Harmful Plant Act

Provides for quarantine to prevent spread, designation of harmful plants, permits for movement, inspections, and penalties for violations

New Mexico Territorial Laws

Chapter 76 Agriculture

Chapter 76, Article 7A Harmful Plants

76-7A-1 [Short title.] This act may be cited as the "Harmful Plant Act."

76-7A-2. Definitions.

As used in the Harmful Plant Act:

A. "article" means soil, seeds, unprocessed feeds, packaging materials, nursery stock, machinery or anything capable of transporting or harboring a harmful plant;

B. "board" means the board of regents of New Mexico state university;

C. "department" means the New Mexico department of agriculture;

D. "move" means to ship, offer for shipment, receive for transportation, carry or otherwise transport or allow to be transported;

E. "harmful plant" means any plant, seeds or other parts of a plant the board declares by regulation to be a harmful plant;

F. "permit" means a document issued by the department to provide for the movement of a harmful plant in accordance with regulations adopted by the board;

G. "person" means any individual, firm, association or corporation; and

H. "plant" means any living stage of a plant, including but not limited to seeds and reproductive parts of a plant.

76-7A-3. General powers and duties of the board.

A. The board, through the department, shall administer and enforce the provisions of the Harmful Plant Act.

B. The board may:

(1) adopt such regulations as it deems necessary to administer and enforce the provisions of the Harmful Plant Act;
(2) accept grants of money from any state or federal agency, producer, organization or private individual for the purposes of administering and enforcing the provisions of the Harmful Plant Act; and

(3) cooperate with the authorities of another state or the federal government in carrying out the purposes of the Harmful Plant Act.

76-7A-4. Quarantine powers of the board.

The board may quarantine the state or any portion thereof whenever the department determines that a harmful plant exists therein and that such action is necessary to prevent the introduction of a harmful plant into the state or to retard the spread or dissemination of a harmful plant that has become established in the state. Before establishing a quarantine, the board shall hold a public hearing. Notice of the hearing shall be given to all interested parties and shall be published at least once in a newspaper of general circulation in the state. At the hearing all interested parties may appear and be heard.

76-7A-5. Temporary quarantine powers of the department.

If it has reasonable cause to believe that a harmful plant exists and there is an immediate need to prevent its introduction, spread or dissemination in New Mexico, the department may impose a temporary quarantine on the state or any portion of the state to prevent the introduction, spread or dissemination of the harmful plant. The period for such temporary quarantine shall not exceed ninety days during which time a public hearing shall be held by the board as provided in Section 4 of the Harmful Plant Act. If the board finds after such hearing that it appears the quarantine should be extended for more than the temporary ninety-day period, it may enter an order for such extension as provided in Section 4 of the Harmful Plant Act.

76-7A-6. Temporary quarantine powers of the department with respect to livestock.

The department may quarantine any domestic livestock, captive wildlife or captive estray animals suspected of exposure or knowingly known to be exposed to a harmful plant. The quarantine shall not exceed a period of ninety-six hours or for such lesser period when the animal's digestive system can reasonably be expected to be purged of carrying any reproductive part of the harmful plant. The department's inspector shall examine each exposed animal's hide or wool for the presence of a harmful plant. At the end of the ninety-six hour period or at the end of such lesser period as provided in this section, the quarantined animals shall be released under conditions established by the department.


When a quarantine is in effect, no person shall move any harmful plant described
in the order from the quarantined area in this state into or through other parts of this state or from the quarantined area in other states into or through this state contrary to the provisions of the Harmful Plant Act or the regulations made pursuant thereto.

76-7A-8. Harmful plants; designation.

A. After a hearing the board may, by regulation, designate a plant to be a harmful plant when it finds that the plant is not known to occur in or is new to or not widely distributed in the state and may:

(1) directly or indirectly injure crops or other useful plants;

(2) be poisonous or detrimental to domestic or wild animals, birds or fish;

(3) cause adverse effects to other interests of agriculture, such as irrigation; or

(4) cause adverse effects to streams, ponds, lakes or aquatic fauna.

B. Notice of the hearing shall be published at least once in a newspaper of general circulation in the state and shall be given to interested parties. The notice shall state the plants alleged to be harmful which will be considered at the hearing. At the hearing, all interested parties may appear and be heard.

C. The department may designate a plant to be a harmful plant if it finds that the plant is not known to occur in, is new to or not widely distributed in the state, without a public hearing, for a period not to exceed ninety days, if it appears that such emergency action is necessary to prevent or control the introduction, spread or dissemination of the harmful plant. Within that ninety-day period the board shall hold a public hearing, after reasonable notice, to determine whether the designated plant is a harmful plant as provided in the Harmful Plant Act.


No person shall knowingly move a harmful plant or article that is capable of harboring a harmful plant into or within New Mexico unless such person is granted a permit for such purpose by the department in accordance with regulations of the board. The department may refuse to issue a permit for the movement of harmful plants when in the opinion of the department such movement would involve a danger of dissemination of the harmful plant within the state. No person, unless granted a permit for such purpose by the department, shall sell, purchase, barter, exchange, give or receive a plant that has been declared to be a harmful plant by the board.

76-7A-10. Inspections authorized.

In order to prevent the introduction, spread or dissemination of a harmful plant, the department, after written notice to the owner or his agent, may detect, take
possession of, stop movement of, eradicate, suppress, control, treat, prevent or retard the spread of or destroy any harmful plant, or stop movement of or treat any article that is capable of harboring or moving a harmful plant. The department may, with the consent of the owner or by order of the district court, inspect any premises in this state for the presence of a harmful plant.


A. Any person who knowingly violates any provision of the Harmful Plant Act or any regulation adopted by the board pursuant thereto is guilty of a petty misdemeanor and, upon conviction, shall be punished by a fine of one hundred dollar ($100). Each day of violation shall constitute a separate and punishable offense.

B. The department shall not be required to give bond or security in any legal proceeding brought under the provisions of the Harmful Plant Act in which the department is a party.