivision 1, clause (c).

[ 1974 c 355 s 66; 1975 c 253 s 1-3,5; 1977 c 90 s 1-9; 1978 c 773 s 1,2 ]

18.03 [ Repealed, 1959 c 35 s 19 ]

18.031 [ Repealed, 1976 c 53 s 29 ]

18.032 [ Repealed, 1976 c 53 s 29 ]

18.0321 [ Repealed, 1976 c 53 s 29 ]

18.0322 [ Repealed, 1976 c 53 s 29 ]

18.0323 [ Repealed, 1976 c 53 s 29 ]

18.0324 [ Repealed, 1976 c 53 s 29 ]

18.033 [ Repealed, 1976 c 53 s 29 ]

18.034 [ Repealed, 1976 c 53 s 29 ]

18.035 [ Repealed, 1976 c 53 s 29 ]

18.036 [ Repealed, 1976 c 53 s 29 ]

#### MOSQUITO ABATEMENT

18.04 [ Repealed, 1959 c 35 s 19 ]

18.041 **DEFINITIONS.** In sections 18.041 to 18.161, unless the context otherwise indicates: (a) "governmental unit" means any city or town; (b) "governing body" means a council, board, body or persons in which the powers of the governmental unit are vested; and (c) "mosquito abatement" means the control, abatement, or prevention of breeding of mosquitoes or such other insects or arachnids (ticks, mites, spiders) as provided in section 18.091.

[ 1949 c 404 s 1; 1973 c 123 art 5 s 7 ]

18.05 [ Repealed, 1959 c 35 s 19 ]

18.051 **DECLARATION OF POLICY.** The abatement or suppression of mosquitoes of any kind, whether disease bearing or merely pestiferous, within any or all areas of the state, is advisable and necessary for the maintenance and betterment of the health, welfare and prosperity of the people thereof; and is found and declared to be for public purposes. All areas wherein mosquitoes incubate or hatch are declared to be public nuisances, as harmful or inimical to the health, welfare and prosperity of the inhabitants and may be abated as hereinafter provided. Therefore mosquito abatement may be undertaken, as provided in sections 18.041 to 18.161, in any or all areas

of the state by any governmental unit.

[ 1949 c 404 s 2 ]

**18.06** [ Repealed, 1959 c 35 s 19 ]

**18.061 MOSQUITO ABATEMENT; PROCEDURE.** Subdivision 1. Any governmental unit in this state shall have power to engage in mosquito abatement and to establish a mosquito abatement board (a) upon the adoption of a resolution to that effect by the governing body thereof, or (b) upon the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 2.

Subd. 2. If a petition signed by five percent of the freeholders in a governmental unit according to the last assessment list, or 250 such freeholders, whichever is the lesser number, is presented to the governing body of any governmental unit requesting it to engage in mosquito abatement a public hearing shall be held thereon by the governing body within 15 days after the presentation of the petition and, if said governing body does not within 15 days thereafter adopt a resolution to undertake mosquito abatement, and if such petitioners within 15 days thereafter pay to the governing body the cost of publishing notice of the election, the governing body to whom the petition is addressed shall order a vote to be taken at the next regular election in the governmental unit (or town meeting in the case of the town) on the proposal to undertake mosquito abatement within said governmental unit. The governing body shall provide ballots to be used at the election or meeting. The ballot shall bear the words "Shall the (governmental unit) of ..... engage in mosquito abatement?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of said squares and a direction to so indicate their choice shall be printed on the ballot. Such ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified, and returned in the same manner and at the same time as other facts and returns of the election. If the majority of the electors voting on the question vote in the affirmative, the governing body shall take appropriate action as soon as possible to carry on mosquito abatement. If a proposal to undertake mosquito abatement be rejected by the voters it shall not be resubmitted to the voters for two years.

Subd. 3. Whenever any governmental unit by action of its governing body or voters shall have voted to engage in mosquito abatement, such abatement program may be discontinued in the following manner: (a) If the mosquito abatement was originally undertaken by resolution of the governing body, then by the adoption of a resolution to that effect by the governing body, or by the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 4; and (b) if the mosquito abatement was originally undertaken by the adoption of a proposal to that effect by the voters of the governmental unit, then only by the adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 4.

Subd. 4. If a petition signed by five percent of the freeholders in a governmental unit according to the last assessment list, or 250 such freeholders, whichever is the lesser number, is presented to the governing body of any governmental unit engaged in mosquito abatement requesting it to discontinue mosquito abatement a public hearing shall be held thereon by the governing body within 15 days after presentation of the petition, and if said governing body does not within 15 days thereafter adopt a resolution to discontinue mosquito abatement, and if such petitioners within 15 days thereafter pay to the governing body the cost of publishing notice of the election, the governing body to whom the petition is addressed shall order a vote to be taken at the next regular election in the governmental unit (or town meeting in the case of a town) on the proposal to discontinue mosquito abatement within said governmental unit. The governing body shall provide ballots to be used at the election or meeting. The ballot shall bear the words "Shall the (governmental unit) of ..... discontinue mosquito abatement?" The question shall be followed with a line with the word "Yes" and a square after it and another line with the word "No" and a square after it. The voters shall indicate their choice by placing a cross mark in one of said squares and a direction to so indicate their choice shall be printed on the ballot. Such ballot shall be deposited in a separate ballot box to be provided and the result of such voting shall be duly canvassed, certified and returned in the same manner and at the same time as other facts and returns of the election. If a majority of the electors voting on the question vote in the affirmative, the governing body shall take appropriate action as soon



as possible to discontinue mosquito abatement. If a proposal to discontinue mosquito abatement be rejected by the voters it shall not be resubmitted to the voters for two years.

[ 1949 c 404 s 3 ]

**18.07** [ Repealed, 1959 c 35 s 19 ]

**18.071 ABATEMENT BOARD.** Whenever any governmental unit has decided, in the manner required by section 18.061 to engage in mosquito abatement, the governing body of the governmental unit shall appoint three freeholders of the unit to serve as members of a mosquito abatement board, which board shall have the powers specified in section 18.091. Each member of said board shall hold office at the pleasure of the governing body appointing him and shall serve without compensation, except that board members may be reimbursed for actual expenses incurred in fulfillment of their duties on the board not in excess of \$60 annually.

[ 1949 c 404 s 4 ]

**18.08** [ Repealed, 1959 c 35 s 19 ]

**18.081 OFFICERS; MEETINGS.** Immediately after their appointment and at the first meeting in each calendar year thereafter the board shall elect one of their number as chairman, one as secretary, and one as treasurer, and shall elect such other officers as they consider necessary. The board shall provide for the time and place of holding regular meetings and may establish rules for proceedings. All meetings of the board shall be open to the public. Two members of the board shall constitute a quorum, but one member may adjourn from day to day. The board shall keep a written record of its proceedings and an itemized account of all expenditures and disbursements and such record and account shall be open at all reasonable times for public inspection.

[ 1949 c 404 s 5 ]

**18.09** [ Repealed, 1959 c 35 s 19 ]

**18.091 POWERS OF BOARD.** Any mosquito abatement board, and any joint board established pursuant to section 18.131, shall have power, either by board action or through its members, officers, agent or employees, as may be appropriate: (a) to enter upon any property within the governmental unit at reasonable times to determine whether mosquito breeding exists thereon; (b) to take all necessary and proper steps for the abatement of mosquitoes and such insects and arachnids (ticks, mites, spiders) as the commissioner of agriculture may designate; (c) and subject to the paramount control of county and state authorities, to lagoon and clean up any stagnant pool of water and to clean up shores of lakes and streams and other breeding places for mosquitoes within the boundaries of the governmental unit; (d) to spray with insecticides, approved by the commissioner of agriculture, any area within the boundaries of the governmental unit that it finds to be a breeding place for mosquitoes or other insects or arachnids designated pursuant to (b) above; (e) to purchase such supplies and equipment and employ such labor and assistants as may be necessary and proper in mosquito abatement; (f) to accept gifts of money or equipment to be used for mosquito abatement; and (g) to enter into such contracts as may be necessary and proper to accomplish mosquito abatement.

[ 1949 c 404 s 6 ]

**18.10** [ Repealed, 1959 c 35 s 19 ]

**18.101 COOPERATE WITH STATE DEPARTMENTS.** Each mosquito abatement board and each governmental unit engaged in mosquito abatement shall cooperate with the university of Minnesota, the state department of agriculture, the state commissioner of health, the state department of natural resources, the state agricultural experiment station, and the state transportation department.

[ 1949 c 404 s 7; 1969 c 1129 art 3 s 1; 1976 c 166 s 7; 1977 c 305 s 45 ]

**18.11** [ Repealed, 1959 c 35 s 19 ]

**18.111 TAX LEVY; COLLECTION; CERTIFICATES OF INDEBTEDNESS.** Subdivision 1. An annual levy of not to exceed one-third mill on each dollar of assessed valuation may be levied for mosquito abatement purposes on all taxable property in any governmental unit undertaking mosquito abatement as provided in sections 18.041 to 18.161. Such tax shall be certified, levied and collected in the same manner as other taxes caused to be levied by the governmental unit.

Subd. 2. At any time after the annual tax levy has been certified to the county auditor, and not earlier than October tenth in any year, any governing body may, for the purpose of providing the necessary funds for mosquito abatement for the succeeding year, by resolution, issue and sell as many certificates of indebtedness as may be needed in anticipation of the collection of taxes so levied for the mosquito abatement fund, but certificates shall not be issued in excess of 50 percent of the amount named in the tax levy, as spread by the county auditor, to be collected for the use and benefit of the mosquito abatement fund, and no certificate shall be issued to become due and payable later than December thirty-first of the year succeeding the year in which the tax levy, certified to the county auditor, as aforesaid, was made. The certificates shall not be sold for less than par and accrued interest, and shall not bear a greater rate of interest than five percent per annum. Each certificate shall state upon its face that the proceeds of the certificate shall be used for the mosquito abatement fund, the total amount of the certificates so issued, and the whole amount embraced in the tax levy for that particular purpose. They shall be numbered consecutively and be in denominations of \$100 or a multiple thereof, and may have interest coupons attached, and shall be otherwise of such form and terms and be made payable at such place as will best aid in their negotiation. The proceeds of the tax assessed and collected, as aforesaid, on account of the fund, shall be irrevocably pledged for the redemption of the certificates so issued. The certificates shall be paid solely from the monies derived from the levy for the year against which the certificates were issued, or, if they be not sufficient for such purpose, from the levy for the mosquito abatement fund in the next succeeding year. The money derived from the sale of the certificates shall be credited to the mosquito abatement fund for the calendar year immediately succeeding the making of the levy and shall not be used or spent until such succeeding year. No certificates for any year shall be issued until all certificates for prior years have been paid, nor shall any certificate be extended.

Subd. 3. All monies received for mosquito abatement purposes, either by way of tax collection or the sale of certificates of indebtedness, shall be deposited in the treasury of the governmental unit to the credit of a special fund to be designated as the mosquito abatement fund, shall not be used for any other purpose, and shall be drawn upon by the proper officials of the governmental unit upon the properly authenticated voucher of the mosquito abatement board. No money shall be paid from such fund except on orders drawn upon the officer of the governmental unit having charge of the custody of the mosquito abatement fund and signed by the chairman and the secretary of the mosquito abatement board. Each mosquito abatement board shall annually file with the governing body of its governmental unit an itemized statement of all receipts and disbursements.

[ 1949 c 404 s 8; 1973 c 773 s 1 ]

18.12 [ Repealed, 1959 c 35 s 19 ]

**18.121 RULES, MOSQUITO ABATEMENT.** Subdivision 1. The commissioner of agriculture, (a) may establish rules and regulations for the conduct of mosquito abatement operations of governmental units and boards engaged in mosquito abatement; (b) shall approve mosquito control plans and budgets of mosquito control boards before such plans can be put into operation; (c) may, if he consider it necessary, modify or revoke any approval he may have given to any mosquito control plan upon written notice to the governing body or mosquito abatement board; and (d) shall be ex officio a member of each mosquito abatement board, and he may appoint representatives to act for him as ex officio member of any such board.

Subd. 2. The commissioner of natural resources shall approve mosquito abatement plans or make such modifications as he deems necessary for the protection of public water, wild animals and natural resources before control operations are started and any such approval may, if he considers it necessary, be modified or revoked by the commissioner of natural resources at any time upon written notice to the governing body or mosquito abatement board.

Subd. 3. If any revision of previously approved plans are necessary during the mosquito control season, any such revision shall be made through joint approval of the commissioner of agriculture and the commissioner of natural resources.

[ 1949 c 404 s 9; 1961 c 113 s 1; 1969 c 1129 art 3 s 1 ]

18.13 [ Repealed, 1961 c 127 art 1 s 8 ]

**18.131 COOPERATION BETWEEN GOVERNMENTAL UNITS.** When two or more adjacent governmental units shall have authorized mosquito abatement and appointed the members of the mosquito abatement board, the governing bodies of any such two or more governmental units may, by written contract, arrange for pooling mosquito abatement funds, apportioning all costs, cooperating in the use of equipment and personnel and for engaging jointly in mosquito abatement upon such terms and conditions and subject to such rules and regulations as may be mutually agreed upon. The immediate control and management of the joint project may, by the terms of the written contract, be entrusted to a joint committee composed of the chairman of each of the boards or such other board members as may be agreed upon.

[ 1949 c 404 s 10 ]

**18.14** [ Renumbered 18.022, subsds 1-4 ]

**18.141 UNORGANIZED TOWNS; POWERS OF COUNTY BOARD.** In any township of this state that is unorganized politically, the county board of the county wherein the township is situated shall have all the rights, powers and duties conferred by sections 18.041 to 18.161 upon the governing bodies of towns (including town boards) and in any such case the county board shall act as though it were the governing body and town board of said township and may authorize and undertake mosquito abatement in any such township and cause taxes to be levied for mosquito abatement the same as though said township were organized politically and said county board were the governing body and town board thereof: Provided, that the cost of mosquito abatement in any such township shall be paid solely by a tax levy on the property within the township where mosquito abatement is undertaken and no part of the expense of mosquito abatement in said township shall be county expense or be paid by any such county.

[ 1949 c 404 s 11 ]

**18.15** [ Repealed, 1953 c 641 s 3 ]

**18.151 COST OF STATE'S SERVICE; REFUNDMENT.** The actual cost to the state of any service rendered or expense incurred by the department of agriculture and department of natural resources under the provisions of sections 18.041 to 18.161 to or for the benefit of any mosquito abatement board shall be billed to the mosquito abatement board benefiting therefrom and be paid by it as other expenses of mosquito abatement.

[ 1949 c 404 s 12; 1969 c 1129 art 3 s 1 ]

**18.16** [ Repealed, 1953 c 641 s 3 ]

**18.161 PUBLIC FUNDS, EXPENDITURE, LIMITATION.** Nothing contained in sections 18.041 to 18.151 shall be construed to authorize the expenditure of public funds by any governmental unit in excess of the amounts fixed in any law limiting the expenditures of any governmental unit on a per capita basis.

[ 1949 c 404 s 13 ]

#### NOXIOUS WEEDS, GENERALLY

**18.17** [ Repealed, 1953 c 641 s 3 ]

**18.171 NOXIOUS WEED DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of sections 18.181 to 18.271 and 18.281 to 18.311 the terms defined in subdivisions 2 to 7, have the meanings given to them.

Subd. 2. **Municipality.** "Municipality" means a city or township.

Subd. 3. **Nonresident lands.** "Nonresident lands" refers to all lands which are unoccupied, and the owner of which does not reside within the county.

Subd. 4. **Resident lands.** "Resident lands" refers to all lands which are occupied or which are owned by persons resident within the county.

Subd. 5. **Noxious weeds.** "Noxious weeds" means the annual, biennial, and perennial plants which are deemed by the commissioner to be injurious to public health, public roads, crops, livestock and other property.

Subd. 6. **Otherwise destroy.** "Otherwise destroy" refers to killing of weed plants above the surface of the ground. "Eradicate" refers to complete killing of weeds by use of cutting, chemicals, tillage, cropping system, pasturing, livestock or

# MINNESOTA STATUTES 1978

367

## PLANT AND ANIMAL PEST CONTROL 18.201

crops, or all of these in effective combination.

Subd. 7. **Permanent pasture and meadow.** "Permanent pasture and meadow" means an area of native or seeded perennial grasses and other perennial plants used for hay or grazing which has been seeded for more than two years and does not include annuals or biennials planted for or to be used for hay or pasture not more than one or two years.

[ 1923 c 318 s 2; 1925 c 377; 1937 c 371 s 1; 1945 c 534 s 1; 1947 c 536 s 1; 1951 c 466 s 1; 1957 c 724 s 1; 1961 c 127 art 1 s 1; 1973 c 123 art 5 s 7 ] (6152)

**18.18** [ Repealed, 1953 c 641 s 3 ]

**18.181 ENFORCEMENT; REGULATIONS.** The commissioner is hereby authorized, and it shall be his duty, to execute sections 18.181 to 18.271 and, to that end, he may make and enforce such regulations as, in his judgment, shall be necessary; he shall investigate the subject of noxious weeds, and to that end may require information from any local weed inspector, mayor, county commissioner, or county agent as to the presence of noxious weeds or other information relative to noxious weeds and their control in the localities where such officer resides or has jurisdiction; and he may enter, or have someone for him enter, upon any and all lands in the state and take such samples of weeds, weed seeds, grains, or other material needed for investigation of noxious weeds. He shall also suggest and formulate methods for the eradication and removal of noxious weeds from agricultural and other lands in this state and to that end may, from time to time, publish and circulate bulletins, call and attend meetings and conventions dealing with the subject of noxious weeds, and may conduct such educational campaign as he considers desirable.

[ 1923 c 318 s 1; 1925 c 377 s 1; 1973 c 123 art 5 s 7 ] (6151)

**18.19** [ Repealed, 1953 c 641 s 3 ]

**18.191 DESTRUCTION OF NOXIOUS WEEDS.** Except as otherwise specifically provided in sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322, it shall be the duty of every occupant of land or, if the land is unoccupied, the owner thereof, or his agent, or the public official in charge thereof, to cut down, otherwise destroy, or eradicate all noxious weeds as defined in section 18.171, subdivision 5, standing, being, or growing upon such land, in such manner and at such times as may be directed or ordered by the commissioner, his authorized agents, the county agricultural inspector, or by a local weed inspector having jurisdiction.

[ 1923 c 318 s 3; 1925 c 377 s 3; 1927 c 194 s 1; 1945 c 534 s 2; 1951 c 466 s 2; 1965 c 285 s 1 ] (6153)

**18.20** [ Repealed, 1953 c 641 s 3 ]

**18.201 RAILROAD COMPANIES TO DESTROY NOXIOUS WEEDS ON THEIR LANDS.** It shall be the duty of every railway company and every suburban railway company to cause all noxious weeds standing, being, or growing on the right of way or on land of the company adjoining the right of way, to be cut down, otherwise destroyed or eradicated in such manner and at such times as may be directed or ordered by the local weed inspector, the county agricultural inspector after consultation with the local weed inspector, or by the commissioner or by any one for him. If any such company fails to perform such duty, the local weed inspector, or the county agricultural inspector, after consultation with the local weed inspector, shall give the notice provided in section 18.241, subdivision 1, which shall be served in the manner of serving a summons in a civil action in the district court. If the weeds are not removed and destroyed within the time directed in the notice, the local weed inspector, the county agricultural inspector, after consultation with the local weed inspector, or the commissioner shall cause them to be removed and destroyed. He shall then furnish to the owner of the land on which the weeds grew an itemized statement showing the reasonable cost of cutting and destroying the weeds, and the owner of the land must pay such reasonable cost to the municipality which caused the destruction thereof. If such owner fails to pay such reasonable cost within 20 days after such statement is furnished, the reasonable cost of removal and destruction of such weeds may be recovered by the municipality or by the commissioner in a civil action.

[ 1923 c 318 s 4; 1925 c 377 s 4; 1945 c 105 s 1; 1965 c 285 s 2 ] (6154)

**18.21** Subdivision 1. [ Repealed, 1959 c 35 s 19 ]

Subd. 2. [ Renumbered 18.022, subd 5 ]

**18.211 PUBLIC HIGHWAYS, NOXIOUS WEEDS DESTROYED.** The commissioner of transportation and the public authorities charged with the maintenance of other public highways, annually shall cause all noxious weeds standing, being or growing on all trunk highways and other public highways, to be cut down, otherwise destroyed or eradicated, as often as necessary to prevent the ripening or scattering of seed and other propagating parts of such weeds, in the manner directed or ordered by the commissioner, or the county agricultural inspector or the local weed inspector having jurisdiction. The expense thus incurred shall be charged against maintenance funds provided for this purpose.

[ 1923 c 318 s 5; 1925 c 377; 1927 c 194 s 2; 1951 c 466 s 3; 1957 c 724 s 5; 1965 c 285 s 3; 1976 c 166 s 7 ] (6155)

**18.22** [ Renumbered 18.021 ]

**18.221 THRESHING OUTFITS CLEANED BEFORE MOVING.** It shall be the duty of every person owning or operating a threshing machine, combine, seed huller, hay baler or other equipment used in the harvesting of crops, immediately after completing the threshing of grain or seed at each and every point of threshing, or in transit interstate or intrastate, to clean or cause the machine to be cleaned, together with all wagons and other outfits used in connection therewith, so that seeds of noxious weeds shall not be carried to, or on the way to, the next place of threshing by the threshing outfit.

A printed copy of this section, in form provided by the commissioner, shall be affixed by the owner to and remain affixed to every threshing machine, combine, seed huller, hay baler and other equipment used in the harvesting of crops during all the time the same is operated in the state.

Any person failing to comply with the provisions of this section shall be liable to a fine of not less than \$10 nor more than \$25 for each failure.

[ 1923 c 318 s 6; 1925 c 377 s 6; 1945 c 534 s 3; 1949 c 494 s 1 ] (6156)

**18.23** [ Repealed, 1955 c 503 s 6 ]

**18.231 INSPECTORS.** Subdivision 1. **County agricultural inspectors.** The board of county commissioners, when requested by the commissioner of agriculture, shall appoint one or more county agricultural inspectors, who shall meet qualifications prescribed by the commissioner of agriculture, whose duties shall be to see that the provisions of all laws and regulations dealing with weed control and seed inspection are carried out; to participate in insect and plant disease, economic poison, feed, and fertilizer programs. When requested by the commissioner, they are to participate in other agricultural programs which are under his control, provided that the board of county commissioners shall have the right to veto participation in such programs. Such appointment shall be for full time employment, or for a period of time mutually agreeable to the board of county commissioners and the commissioner of agriculture. The resolution appointing such inspectors shall fix the compensation to be paid to the person or persons so appointed. The resolution shall also provide for manner of reimbursement for necessary traveling expenses in addition thereto.

Subd. 2. **Board members as inspectors, assistants, compensation.** The members of the several town boards of the county shall act as local weed inspectors within their respective towns, throughout the year, in accordance with the provisions of sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322 relative to local weed inspectors.

Any town board may appoint persons to act as assistant weed inspectors, who shall have all the powers and authority of the town board members in the capacity of weed inspector. Such appointment may be for full time or part time. Notice of such appointment, together with a statement of the time for which appointment is made, shall be delivered to the commissioner within ten days after the date the appointment was made.

The compensation of such local weed inspectors and their assistants shall not be less than \$1 per hour and necessary traveling expenses in addition thereto, such hourly compensation to be the amount determined by the town board to be consistent with the hourly wage rate prevailing in their community or area for work of like character, and to be necessary to obtain competent inspectors, such compensation to be in addition to the amount allowed by law for other supervisory duties, if any, performed by such local inspectors or assistant inspectors.

**Subd. 3. Mayor or president of municipality as inspector, assistant, compensation.** The mayor or president of any municipality shall act as local weed inspector in his municipality throughout the year in accordance with the provisions of sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322 relative to local weed inspectors.

Any mayor or president of a municipality may appoint persons to act as assistant weed inspectors in the municipality who shall have all the powers and authority as the mayor or president in the capacity of weed inspector.

Notice of such appointment shall be sent to the commissioner within ten days from the date of the appointment.

The compensation of such local weed inspectors and assistant weed inspectors shall be not less than \$1 per hour and necessary expenses in addition thereto, such hourly compensation to be the amount determined by the municipal council to be consistent with the hourly wage rate prevailing in their community or area for work of like character and to be necessary to obtain competent inspectors and be paid from the general revenue fund or other fund of the municipality designated by the council and shall be in addition to any compensation, and expenses paid such inspectors or assistant inspectors for other duties as an official or employee of the municipality.

**Subd. 3a. Minneapolis weed inspector.** Notwithstanding the provisions of subdivision 3, the governing body of the city of Minneapolis shall appoint or designate an employee of such city to act as local weed inspector, at such compensation as it shall determine.

The commissioner shall be sent notice within ten days of the appointment or designation.

**Subd. 4. Expense, how paid.** Failure on the part of any municipality or town to include the item of weed inspection in the annual budget is no excuse and shall not justify the nonpayment of any charges or expenses incurred by inspectors, as provided in sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322, which charges or expenses shall be audited and paid as other obligations of such municipality or town are paid. In the event that it should be shown that weed inspection has not been done commensurate with the bill presented, the commissioner of agriculture may recommend to the county board, town board, or municipal council that such bill be not allowed.

**Subd. 5. Paid by the county.** If any municipality or town neglects or refuses, for a period of 60 days, to make such payments, they shall be paid by the county auditor, on the recommendation of the commissioner, and the total of all such amounts so paid shall be included by the county auditor as a part of the next annual tax levy in such municipality or town and withheld from that municipality or town in making the next apportionment thereto.

[ 1923 c 318 s 7; 1925 c 377 s 7; 1939 c 330 s 1; 1945 c 534 s 4; 1949 c 494 s 2; 1951 c 466 s 4; 1955 c 265 s 1,2; 1957 c 724 s 6,7; 1961 c 542 s 1,2; 1965 c 285 s 4; 1971 c 523 s 1 ] (6157)

**18.24** [ Repealed, 1955 c 503 s 6 ]

**18.241 DUTIES OF LOCAL WEED INSPECTORS.** Subdivision 1. **Examination of land; notice to eradicate.** It shall be the duty of each local weed inspector to examine all lands, highways, roads, alleys, and public ground in the territory over which his jurisdiction extends, for the purpose of ascertaining if the provisions of sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322 and the regulations of the commissioner have been complied with, and if he finds that such is not the case he shall cause to be given forthwith a notice, in writing, on a form to be prescribed by the commissioner, to the proper public officer or to the owner or occupant, or to the agent of any owner of nonresident lands within the municipality whereon noxious weeds are standing, being, or growing and in danger of going to seed or otherwise spreading, requiring him to cause the same to be cut down, otherwise destroyed or eradicated on the lands, in such manner and within the time or times specified in the notice. He shall also attend, when required, such conferences called by the commissioner for the purpose of receiving instructions and for a full and free discussion of sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322 and their administration.

**Subd. 2. Regulations regarding transportation.** Except as provided in section 21.74, when any person desires to transport along a public highway materials containing seeds or other propagating parts of leafy spurge, horse nettle, Austrian field cress, field bindweed, perennial pepper grass, wild radish, sow thistle, Canada thistle, hoary alyssum, or any other noxious weed designated by the commissioner, he shall secure from a local or state weed inspector, or county agricultural inspector, a written permit for the transportation of such material. All duly constituted weed inspectors may issue such permits to persons residing or operating within their respective weed jurisdictions to regulate the transportation of such material and to require proper treatment, cleaning, sterilization or destruction of any such material which has been or is about to be transported or deposited to prevent the growing or scattering of any weed seeds or other propagating parts contained therein. Copies of all permits issued under this section shall be immediately sent to the commissioner.

Except as provided in section 21.74, no grain seed, screenings, hay forage, straw, soil, gravel, sand, or refuse and other materials containing seeds and other propagating parts of leafy spurge, horse nettle, Austrian field cress, field bindweed, perennial pepper grass, wild radish, sow thistle, Canada thistle, hoary alyssum or any other noxious weeds designated by the commissioner shall be transported upon any public highway unless it be in sacks, bales, boxes or other containers sufficiently tight and closed or covered with canvas or otherwise to prevent seeds and other propagating parts of such weeds from blowing or scattering along the highway or on other lands or water.

Scattering and dumping on land or in water of grain, seed, and screenings containing seeds and other propagating parts of noxious weeds in excess of legal limits of weed seeds per pound in agricultural seed, and of soil, gravel, rubbish, trash, and other materials containing seeds or other propagating parts of noxious weeds in harmful amounts as determined by regulation of the commissioner is prohibited unless such material is processed, treated, or buried sufficiently deep to destroy viable seeds and other propagating parts which they contain down to the limits provided by this section.

**Subd. 3. Tax-forfeited, tax exempt or Indian reservation lands.** If the officials or persons in charge of tax exempt, tax forfeited lands or Indian reservation lands fail to cut down, otherwise destroy or eradicate these noxious weeds in the manner prescribed in sections 18.181 to 18.271, 18.281 to 18.311, and 18.321 to 18.322 or in any notice served, within the designated number of days after service thereof, the commissioner shall forthwith proceed to cause them to be cut down, otherwise destroyed or eradicated, as directed or approved by the commissioner, and the expense thus incurred shall be a just charge against funds provided for this purpose and upon presentation of an itemized account of the same, payment shall be made by the public officials in charge of such funds.

County commissioners boards shall provide funds and adequate equipment and materials and labor necessary for adequate control and eradication of weeds on county highways and property and to assist and facilitate county agricultural inspectors and local weed inspectors in the county in weed inspection and control and enforcement of the weed laws. They may cooperate with the state, towns, municipalities, and private property owners and provide such county funds, equipment, materials, labor and facilities for weed inspection, control and eradication with or without reimbursement from the public agency or private property benefited. Towns and municipalities may by vote of their electors or governing boards provide for weed control necessary funds, equipment, materials and labor and arrange for their use on public or private property within their limits with or without reimbursement from the property benefited.

**Subd. 4. Entering upon land not trespass.** For the purpose of performing his duties and exercising his powers each local weed inspector, or county agricultural inspector, the commissioner or his agents may enter upon any land without consent of the owner and without being subject to any action for trespass or any damages.

[ 1923 c 318 s 8; 1925 c 377 s 8; 1937 c 371 s 2; 1945 c 534 s 5; 1947 c 536 s 3; 1951 c 466 s 5; 1957 c 724 s 8-10; 1961 c 127 art 2 s 1; 1965 c 285 s 5 ] (6158)

**18.25** [ Repealed, 1955 c 503 s 6 ]

**18.251 WEEDS; CUTTING IN GROWING CROPS.** When any local weed inspector or county agricultural inspector deems it necessary, to prevent the spread of

noxious weeds within his jurisdiction, to cut down, otherwise destroy or eradicate a growing crop, or any part thereof, before proceeding to do so, he shall notify, in writing, on a form prescribed by the commissioner, the mayor of the city or a county commissioner, as the case may be, to inspect the crop. If on the inspection it is the opinion of the officer making the same that the weeds, together with the crop or portion thereof, should be cut down, otherwise destroyed or eradicated, such cutting or destroying shall be immediately performed under the direction of the local weed inspector or by his authority or under the direction of the county agricultural inspector. If the officer making the inspection is of the opinion that these weeds, together with the crop or portion thereof, should not be cut down, otherwise destroyed or eradicated, the matter in issue shall be reported to and determined by the commissioner or by his agents, whose decision thereon shall be final, except insofar as the same may be reviewed under the existing laws in courts, and thereupon if so determined the local weed inspector or county agricultural inspector shall immediately cause the weeds together with the crop or a portion thereof, to be cut down, otherwise destroyed or eradicated. No action or claim for damages shall be allowed or shall be sustainable against anyone in respect thereto. Notwithstanding anything contained herein, the local weed inspector or county agricultural inspector may cut down, otherwise destroy or eradicate these weeds, together with the crop, on areas not exceeding three acres in the aggregate in any one field or crop of 40 acres or less, other than permanent pasture or meadow, without any notification or application to the mayor or county commissioner. After being notified by the local weed inspector or the county agricultural inspector to inspect a crop, if the mayor or the county commissioner fails to make such inspection and to report to the local weed inspector within seven days after the receipt of a notice to inspect the crop, the local weed inspector or county agricultural inspector may thereupon proceed to cut down, otherwise destroy or eradicate such weeds, together with the crop, to the same extent as though the officer notified had made an inspection and reported in the affirmative.

[ 1923 c 318 s 9; 1925 c 377 s 9; 1945 c 534 s 6; 1951 c 466 s 6; 1957 c 724 s 11; 1965 c 285 s 5; 1973 c 123 art 5 s 7 ] (6159)

**18.26** [ Repealed, 1955 c 503 s 6 ]

**18.261 REPORTS BY INSPECTORS.** Each weed inspector shall make such reports as may be required by the commissioner.

[ 1923 c 318 s 10; 1925 c 377 s 10; 1945 c 534 s 7 ] (6160)

**18.271 DESTROYING WEEDS; NOTICES; EXPENSES.** Subdivision 1. **Notice to eradicate.** Notices for control and eradication of noxious weeds shall consist of two kinds: general notices and individual notices, of a form prescribed by the commissioner. General notice shall be published by each local weed and seed inspector of township, municipality or county, in one or more legal newspapers of general circulation throughout the area over which the weed inspector has jurisdiction, on or before June 15th of each year, and at such other time as the commissioner may direct or the local weed inspectors may determine. Failure of weed inspectors to publish general weed notices or to serve individual notices herein provided does not relieve any person from the necessity of full compliance with any or all provisions of this chapter and regulations thereunder. In all cases said published notice shall be deemed legal and sufficient notice.

Subd. 2. **Service.** Whenever a local weed inspector finds it necessary to secure more prompt or definite control or eradication of noxious weeds in certain special or individual instances, involving one or a limited number of persons than is accomplished by the general published notices, he shall cause to be served individual notices in writing upon the owner and occupant, if other than the owner, giving specific instructions and methods when and how certain named weeds are to be controlled or eradicated. Such methods of control may include definite systems of tillage, cropping, management and use of livestock. All individual notices provided for herein shall be served in the same manner as a summons in a civil action in the district court or by certified mail. Service on persons living temporarily or permanently outside of the local weed inspectors' jurisdiction whose property is vacant or unoccupied may be made by sending the notice by certified mail to the last known address of such person, to be ascertained, if necessary, from the last tax list in the county treasurer's office.



**Subd. 3. Destruction by inspector, expense, payment.** When any person, in compliance with a notice served on him, or with the provisions of this chapter, fails to cut down, otherwise destroy or eradicate any noxious weeds or any crop in which such weeds are intermingled or growing, within the time and in such manner as the weed inspector may designate, or as otherwise provided herein, the local weed inspector having jurisdiction, or if there is no local weed inspector, the county agricultural inspector or the commissioner, shall cause the same to be cut down, otherwise destroyed or eradicated at the expense of the county in which the land affected is situated, and claim for such expense of serving of notices, together with the cost of cutting down, otherwise destroying or eradicating the noxious weeds, is hereby made a legal charge against the county in which the lands are located. After such cutting down, otherwise destroying or eradicating of noxious weeds, the officer causing the same to be done shall file verified and itemized statements of the costs of all services rendered in connection with serving of notices and cutting down, otherwise destroying or eradicating the noxious weeds on each separate tract or lot of land, with the county auditor in which such lands are located, who shall immediately issue proper warrants to the persons named therein for the amount specified. The amount of such expenses is a lien in favor of the county against the land involved and shall be certified to by the county auditor, and entered by him on his tax books as a tax upon such land, and shall be collected as other real estate taxes are collected. The amount of such expenses, when collected shall be used to reimburse the county for its expenditure in this regard.

**Subd. 3a. Cannabis sativa L.** Notwithstanding the provisions of subdivision 3 as they relate to procedures for payment of costs and expenses incurred, a county agricultural inspector may provide for the destruction of the plant *Cannabis sativa L.* at the expense of the county in instances where a strict compliance with subdivision 3 is deemed impractical.

**Subd. 4. Costs and expenses.** Notwithstanding the provisions of subdivision 3 as they relate to procedures for payment of costs and expenses incurred, when the local weed inspector or the assistant weed inspector of a city shall cause noxious weeds to be cut down, destroyed, or otherwise eradicated on property within such city under the authority of this section, the following procedures shall apply for costs and expenses thus incurred.

Notice in writing of the work done and the costs and expenses involved shall be served on the owner or occupant of the property in accordance with the individual notice provisions of subdivision 2. Such notice shall provide a tabulation of the total costs and expenses involved and shall indicate that if the total amount is not paid to the city within 30 days or before the following October 1, whichever is later, the costs and expenses shall become a lien in favor of the city and a penalty of eight percent will be added to the amount due as of that date with the total costs, expenses, and penalty thereupon to be certified to the county auditor and entered by him on his tax books as a tax upon such land.

Amounts collected by the county auditor under the provisions of this subdivision when collected shall be paid to the city to reimburse it for its expenditures in this regard.

[ 1923 c 318 s 11; 1925 c 377 s 11; 1945 c 534 s 8; 1951 c 466 s 7; 1957 c 724 s 13,14; 1961 c 542 s 3; 1965 c 285 s 5; 1969 c 715 s 1; 1971 c 641 s 1; 1974 c 290 s 1 ] (6161)

**18.272 PENALTY.** Any person who violates any of the provisions of sections 18.181 to 18.271 or who violates any duly adopted regulation of the commissioner or who neglects, fails, or refuses to comply with any notice duly issued thereunder by the commissioner, or a local weed inspector, and duly served upon him, or who fails, refuses, or neglects to perform any duty imposed upon him by sections 18.181 to 18.271, shall be guilty of a misdemeanor; and, upon conviction, punished accordingly.

[ 1923 c 318 s 12; 1925 c 377 s 12; 1961 c 127 art 1 s 2 ] (6162)

**18.281 ENFORCEMENT OF NOXIOUS WEED QUARANTINES; ASSISTANTS; EQUIPMENT.** The commissioner is hereby authorized, and it shall be his duty, to administer sections 18.281 to 18.311, and he shall have authority to make, promulgate, and enforce such rules and regulations as he shall deem necessary, and cooperate with the dean of the institute of agriculture of the University of Minnesota in the study of life habits and eradication methods of noxious weeds; and, from time to time,

# MINNESOTA STATUTES 1978

373

## PLANT AND ANIMAL PEST CONTROL 18.315

shall publish such information upon the subject as may be of public interest and value to the agricultural communities of the state.

The commissioner may engage such additional employees and purchase such equipment and supplies as may be necessary to carry out the provisions thereof.

[ 1935 c 348 s 1,2; 1937 c 72 s 1; 1957 c 724 s 12 ] (6164-4,6164-5)

**18.291 COMMISSIONER MAY QUARANTINE AND DESTROY WEEDS.** When from investigation or otherwise, it appears to the commissioner that upon any tract of agricultural land there is an infestation of noxious weeds beyond the ability of the land occupant or owner to eradicate, upon request of the owner, or upon his own motion, he shall take such steps as are necessary to prevent further spread of such weed growths. To this end, he shall quarantine such portion of each tract of land as may be so infested and put into immediate operation the necessary means for the eradication of such weed growths.

[ 1935 c 348 s 4; 1957 c 724 s 15 ] (6164-7)

**18.301 MUST GIVE WRITTEN NOTICE.** The commissioner, upon entering upon any tract of land for the purposes of sections 18.281 to 18.311 shall give written notice to the owner of such entry and quarantine, if established, and shall also give the owner written notice of the completion of his operation thereon.

[ 1935 c 348 s 5 ] (6164-8)

**18.31** [ Renumbered 18.041 ]

**18.311 EXPENSES.** The expenses of field operations, including cost of chemicals and other materials employed in weed eradication, except machinery and other equipment, shall be paid from the fund provided for this purpose. This fund shall be reimbursed not later than January first, of each year, 20 percent thereof by the county and ten percent thereof by the town in which the land so quarantined and improved is situated.

When the infestations of noxious weeds, against which the activities of the commissioner are directed, are found located on the sides of public highways, the expenses of eradication shall be paid, 50 percent by the state from the fund provided for this purpose, 50 percent from the funds provided for the maintenance of the state highway department, if the infestation is on a state highway, 50 percent by the county, if the infestation is on a county or state aid road, and 50 percent by the town, if the infestation is on a town road or cartway.

When infestations of noxious weeds, against which the activities of the commissioner are directed, are found located within the corporate limits of a municipality or on property used by a municipality, the expense of the eradication of such weeds shall be paid as follows: 50 percent thereof by the state from the funds provided for this purpose and 50 percent by the municipality from its general revenue fund.

[ 1935 c 348 s 6; 1937 c 72 s 2; 1957 c 724 s 16 ] (6164-9)

**18.312 PENALTY.** Any person who shall intrude upon any lands placed under quarantine by direction of the commissioner or who shall interfere with the operation of any machinery or other equipment being employed by or in use by the commissioner, or his duly authorized agents, in carrying out the provisions of sections 18.281 to 18.311 shall be guilty of a misdemeanor.

[ 1935 c 348 s 8 ] (6164-11)

**18.315 CONTROL OF WEEDS ON STATE LANDS.** A town or city may cut or otherwise act to control noxious weeds as defined in section 18.171, subdivision 5, on state lands owned that are located within the territorial limits of the town or city if the state agency responsible for supervision and maintenance of the land fails to cut or take steps to control the noxious weeds within 14 days of receiving a notice to cut or control the noxious weeds from the town board of supervisors or city council. A town or city that cuts or acts to control noxious weeds as authorized by this section shall be reimbursed from the operating budget of the state agency responsible for the land upon documented proof of reasonable and necessary expenses incurred to prevent the spread of noxious weeds from the state owned land. Each request for reim-

bursement shall first be approved by the department of agriculture.

[ 1976 c 21 s 1 ]

HEMP CONTROL

18.32 [ Renumbered 18.051 ]

**18.321 GROWING HEMP (CANNABIS SATIVA L.) FOR COMMERCIAL PURPOSES; LICENSES.** Growing or maintenance of hemp, *Cannabis sativa L.*, is permitted only for commercial uses, as herein defined. Commercial uses are such adaptations of hemp as are necessary and proper for the manufacture of rope, sacks, and other sisal hemp products and such other non-injurious commercial products, including the manufacture of batts, yarn, thread, cordage, merchandise, cloth, and such other products as may be made from linen fiber, as have been or may be developed; submitted to the commissioner and approved by him. The commissioner is hereby authorized, and it shall be his duty, to license and authorize the growing of hemp when the derivatives thereof are to be used solely for the commercial uses herein defined. Any person desiring to grow hemp for commercial purposes, as herein defined, shall file an application for a license therefor with the commissioner, giving a description and the area of land intended to be so used. The commissioner shall issue a license to the applicant for the growing of such hemp for such commercial uses as are specified in the application and license, and the growing of hemp, pursuant to the terms of the license issued by the commissioner shall be lawful to the extent granted by the license.

[ 1939 c 405 s 4; 1969 c 57 s 1 ] (10278-14)

**18.322 LICENSEE TO NOTIFY COMMISSIONER.** Any person to whom a license for commercial growing of hemp, *Cannabis sativa L.*, is issued shall notify the commissioner of the sale or distribution thereof, and the names of the persons to whom such hemp is sold or distributed.

[ 1939 c 405 s 5; 1969 c 57 s 2 ] (10278-15)

**18.323 PENALTY.** Any person violating any of the provisions of sections 18.321 to 18.322 is guilty of a misdemeanor.

[ 1961 c 127 art 1 s 3 ]

BARBERRY AND MAHONIA BUSHES

18.33 [ Renumbered 18.061 ]

**18.331 CERTAIN BARBERRY AND MAHONIA BUSHES DECLARED NUISANCES.** All barberry (*Berberis Sp.*) bushes and all Mahonia (*Mahonia Sp.*) bushes, except the species and variety known as Japanese barberry (*Berberis thunbergii*), are rust-producing species and are hereby declared to be a public nuisance and a menace to the public welfare and their maintenance, propagation, sale, or introduction into the state is forbidden. It shall be the duty of every person owning, occupying or having charge of any premises on which such bushes of the rust-producing varieties are grown, or at any time found growing, to forthwith destroy such bushes.

[ 1919 c 81 s 1 ] (6146)

**18.332 AUTHORITY OF COMMISSIONER.** The commissioner shall cause all such rust-producing Mahonia bushes or barberry bushes to be eradicated. He shall make rules and regulations relating to the most convenient and expedient method of eradicating and destroying such rust-producing Mahonia bushes or barberry bushes. He shall appoint agents to enforce the provisions of sections 18.331 to 18.334. He and his agents shall have free access, at all reasonable hours, to any premises to determine whether such rust-producing Mahonia bushes or barberry bushes are growing thereon. He shall require reports from the owners or occupants of any premises as to the presence of such bushes thereon.

[ 1919 c 81 s 2; 1957 c 724 s 2 ] (6147)

**18.333 DESTRUCTION OF BUSHES.** In pursuance of his powers granted by sections 18.331 to 18.334, when the commissioner, or his agents, shall have found Mahonia bushes or barberry bushes of such rust-producing varieties on any premises, it shall be the duty of the commissioner, or his agents, as the case may be, to immediately notify, or cause to be notified, the owner or occupant of the premises on which

such bushes are growing; such notice shall be sent to the owner or occupant in such form as the commissioner shall prescribe, and it shall be the duty of every occupant of land or, if the land is unoccupied, the owner thereof, or his agent, or the public official in charge thereof, to cut down, otherwise destroy, or eradicate all such Mahonia bushes or barberry bushes as defined in section 18.171, subdivision 5, standing, being, or growing upon such land, or in such manner and at such times as may be directed or ordered by the commissioner or his agents. The expense of such destruction shall be paid to the state commissioner by the owner of the premises within ten days after the rendition of a bill therefor, and if such costs shall not be paid within that time, the bill is hereby made a legal charge against the county or municipality in which the lands are located. After such cutting down, otherwise destroying or eradicating of noxious weeds, the officer causing the same to be done shall file verified and itemized statements of the costs of all services rendered in connection with serving of notices and cutting down, otherwise destroying or eradicating the noxious bushes on each separate tract or lot of land, with the county auditor or with the clerk of the municipality in which such lands are located, who shall immediately issue proper warrants to the persons named therein for the amount specified. The amount of such expenses shall constitute and be a lien in favor of the county or municipality, as the case may be, against the land involved and shall be certified to by the county auditor, the municipal clerk, and entered by the county auditor on his tax books as a tax upon such land, and shall be collected in the same manner as other real estate taxes are collected. The amount of such expenses, when collected shall be used to reimburse the county or municipality for its expenditure in this regard. Where the lands involved are located in unorganized territory, the expense of eradicating or destroying such bushes shall be paid by the county auditor out of the general revenue fund of the county, upon the verified itemized statement of the commissioner or his agent and the amount of such payment shall be entered by him on the tax books as a tax on such lands and shall constitute and be a lien in favor of such county against the lands involved and shall be collected in the same manner as other real estate taxes are collected.

[ 1919 c 81 s 3; 1957 c 724 s 3 ] (6148)

**18.334 CERTIFICATE OF COMMISSIONER.** The commissioner or his agent may, or when requested by any resident of the state shall, determine, or cause to be determined, whether or not the Mahonia bushes or barberry bushes grown on certain premises are of the rust-producing varieties. The commissioner shall make a certificate of his findings and determination on the premises, which certificate shall be prima facie evidence of the facts therein recited. Such certificate may be received in evidence in any civil action arising under the provisions of sections 18.331 to 18.334.

[ 1919 c 81 s 4; 1957 c 724 s 4 ] (6149)

**18.335 PENALTY.** Any person violating any of the provisions of sections 18.331 to 18.334 is guilty of a misdemeanor.

[ 1961 c 127 art 1 s 4 ]

#### FOREST PESTS, GENERALLY

**18.34** [ Renumbered 18.071 ]

**18.341 DEFINITIONS.** Subdivision 1. For the purposes of sections 18.341 to 18.423 the terms described in this section have the meanings ascribed to them.

Subd. 2. Person, shall include any individual, firm, partnership, corporation, public or private, association or any other business entity whether or not incorporated.

Subd. 3. Commissioner, shall mean the commissioner of natural resources.

Subd. 4. Director, division of lands and forestry shall include department of natural resources and department of agriculture personnel deputized by the director, division of lands and forestry.

Subd. 5. Control, includes prevent, retard, suppress, eradicate or destroy.

Subd. 6. Infestation, includes actual, potential, incipient or emergency infestation or infection by forest pests.

Subd. 7. Cooperators, shall include state, federal, county, municipal and private governmental and business organizations and their legal representatives.

Subd. 8. Forest pest, means any vertebrate or invertebrate animal or plant pathogen which is determined by the commissioner to be harmful, injurious or destructive to forests or timber.

Subd. 9. Forest land or forest, means land on which occurs a stand or potential stand of trees valuable for timber products, watershed or wildlife protection, recreational uses or other purposes, and shall include lands owned or controlled by the state of Minnesota.

Subd. 10. Timber, includes forest trees standing or down, alive or dead.

[ 1955 c 676 s 1; 1957 c 295 s 1,2; 1961 c 113 s 1; 1967 c 905 s 5; 1969 c 1129 art 3 s 1; 1976 c 16 s 1 ]

**18.35** [ Renumbered 18.081 ]

**18.351 SURVEYS, INVESTIGATIONS.** The commissioner shall make surveys and investigations to determine the presence of infestations of forest pests. For this purpose duly designated representatives of the commissioner may enter at reasonable times on public and private lands for the purpose of conducting such surveys and investigations.

[ 1955 c 676 s 2; 1957 c 295 s 3 ]

**18.36** [ Renumbered 18.091 ]

**18.361 CONTROL OF FOREST PESTS.** Subdivision 1. Whenever the commissioner finds that an area in the state is infested or threatened to be infested with forest pests, he shall determine whether measures of control are needed and are available and the area over which the control measures shall be applied. The commissioner shall prescribe a proposed zone of infestation covering the area in which control measures are to be applied and shall publish notice of the proposal once a week, for two successive weeks in a newspaper having a general circulation in each county located in whole or in part in the proposed zone of infestation.

Subd. 2. The notice shall include a description of the boundaries of the proposed zone of infestation and a time and place where owners of forest lands in the zone may show cause orally or in writing why the zone should or should not be established. The commissioner shall consider any statements received in determining whether the zone shall be established.

[ 1955 c 676 s 3; 1957 c 295 s 4 ]

**18.37** [ Renumbered 18.101 ]

**18.371 ZONES OF INFESTATION, ESTABLISHMENT.** Upon the decision by the commissioner that the establishment of a zone is necessary, he shall make a written order establishing said zone, and upon making said order, said zone shall be established. Notice of the establishment of the zone shall thereupon be published in a newspaper having a general circulation in each county located in whole or in part in the proposed zone.

[ 1955 c 676 s 4; 1957 c 295 s 5 ]

**18.38** [ Renumbered 18.111 ]

**18.381 INFESTATION CONTROL, COSTS.** Upon the establishment of the zone of infestation, the commissioner may apply measures of infestation control on public and private forest and other lands within such zone and to any trees, timber, plants or shrubs thereon harboring or which may harbor the forest pests. For this purpose, the duly authorized representatives of the commissioner are authorized to enter upon any lands, public or private within such zone. The commissioner may enter into agreements with owners of the lands in the zone covering the control work on their lands, and fixing the pro rata basis on which the cost of such work will be shared between the commissioner and said owner.

[ 1955 c 676 s 5; 1957 c 295 s 6 ]

**18.39** [ Renumbered 18.121 ]

**18.391 EXPENSES.** Subdivision 1. At the end of each fiscal year and upon completion of the infestation control measures in any zone of infestation, the commissioner shall prepare a certified statement of expenses incurred in carrying out such measures, including expenses of owners covered by agreements entered into pursuant to section 18.381. The statement shall show the amount which the commissioner de-

# MINNESOTA STATUTES 1978

termines to be its share of the expenses. The share of the commissioner may include funds and the value of other contributions made available by the federal government and other cooperators. The balance of such costs shall constitute a charge on an acreage basis as provided herein against the owners of lands in the zone containing trees valuable or potentially valuable for commercial timber purposes and affected or likely to be affected by the forest pests for which control measures were conducted. In fixing the rates at which charges shall be made against each owner, the commissioner shall consider the present commercial value of the trees on his land, the present and potential benefits to such owner from the application of the control measures, and the cost of applying such measures to his land, and such other factors as in the discretion of the commissioner will enable him to determine an equitable distribution of the cost to all such owners. No charge shall be made against owners to the extent that they have individually or as members of a cooperative association contributed funds, supplies or services pursuant to agreement under this section.

Subd. 2. Notice of said charge and the amount thereof shall be given to the owner by delivery or by depositing the same in the United States mails in an envelope properly addressed to him and bearing sufficient postage. The owner shall have the right to protest such charge to the commissioner within 60 days from the date of such notice. He shall also have the same right to review of such charge as is provided with respect to ad valorem property assessments. Application for such review shall be made within 60 days from the date of action by the commissioner on any protest.

Subd. 3. The unpaid charges assessed under sections 18.341 to 18.423 and the actions of the commissioner on any protests filed pursuant to subdivision 2, shall be reported to the tax levying authority for the county in which the lands for which the charges are assessed are situated and shall be made a public record. Any charges finally determined to be due shall become a special assessment and shall be payable in the same manner and with the same interest and penalty charges and with the same procedure for collection as apply to ad valorem property taxes. Upon collection of the charges the county treasurer shall forthwith cause the amounts thereof to be paid to the forest pest control fund created by sections 18.341 to 18.423. Any unpaid charge or lien against the lands shall not be affected by the sale thereof or by dissolution of the zone of infestation.

[ 1955 c 676 s 6; 1957 c 295 s 7; 1967 c 905 s 5; 1976 c 16 s 2 ]

**18.40** [ Renumbered 18.131 ]

**18.401 DISSOLUTION OF ZONE INFESTATION.** Whenever the commissioner shall determine that forest pest control work within an established zone of infestation is no longer necessary or feasible, the commissioner shall dissolve the zone.

[ 1955 c 676 s 7; 1957 c 295 s 8 ]

**18.41** [ Renumbered 18.141 ]

**18.411 FOREST PEST CONTROL FUND.** All moneys collected under the provisions of sections 18.341 to 18.423 together with such moneys as may be appropriated by the legislature or allocated by the legislative advisory commission for the purposes of sections 18.341 to 18.423, and such moneys as may be contributed or paid by the federal government, or any other public or private agency, organization or individual, shall be deposited in the state treasury, to the credit of the forest pest control fund, which fund is hereby created, and any moneys therein are appropriated to the commissioner for use in carrying out the purposes hereof.

[ 1955 c 676 s 8; 1957 c 295 s 9; 1975 c 271 s 6 ]

**18.42** [ Renumbered 18.151 ]

**18.421 COOPERATION.** The commissioner may cooperate with the United States or agencies thereof, other agencies of the state, county or municipal governments, agencies of neighboring states or other public or private organizations or individuals and may accept such funds, equipment, supplies or services from cooperators and others as it may provide in agreements with the United States or its agencies for matching of federal funds as required under laws of the United States relating to forest pests.

[ 1955 c 676 s 9; 1957 c 295 s 10 ]

**18.422 DUTIES, RULES; COMMISSIONER.** The commissioner is authorized to employ personnel in accordance with the laws of this state, to procure necessary equipment, supplies and service, to enter into contracts, to provide funds to any agency of the United States for work or services under sections 18.341 to 18.423, and to designate or appoint, as its representatives, employees of its cooperators including employees of the United States or any agency thereof. The commissioner may prescribe rules and regulations for carrying out the purposes hereof.

[ 1955 c 676 s 10; 1957 c 295 s 11 ]

**18.423 ACT SUPPLEMENTAL.** Provisions of sections 18.341 to 18.423 are supplementary to and not to be construed to repeal existing legislation.

[ 1955 c 676 s 11 ]

**18.43** [ Renumbered 18.161 ]

#### WHITE PINE BLISTER RUST

**18.431 WHITE PINE BLISTER RUST DEFINITIONS.** Subdivision 1. **Terms.** For the purposes of sections 18.432 to 18.435, the terms defined in subdivisions 2 to 6, have the meanings given them.

Subd. 2. **Cultivated black currants.** "Cultivated black currants" means the plants, roots, cuttings, or scions of *Ribes nigrum* L.

Subd. 3. **Currants and gooseberries.** "Currants and gooseberries" means the plants, roots, cuttings, or scions belonging to the genera *Ribes* L. and *Grossularia* (Tourn.) Mill.

Subd. 4. **Blister-rust control area.** "Blister-rust control area" is an area established by state authority wherein the planting or possession of currants and gooseberry plants is prohibited for the purpose of protecting the white pines on such area from damage by white pine blister-rust.

Subd. 5. **White pine.** "White pine" means plants of any species belonging to the genus *Pinus* which bear their needles in clusters of five.

Subd. 6. **White pine blister-rust.** "White pine blister-rust" means the fungus disease caused by *Cronartium ribicola* Fischer.

[ 1955 c 699 s 4; 1961 c 127 art 1 s 5 ]

**18.432 WHITE PINE BLISTER RUST DECLARED A PEST.** The fungus disease commonly known as the white pine blister rust, *Cronartium ribicola* Fischer, is hereby declared to be a dangerous forest pest in all its stages; and it shall be the duty of the commissioner to prosecute the measures specified in sections 18.432 to 18.435 for the control of this pest.

[ 1929 c 218 s 2; 1953 c 711 s 1 ] (4031-35 1/2a)

**18.433 DISEASED PLANTS, DESTRUCTION.** Any white pines or currants or gooseberries within the state which are found to be infected with white pine blister-rust are hereby declared to be a public menace, and any such diseased plants and any and all wild plants of the genera *Ribes* and *Grossularia* may be destroyed forthwith by the order of the commissioner or his agents. Any currants, gooseberries, or white pines not infected with white pine blister-rust may be destroyed by the commissioner or his agents where necessary for carrying out the purposes of sections 18.432 to 18.435.

[ 1929 c 218 s 3; 1953 c 711 s 1 ] (4031-35 1/2b)

**18.434 CONTROL AREAS.** Subdivision 1. **Methods.** The commissioner is hereby authorized and empowered to promulgate, by letter, publication, poster, or other means, information concerning the white pine blister-rust, and to designate by these means of promulgation blister-rust control areas within the state in which control measures are necessary or advisable. It shall be the duty of every landowner within such designated area to carry out such control measures as are ordered by the commissioner, including the removal and destruction of any or all wild cultivated currants and gooseberries or white pines, and no currants or gooseberries shall be planted within such blister-rust control area without written permission from the commissioner. If the owner fails to destroy the above named plants within the specified time, the commissioner shall cause these plants to be destroyed, and the expense

thereof shall be a lien upon the owner's land. This lien shall have the same effect and may be collected in the same manner as taxes on the land. Any moneys so collected shall be paid into the state treasury and credited to the fund provided for this work.

**Subd. 2. Payment for plants not infected.** If currants, gooseberries, or white pines which are not infected with white pine blister-rust are destroyed by the specific order of the commissioner or his agents, the owner may be compensated therefor, the damages to be assessed by the commissioner or his agents at and not to exceed the actual value of the material destroyed and paid to the owner by the state treasurer upon authorization of the commissioner; provided, that any and all wild currants and gooseberries are hereby declared noxious weeds and no compensation shall be paid therefor.

**Subd. 3. Entry upon private and public lands.** The commissioner and his agents shall have the right to enter upon any private or public lands to determine the presence or absence of the white pine blister-rust in any of its stages and to carry out measures for its control.

[ 1929 c 218 s 4-6; 1953 c 711 s 1 ] (4031-35 1/2c, 4031-35 1/2d, 4031-35 1/2e)

**18.435 SUPPRESSION AND CONTROL, GENERALLY.** Subdivision 1. **Cooperation.** The commissioner of agriculture may cooperate with the departments of the federal government, the state department of natural resources, the agricultural experiment station, and with counties, towns, cities, associations, and individuals in the state generally for the suppression and control of white pine blister-rust and for carrying out such investigations of the disease and its control as are deemed advisable by the commissioner.

**Subd. 2. Lands within or contiguous to nurseries.** The commissioner shall have the same power and duties for suppression and control of the white pine blister-rust on land within or contiguous to any nursery in the state. The expense necessary for carrying out the provisions of this subdivision shall be paid from the appropriation for nursery inspection or other funds of the department of agriculture.

**Subd. 3. Importation and movement of certain plants.** The commissioner is hereby authorized and empowered to prohibit and prevent or regulate the entry into or movement within the state, from any part thereof to any other part, of any white pines or any plants of the genera *Ribes* or *Grossularia* when such plants are to be shipped into blister-rust control areas, and may be enforced in like manner to that prescribed in section 18.48.

[ 1929 c 218 s 7-9; 1953 c 711 s 2; 1961 c 113 s 1; 1961 c 127 art 1 s 6; 1969 c 1129 art 3 s 1; 1973 c 123 art 5 s 7 ] (4031-35 1/2f, 4031-35 1/2g, 4031-35 1/2h)

**18.436 PENALTY.** Any person violating any of the provisions of sections 18.432 to 18.435 shall be guilty of a misdemeanor.

[ 1929 c 218 s 10 ] (4031-35 1/2i)

#### PLANT PEST ACT

**18.44 PLANT PEST ACT.** Sections 18.44 to 18.61 are the plant pest act.  
[ 1959 c 35 s 1 ]

**18.45 POLICY.** The purpose of the plant pest act is to prevent the introduction into and the propagation and dissemination within this state of plant pests and to provide for their suppression and control.

[ 1959 c 35 s 2 ]

**18.46 DEFINITIONS.** Subdivision 1. The terms appearing in the plant pest act mean and include:

**Subd. 2. Plant:** Any living organism, consisting of one or more cells, which does not typically exhibit voluntary motion or possess sensory or nervous organs.

**Subd. 3. Nursery stock:** Nursery stock includes: trees, shrubs and other plants having a persistent woody stem; all hardy herbaceous perennials; and parts of either of those which are capable of propagation.

**Subd. 4. Certified nursery stock:** The term certified nursery stock means nursery stock which has been inspected and found apparently free of plant pests by the commissioner or his employee.



Subd. 5. A nursery: A nursery is any place where nursery stock is grown for sale or distribution.

Subd. 6. A nurseryman: A nurseryman is any person who owns, leases, manages, or is in charge of a nursery.

Subd. 7. Nursery inspector: A nursery inspector is one who has been assigned the duties of nursery inspection by the commissioner.

Subd. 8. A person: A person includes a corporation, company, society, association, partnership, or any individual or combination of individuals or any political subdivision or school district of the state.

Subd. 9. A dealer: A dealer is any person who obtains nursery stock for the purpose of sale or distribution and includes any person who sells and distributes for more than one nurseryman. If a person purchases more than half of the nursery stock offered for sale at his sales location during the current certificate year, he shall be considered a dealer rather than a nurseryman for the purposes of determining his proper fee schedule.

Subd. 10. An agent: An agent is any person who sells or offers for sale nursery stock under the partial or full control of a nurseryman or a dealer.

Subd. 11. Greenhouse: A greenhouse is an enclosure of glass or similar material, which is ordinarily used to maintain suitable conditions under which plants may be grown.

Subd. 12. A greenhouse operator: A greenhouse operator means any person who operates a commercial greenhouse.

Subd. 13. Plant pests: Plant pests shall include any form of plant or animal life, including any disease producing organism dangerous to plants of the state. Alternate hosts of any plant disease are included in this definition.

Subd. 14. Commissioner: Commissioner means the commissioner of agriculture.

Subd. 15. Tag: A tag is a label which has been approved by the commissioner for use in the transportation or sale of nursery stock.

Subd. 16. Private places: Private places shall be deemed to include every place except a private home.

[ 1959 c 35 s 3; 1961 c 113 s 1; 1973 c 550 s 1 ]

**18.47 COMMISSIONER TO EMPLOY ENTOMOLOGISTS.** The commissioner may employ entomologists and such other employees as are necessary to carry out the provisions of the plant pest act who shall be classified civil service employees.

[ 1959 c 35 s 4 ]

**18.48 AUTHORITY.** Subdivision 1. **Entry and inspection.** The commissioner or his employees may enter and inspect any public and private place which might harbor plant pests and may require that the owner destroy or treat plant pests, plants or other material. Should the owner fail to properly comply with a directive of the commissioner or his employee within a given period of time, the commissioner may have any necessary work done at the owner's expense. If the owner does not reimburse the commissioner for such expense within a time period to be specified by the commissioner, the expense is a charge upon the county as provided in subdivision 4. If a dangerous plant pest infestation or infection threatens plants of any area within the state, the commissioner or his employees shall have the power to take any measures necessary to eliminate or alleviate the danger. The commissioner has the authority to collect fees as may be required by the plant pest act. The commissioner may issue and enforce a written or printed "stop-sale" order to the owner or custodian of any nursery stock if fees required by the plant pest act are not paid. The commissioner's order shall direct that the nursery stock shall be held at a designated place until the required fees have been paid and the nursery stock is released in writing by the commissioner. However, the owner or custodian has the right to appeal from such order to a court of competent jurisdiction in the county or city where the nursery stock is found, praying for a judgment as to the justification of the order, and for the discharge of the nursery stock from the order prohibiting the sale in accordance with the findings of the court. The provisions of this section shall not be construed as limiting the right of the enforcement officer to proceed as authorized by other provisions of the plant pest act. The commissioner shall release the nursery stock held under any stop-sale order when the required fees have been paid and upon payment of all rea-

# MINNESOTA STATUTES 1978

sonable costs and expenses incurred in connection with such order. The commissioner or his employees may not be held liable for the deterioration of nursery stock during the period for which it is held pursuant to a stop-sale order.

**Subd. 2. Rules and regulations.** The commissioner may make reasonable rules and regulations, after a public hearing, in the manner provided by law, to properly carry out purposes of sections 18.44 to 18.61 and acts amendatory thereof, including but not limited to rules and regulations in regard to labeling and the maintenance of viability and vigor of nursery stock.

**Subd. 3. Quarantines.** The commissioner may promulgate a quarantine to restrict or prohibit the transportation of plants or other materials capable of carrying plant pests into or through any part of the state.

**Subd. 4. Collection of charges for work done for owner.** Should the commissioner be caused any expense in conjunction with carrying out any of the provisions of subdivision 1 for which he is not reimbursed by the owner of the land, such expense is hereby made a legal charge against the county in which the land is located. After such expense is incurred, the commissioner shall file verified and itemized statements of the cost of all service rendered with the county auditor of the county in which the land is located, who shall immediately issue proper warrants to the persons named therein, for the amount specified. The amount of such expense is a lien in favor of the county against the land involved and shall be certified to by the county auditor and entered by him on his tax books as a tax upon such lands and shall be collected as other real estate taxes are collected. The amount of such expenses, when collected, shall be used to reimburse the county in this regard.

[ 1959 c 35 s 5; Ex1961 c 63 s 1; 1963 c 114 s 1,2 ]

**18.49 INSPECTION REQUIRED.** Subdivision 1. It shall be unlawful for any person to sell or offer for sale any nursery stock which has not within the preceding 12 months been officially inspected and found apparently free from plant pests.

**Subd. 2.** It is unlawful for a person to sell or distribute nursery stock to a dealer or nurseryman who does not have a valid certificate of inspection or dealer's certificate.

[ 1959 c 35 s 6; Ex1961 c 63 s 2 ]

**18.50 THE SALE OF VIABLE NURSERY STOCK.** All nursery stock and related plant products sold or offered for sale shall be in a sound, healthy condition and shall be stored and displayed under conditions which will maintain their vigor. Said stock which is dead or so seriously weakened by drying, excessive heat or cold, or any other condition that, in the judgment of the nursery inspector, it will be unable to grow with normal vigor when given reasonable care, shall not be sold or offered for sale.

[ 1959 c 35 s 7 ]

**18.51 CERTIFICATE OF INSPECTION.** Subdivision 1. **Certificate required.** Each person who operates as a nurseryman shall obtain a certificate of inspection from the commissioner. Said certificate shall be obtained before he offers nursery stock for sale or distribution. Each certificate shall expire on November 15 of each year.

**Subd. 2. Fees; penalty.** Each nurseryman shall be required to pay an annual fee before the commissioner shall issue a certificate of inspection. This fee shall be based on the area of all of his nurseries as follows:

Nurseries:

- |  |                     |
|--|---------------------|
| (1) 1/2 acre or less                       | \$15 per nurseryman |
| (2) Over 1/2 acre to and including 2 acres | \$25 per nurseryman |
| (3) Over 2 acres to and including 5 acres  | \$50 per nurseryman |
| (4) Over 5 acres to and including 10 acres | \$70 per nurseryman |

- (5) Over 10 acres to and including 25 acres \$100 per nurseryman
- (6) Over 25 acres to and including 50 acres \$150 per nurseryman
- (7) Over 50 acres \$300 per nurseryman

In addition to the above fees, a penalty of \$10 shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

[ 1959 c 35 s 8; 1969 c 1148 s 1; 1973 c 550 s 2 ]

**18.52 DEALERS' AND AGENTS' CERTIFICATES.** Subdivision 1. **Certificates required.** A dealer's certificate shall be obtained by every dealer for each location before offering nursery stock for sale or distribution unless he holds a valid greenhouse or nurseryman's certificate either of which will permit a single sales location. This certificate or a duplicate thereof shall be displayed in a prominent manner at each place where nursery stock is offered for sale. A certificate to sell or distribute certified nursery stock may be obtained by a dealer or by an agent through his principal, from the commissioner. The commissioner or his employee may refuse to issue a dealer's or agent's certificate for cause.

Subd. 2. **Expiration.** Said certificate shall expire on November 15 of each year.

Subd. 3. **List of sources.** Each person applying for a certificate shall list the sources of nursery stock he proposes to sell and distribute and shall furnish the commissioner such other reports as may be required.

Subd. 4. **Agents.** Each agent shall carry an agent's certificate which bears a copy of the nursery certificate held by the principal. This certificate shall be offered upon any reasonable request for identification. The agent's certificate shall be issued by the commissioner upon the written request of the principal.

Subd. 5. **Fees; penalty.** Each dealer is required to pay an annual fee. The fee charged shall be based on the gross sales of the dealer during the preceding certificate year. In the case of a dealer operating for the first year, the minimum fee will suffice.

Dealers:

- (1) Gross sales up to \$5,000 at a location \$25 per location
- (2) Gross sales over \$5,000 and up to \$10,000 at a location \$35 per location
- (3) Gross sales over \$10,000 up to \$15,000 at a location \$50 per location
- (4) Gross sales over \$15,000 up to \$25,000 at a location \$60 per location
- (5) Gross sales over \$25,000 up to \$50,000 at a location \$75 per location
- (6) Gross sales over \$50,000 up to \$75,000 at a location \$100 per location
- (7) Gross sales over \$75,000 up to \$100,000 at a location \$150 per location
- (8) Gross sales over \$100,000 at a location \$200 per location

In addition to the above fees, a penalty of \$10 shall be charged for any application for renewal not received by January 1 of the year following expiration of a certificate.

[ 1959 c 35 s 9; 1963 c 114 s 3; 1969 c 1148 s 2; 1973 c 550 s 3 ]

# MINNESOTA STATUTES 1978

383

PLANT AND ANIMAL PEST CONTROL 18.58

**18.53 GREENHOUSE CERTIFICATION.** The commissioner or his employee may inspect and certify greenhouses and greenhouse plants as being free from plant pests upon request of the greenhouse operator and issue a greenhouse certificate. The fee is \$25 for each greenhouse operator. Said certificate shall expire on November 15 next following the date of issue.

[ 1959 c 35 s 10; 1975 c 412 s 3 ]

**18.54 LOCAL SALES AND MISCELLANEOUS.** Subdivision 1. The commissioner or his employee may make small lot inspections or perform other necessary services for which another charge is not specified. For such a service, he shall charge a fee of \$10; in addition, he may charge the necessary expenses incurred by the inspector performing this service.

Subd. 2. The commissioner shall have the authority to provide special services such as virus disease-free certification and other similar programs. Participation by nurserymen shall be voluntary. Plants offered for sale as certified virus-free must be grown according to certain procedures in a manner defined by the commissioner for the purpose of eliminating viruses and other injurious disease or insect pests. The commissioner may collect reasonable fees from participating nurserymen for services and materials that are necessary to conduct this type of work.

[ 1959 c 35 s 11; Ex1961 c 63 s 3; 1969 c 1148 s 3; 1975 c 412 s 4 ]

**18.55 RECIPROCITY WITH OTHER STATES.** Subdivision 1. **Out-of-state nurseryman, dealer, or agent.** A nurseryman, dealer, or agent from another state which issues certificates to nurserymen, dealers, or agents of Minnesota on the same or similar basis as to nurserymen, dealers, or agents of such state may operate in Minnesota upon complying with the plant pest act without procuring a Minnesota certificate. Any person from another state shipping nursery stock into Minnesota shall be accorded treatment similar to that which is required of Minnesota nurserymen, dealers, or agents who ship or sell nursery stock in such state. No reciprocity shall be extended under this section until the commissioner has first determined which states issue certificates to nurserymen, dealers, or agents of Minnesota on the same or similar basis as to nurserymen, dealers, or agents of such states.

Subd. 2. **Filing out-of-state certificates of inspection.** Each out-of-state nurseryman or dealer whose nursery stock is sold, offered for sale, or distributed within this state shall file a certified current copy of his out-of-state certificate in the office of the commissioner. The commissioner may accept, in lieu of such individual certificates, a certified list of current certified nurserymen or dealers from the regulatory agency having jurisdiction in the state of origin, and may distribute such lists to persons in the state of Minnesota requesting them. The commissioner also may supply certified lists of certified Minnesota nurserymen and dealers offering nursery stock for sale in Minnesota and other states on request of any person. If any certified nurseryman or dealer has violated any provisions of the plant pest act, his filed certificate will be voided or his name will be stricken from the appropriate certified list.

[ 1959 c 35 s 12; 1975 c 180 s 3 ]

**18.56 TAGS.** A tag bearing a reasonable facsimile of the certificate of inspection shall be attached to every package or bundle of nursery stock sold or transported by any person. The form of each tag shall be approved by the commissioner before being used.

[ 1959 c 35 s 13 ]

**18.57 CARRIERS NOT TO ACCEPT UNTAGGED STOCK.** All carriers for hire, including railroad companies, express companies and truck lines shall not accept nursery stock which is not tagged with a valid tag of the nursery or dealer making the shipment. The carrier shall promptly notify the commissioner regarding any prohibited shipment.

[ 1959 c 35 s 14 ]

**18.58 COOPERATION WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE.** The commissioner may cooperate with the United States department of agriculture in order to enforce any quarantine order or regulation promulgated by it.

[ 1959 c 35 s 15 ]

**18.59 VIOLATIONS.** It shall be a violation of the plant pest act for any person:

(1) to hinder or prevent the commissioner or his employee from carrying out the duties of the act.

(2) to sell, transport, or offer for sale nursery stock which has not been inspected and certified, by a duly authorized nursery inspector, to be apparently free of plant pests.

(3) to fail to carry out the treatment or destruction of condemned plants or other material after official notification by the commissioner or his employee.

(4) to use an invalid certificate of inspection or shipping tag in the sale or distribution of nursery stock covered by this act.

(5) to misrepresent or mislabel nursery stock as to vigor, hardiness and viability.

(6) to violate any quarantine promulgated by the commissioner in accordance with the act.

(7) to fail to comply with any provision of the plant pest act, or any rules and regulations promulgated thereunder.

(8) to have nursery stock in his possession or on his premises for the purposes of sale or disposition unless he has a valid certificate of inspection, dealer's certificate or greenhouse certificate.

[ 1959 c 35 s 16; Ex1961 c 63 s 4 ]

**18.60 PENALTIES.** Subdivision 1. **Certificate may be revoked.** Any person violating any of the provisions of the plant pest act may have his certificate suspended or revoked by the commissioner or his employee upon 5 days notice and opportunity to be heard.

Subd. 2. **Misdemeanor.** Any person violating any of the provisions of the plant pest act, or any rule or regulation promulgated thereunder shall be guilty of a misdemeanor.

[ 1959 c 35 s 17 ]

**18.61 ENFORCEMENT.** It shall be the duty of every prosecuting officer to whom the commissioner or his employee shall report any violation of the plant pest act or any of the rules and regulations promulgated thereunder to cause appropriate proceedings to be commenced and prosecuted in the proper courts without delay for the enforcement of the penalties as provided in such case.

[ 1959 c 35 s 18 ]

INTERSTATE PEST CONTROL COMPACT

**18.62 ENACTMENT; INSURANCE FUND; ADMINISTRATION; FINANCE.** The pest control compact is hereby enacted into law and entered into with all other jurisdictions legally joining therein in the form substantially as follows:

PEST CONTROL COMPACT

ARTICLE I

Findings

The party states find that:

(a) In the absence of the higher degree of cooperation among them possible under this compact, the annual loss of approximately seven billion dollars from the depredations of pests is virtually certain to continue, if not to increase.

(b) Because of varying climatic, geographic and economic factors, each state may be affected differently by particular species of pests; but all states share the inability to protect themselves fully against those pests which present serious dangers to them.

(c) The migratory character of pest infestations makes it necessary for states both adjacent to and distant from one another, to complement each other's activities when faced with conditions of infestation and reinfestation.

(d) While every state is seriously affected by a substantial number of pests, and every state is susceptible of infestation by many species of pests not now causing damage to its crop and plant life and products, the fact that relatively few species of pests present equal danger to or are of interest to all states makes the establishment and operation of an Insurance Fund, from which individual states may obtain financial support for pest control programs of benefit to them in other states and to which they may contribute in accordance with their relative interests, the most equitable means of financing cooperative pest eradication and control programs.

## ARTICLE II

### Definitions

As used in this compact, unless the context clearly requires a different construction:

(a) "State" means a state, territory or possession of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(b) "Requesting state" means a state which invokes the procedures of the compact to secure the undertaking or intensification of measures to control or eradicate one or more pests within one or more other states.

(c) "Responding state" means a state requested to undertake or intensify the measures referred to in subdivision (a) of this Article.

(d) "Pest" means any invertebrate animal, pathogen, parasitic plant or similar or allied organism which can cause disease or damage in any crops, trees, shrubs, grasses or other plants of substantial value.

(e) "Insurance Fund" means the Pest Control Insurance Fund established pursuant to this compact.

(f) "Governing Board" means the administrators of this compact representing all of the party states when such administrators are acting as a body in pursuance of authority vested in them by this compact.

(g) "Executive Committee" means the committee established pursuant to Article V (e) of this compact.

## ARTICLE III

### The Insurance Fund

There is hereby established the Pest Control Insurance Fund for the purpose of financing other than normal pest control operations which states may be called upon to engage in pursuant to this compact. The Insurance Fund shall contain moneys appropriated to it by the party states and any donations and grants accepted by it. All appropriations, except as conditioned by the rights and obligations of party states expressly set forth in this compact, shall be unconditional and may not be restricted by the appropriating state to use in the control of any specified pest or pests. Donations and grants may be conditional or unconditional, provided that the insurance fund shall not accept any donation or grant whose terms are inconsistent with any provision of this compact.

## ARTICLE IV

### The Insurance Fund, Internal Operations and Management

(a) The Insurance Fund shall be administered by a Governing Board and Executive Committee as hereinafter provided. The actions of the Governing Board and Executive Committee pursuant to this compact shall be deemed the actions of the Insurance Fund.

(b) The members of the Governing Board shall be entitled to one vote each on such Board. No action of the Governing Board shall be binding unless taken at a meeting at which a majority of the total number of votes on the Governing Board are cast in favor thereof. Action of the Governing Board shall be only at a meeting at which a majority of the members are present.

(c) The Insurance Fund shall have a seal which may be employed as an official symbol and which may be affixed to documents and otherwise used as the Governing

Board may provide.

(d) The Governing Board shall elect annually, from among its members, a chairman, a vice chairman, a secretary and a treasurer. The chairman may not succeed himself. The Governing Board may appoint an executive director and fix his duties and his compensation, if any. Such executive director shall serve at the pleasure of the Governing Board. The Governing Board shall make provision for the bonding of such of the officers and employees of the Insurance Fund as may be appropriate.

(e) Irrespective of the civil service, personnel or other merit system laws of any of the party states, the executive director, or if there be no executive director, the chairman, in accordance with such procedures as the bylaws may provide, shall appoint, remove or discharge such personnel as may be necessary for the performance of the functions of the Insurance Fund and shall fix the duties and compensation of such personnel. The Governing Board in its bylaws shall provide for the personnel policies and programs of the Insurance Fund.

(f) The Insurance Fund may borrow, accept or contract for the services of personnel from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation.

(g) The Insurance Fund may accept for any of its purposes and functions under this compact any and all donations, and grants of money, equipment, supplies, materials and services, conditional or otherwise, from any state, the United States, or any other governmental agency, or from any person, firm, association or corporation, and may receive, utilize and dispose of the same. Any donation, gift or grant accepted by the Governing Board pursuant to this paragraph or services borrowed pursuant to paragraph (f) of this Article shall be reported in the annual report of the Insurance Fund. Such report shall include the nature, amount and conditions, if any, of the donation, gift, grant or services borrowed and the identity of the donor or lender.

(h) The Governing Board shall adopt bylaws for the conduct of the business of the Insurance Fund and shall have the power to amend and rescind these bylaws. The Insurance Fund shall publish its bylaws in convenient form and shall file a copy thereof and a copy of any amendment thereto with the appropriate agency or officer in each of the party states.

(i) The Insurance Fund annually shall make to the Governor and legislature of each party state a report covering its activities for the preceding year. The Insurance Fund may make such additional reports as it may deem desirable.

(j) In addition to the powers and duties specifically authorized and imposed, the Insurance Fund may do such other things as are necessary and incidental to the conduct of its affairs pursuant to this compact.

#### ARTICLE V

##### Compact and Insurance Fund Administration

(a) In each party state there shall be a compact administrator, who shall be selected and serve in such manner as the laws of his state may provide, and who shall:

1. Assist in the coordination of activities pursuant to the compact in his state; and
2. Represent his state on the Governing Board of the Insurance Fund.

(b) If the laws of the United States specifically so provide, or if administrative provision is made therefor within the federal government, the United States may be represented on the Governing Board of the Insurance Fund by not to exceed three representatives. Any such representative or representatives of the United States shall be appointed and serve in such manner as may be provided by or pursuant to federal law, but no such representative shall have a vote on the Governing Board or on the Executive Committee thereof.

(c) The Governing Board shall meet at least once each year for the purpose of determining policies and procedures in the administration of the Insurance Fund and, consistent with the provisions of the compact, supervising and giving direction to the expenditure of moneys from the Insurance Fund. Additional meetings of the Governing Board shall be held on call of the chairman, the Executive Committee, or a majority of the membership of the Governing Board.

(d) At such times as it may be meeting, the Governing Board shall pass upon applications for assistance from the Insurance Fund and authorize disbursements therefrom. When the Governing Board is not in session, the Executive Committee thereof shall act as agent of the Governing Board, with full authority to act for it in passing upon such applications.

(e) The Executive Committee shall be composed of the chairman of the Governing Board and four additional members of the Governing Board chosen by it so that there shall be one member representing each of four geographic groupings of party states. The Governing Board shall make such geographic groupings. If there is representation of the United States on the Governing Board, one such representative may meet with the Executive Committee. The chairman of the Governing Board shall be chairman of the Executive Committee. No action of the Executive Committee shall be binding unless taken at a meeting at which at least four members of such Committee are present and vote in favor thereof. Necessary expenses of each of the five members of the Executive Committee incurred in attending meetings of such Committee, when not held at the same time and place as a meeting of the Governing Board, shall be charges against the Insurance Fund.

## ARTICLE VI

### Assistance and Reimbursement

(a) Each party state pledges to each other party state that it will employ its best efforts to eradicate, or control within the strictest practicable limits, any and all pests. It is recognized that performance of this responsibility involves:

1. The maintenance of pest control and eradication activities of interstate significance by a party state at a level that would be reasonable for its own protection in the absence of this compact.

2. The meeting of emergency outbreaks or infestations of interstate significance to no less an extent than would have been done in the absence of this compact.

(b) Whenever a party state is threatened by a pest not present within its borders but present within another party state, or whenever a party state is undertaking or engaged in activities for the control or eradication of a pest or pests, and finds that such activities are or would be impracticable or substantially more difficult of success by reason of failure of another party state to cope with infestation or threatened infestation, that state may request the Governing Board to authorize expenditures from the Insurance Fund for eradication or control measures to be taken by one or more of such other party states at a level sufficient to prevent, or to reduce to the greatest practicable extent, infestation or reinfestation of the requesting state. Upon such authorization the responding state or states shall take or increase such eradication or control measures as may be warranted. A responding state shall use moneys made available from the Insurance Fund expeditiously and efficiently to assist in affording the protection requested.

(c) In order to apply for expenditures from the Insurance Fund, a requesting state shall submit the following in writing:

1. A detailed statement of the circumstances which occasion the request for the invoking of the compact.

2. Evidence that the pest on account of whose eradication or control assistance is requested constitutes a danger to an agricultural or forest crop, product, tree, shrub, grass or other plant having a substantial value to the requesting state.

3. A statement of the extent of the present and projected program of the requesting state and its subdivisions, including full information as to the legal authority for the conduct of such program or programs and the expenditures being made or budgeted therefor, in connection with the eradication, control, or prevention of introduction of the pest concerned.

4. Proof that the expenditures being made or budgeted as detailed in item 3 do not constitute a reduction of the effort for the control or eradication of the pest concerned or, if there is a reduction, the reasons why the level of program detailed in item 3 constitutes a normal level of pest control activity.

5. A declaration as to whether, to the best of its knowledge and belief, the conditions which in its view occasion the invoking of the compact in the particular instance can be abated by a program undertaken with the aid of moneys from the Insurance



Fund in one year or less, or whether the request is for an installment in a program which is likely to continue for a longer period of time.

6. Such other information as the Governing Board may require consistent with the provisions of this compact.

(d) The Governing Board or Executive Committee shall give due notice of any meeting at which an application for assistance from the Insurance Fund is to be considered. Such notice shall be given to the compact administrator of each party state and to such other officers and agencies as may be designated by the laws of the party states. The requesting state and any other party state shall be entitled to be represented and present evidence and argument at such meeting.

(e) Upon the submission as required by paragraph (c) of this Article and such other information as it may have or acquire, and upon determining that an expenditure of funds is within the purposes of this compact and justified thereby, the Governing Board or Executive Committee shall authorize support of the program. The Governing Board or the Executive Committee may meet at any time or place for the purpose of receiving and considering an application. Any and all determinations of the Governing Board or Executive Committee, with respect to an application, together with the reasons therefor shall be recorded and subscribed in such manner as to show and preserve the votes of the individual members thereof.

(f) A requesting state which is dissatisfied with a determination of the Executive Committee shall upon notice in writing given within twenty days of the determination with which it is dissatisfied, be entitled to receive a review thereof at the next meeting of the Governing Board. Determinations of the Executive Committee shall be reviewable only by the Governing Board at one of its regular meetings, or at a special meeting held in such manner as the Governing Board may authorize.

(g) Responding states required to undertake or increase measures pursuant to this compact may receive moneys from the Insurance Fund, either at the time or times when such state incurs expenditures on account of such measures, or as reimbursement for expenses incurred and chargeable to the Insurance Fund. The Governing Board shall adopt and, from time to time, may amend or revise procedures for submission of claims upon it and for payment thereof.

(h) Before authorizing the expenditure of moneys from the Insurance Fund pursuant to an application of a requesting state, the Insurance Fund shall ascertain the extent and nature of any timely assistance or participation which may be available from the federal government and shall request the appropriate agency or agencies of the federal government for such assistance and participation.

(i) The Insurance Fund may negotiate and execute a memorandum of understanding or other appropriate instrument defining the extent and degree of assistance or participation between and among the Insurance Fund, cooperating federal agencies, states and any other entities concerned.

## ARTICLE VII

### Advisory and Technical Committees

The Governing Board may establish advisory and technical committees composed of state, local, and federal officials, and private persons to advise it with respect to any one or more of its functions. Any such advisory or technical committee, or any member or members thereof may meet with and participate in its deliberations. Upon request of the Governing Board or Executive Committee an advisory or technical committee may furnish information and recommendations with respect to any application for assistance from the Insurance Fund being considered by such Board or Committee and the Board or Committee may receive and consider the same: Provided that any participant in a meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of the compact shall be entitled to know the substance of any such information and recommendations, at the time of the meeting if made prior thereto or as a part thereof or, if made thereafter, no later than the time at which the Governing Board or Executive Committee makes its disposition of the application.

## ARTICLE VIII

### Relations with Nonparty Jurisdictions

(a) A party state may make application for assistance from the Insurance Fund in respect of a pest in a nonparty state. Such application shall be considered and disposed of by the Governing Board or Executive Committee in the same manner as an application with respect to a pest within a party state, except as provided in this Article.

(b) At or in connection with any meeting of the Governing Board or Executive Committee held pursuant to Article VI (d) of this compact a nonparty state shall be entitled to appear, participate, and receive information only to such extent as the Governing Board or Executive Committee may provide. A nonparty state shall not be entitled to review of any determination made by the Executive Committee.

(c) The Governing Board or Executive Committee shall authorize expenditures from the Insurance Fund to be made in a nonparty state only after determining that the conditions in such state and the value of such expenditures to the party states as a whole justify them. The Governing Board or Executive Committee may set any conditions which it deems appropriate with respect to the expenditure of moneys from the Insurance Fund in a nonparty state and may enter into such agreement or agreements with nonparty states and other jurisdictions or entities as it may deem necessary or appropriate to protect the interests of the Insurance Fund with respect to expenditures and activities outside of party states.

## ARTICLE IX

### Finance

(a) The Insurance Fund shall submit to the executive head or designated officer or officers of each party state a budget for the Insurance Fund for such period as may be required by the laws of that party state for presentation to the legislature thereof.

(b) Each of the budgets shall contain specific recommendations of the amount or amounts to be appropriated by each of the party states. The requests for appropriations shall be apportioned among the party states as follows: One-tenth of the total budget in equal shares and the remainder in proportion to the value of agricultural and forest crops and products, excluding animals and animal products, produced in each party state. In determining the value of such crops and products the Insurance Fund may employ such source or sources of information as in its judgment present the most equitable and accurate comparisons among the party states. Each of the budgets and requests for appropriations shall indicate the source or sources used in obtaining information concerning value of products.

(c) The financial assets of the Insurance Fund shall be maintained in two accounts to be designated respectively as the "Operating Account" and the "Claims Account." The Operating Account shall consist only of those assets necessary for the administration of the Insurance Fund during the next ensuing two-year period. The Claims Account shall contain all moneys not included in the Operating Account and shall not exceed the amount reasonably estimated to be sufficient to pay all legitimate claims on the Insurance Fund for a period of three years. At any time when the Claims Account has reached its maximum limit or would reach its maximum limit by the addition of moneys requested for appropriation by the party states, the Governing Board shall reduce its budget requests on a pro rata basis in such manner as to keep the Claims Account within such maximum limit. Any moneys in the Claims Account by virtue of conditional donations, grants or gifts shall be included in calculations made pursuant to this paragraph only to the extent that such moneys are available to meet demands arising out of claims.

(d) The Insurance Fund shall not pledge the credit of any party state. The Insurance Fund may meet any of its obligations in whole or in part with moneys available to it under Article IV (g) of this compact, provided that the Governing Board takes specific action setting aside such moneys prior to incurring any obligation to be met in whole or in part in such manner. Except where the Insurance Fund makes use of moneys available to it under Article IV (g) hereof, the Insurance Fund shall not incur any obligation prior to the allotment of moneys by the party states adequate to meet the same.

(e) The Insurance Fund shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Insurance Fund shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts

and disbursements of funds handled by the Insurance Fund shall be audited yearly by a certified or licensed public accountant and a report of the audit shall be included in and become part of the annual report of the Insurance Fund.

(f) The accounts of the Insurance Fund shall be open at any reasonable time for inspection by duly authorized officers of the party states and by any persons authorized by the Insurance Fund.

## ARTICLE X

## Entry Into Force and Withdrawal

(a) This compact shall enter into force when enacted into law by any five or more states. Thereafter, this compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until two years after the executive head of the withdrawing state has given notice in writing of the withdrawal to the executive heads of all other party states. No withdrawal shall affect any liability already incurred by or chargeable to a party state prior to the time of such withdrawal.

## ARTICLE XI

## Construction and Severability

This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

[ 1969 c 1020 s 1 ]

**18.63 STATE COOPERATION.** Consistent with law and within available appropriations, the departments, agencies and officers of this state may cooperate with the insurance fund established by the pest control compact.

[ 1969 c 1020 s 2 ]

**18.64 BYLAWS AND AMENDMENTS; FILING.** Pursuant to article IV (h) of the compact, copies of bylaws and amendments thereto shall be filed in the office of the department of agriculture of the state of Minnesota.

[ 1969 c 1020 s 3 ]

**18.65 ADMINISTRATOR; COMMISSIONER OF AGRICULTURE.** The compact administrator for this state shall be the commissioner of agriculture appointed by the governor. The duties of the compact administrator shall be deemed a regular part of the duties of his office.

[ 1969 c 1020 s 4 ]

**18.66 REQUEST FOR ASSISTANCE.** Within the meaning of article VI (b) or VIII (a), a request or application for assistance from the Insurance Fund may be made by the governor or the commissioner of agriculture whenever in his judgment the conditions qualifying this state for such assistance exist and it would be in the best interest of this state to make such request.

[ 1969 c 1020 s 5 ]

**18.67 APPROPRIATION; ACCEPTANCE OF FUNDS.** There is hereby appropriated out of the general fund in the state treasury to the department of agriculture for the purposes of sections 18.62 to 18.71 during the biennium beginning on July 1, 1969, the sum of \$29,000. The department of agriculture shall have credited to its account in the state treasury the amount or amounts of any payments made to this state to de-

# MINNESOTA STATUTES 1978

391

## PLANT AND ANIMAL PEST CONTROL 18.71

fray the cost of such program, or any part thereof, or as reimbursement thereof, and moneys so credited are appropriated to the department of agriculture for the purposes of sections 18.62 to 18.71.

[ 1969 c 399 s 1; 1969 c 1020 s 6 ]

**18.68 FILING OF DOCUMENTS; NOTICES.** Filing of documents as required by the compact set forth in sections 18.62 to 18.71 shall be with the department of agriculture. Any and all notices required by commission bylaws to be given pursuant to article VI, clause (d) of the compact shall be given to the commissioner of agriculture of this state or his alternate, if any.

[ 1969 c 1020 s 7 ]

**18.69 BUDGET; LIMITATIONS.** Pursuant to article IX, clause (a) of the compact, the governing board shall submit its budget to the commissioner of agriculture. Such budget and the state's share thereof shall be subject to the provisions of chapter 16A, and any act amendatory thereof.

[ 1969 c 1020 s 8; 1977 c 410 s 10 ]

**18.70 LEGISLATIVE AUDITOR.** Pursuant to article IX, clause (f) of the compact, the legislative auditor is hereby empowered and authorized to inspect the accounts of the insurance fund as a part of his audit of the department of agriculture.

[ 1969 c 1020 s 9; 1973 c 492 s 14 ]

**18.71 GOVERNOR AS EXECUTIVE HEAD.** As used in the compact, with reference to this state, the term "executive head" shall mean the governor.

[ 1969 c 1020 s 10 ]