CHAPTER 18G

PLANT PROTECTION AND EXPORT CERTIFICATION

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18G.01 PLANT PROTECTION; POWERS OF COMMISSIONER.

(a) This chapter authorizes the commissioner to abate, suppress, eradicate, prevent, or otherwise regulate the introduction or establishment of plant pests that threaten Minnesota's agricultural, forest, or horticultural interests or the general ecological quality of the state.

(b) The commissioner may employ entomologists, plant pathologists, and other qualified employees necessary to administer and enforce this chapter.

History: *2003 c 128 art 4 s 1*

18G.02 DEFINITIONS.

Subdivision 1. **Scope.** The definitions in this section apply to this chapter.

Subd. 2. **Biological control agent.** "Biological control agent" means a parasitoid, predator, pathogen, or competitive organism intentionally released by humans for the purpose of biological control with the intent of causing a reduction of a host or prey population.

Subd. 3. **Certificate.** "Certificate" means a document authorized or prepared by a federal or state regulatory official that affirms, declares, or verifies that an article, plant, product, shipment, or other officially regulated item meets phytosanitary, nursery inspection, pest freedom, plant registration or certification, or other legal requirements.

Subd. 4. **Certification.** "Certification" means a regulatory official's act of affirming, declaring, or verifying compliance with phytosanitary, nursery inspection, pest freedom, plant registration or certification, or other legal requirements.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of agriculture or the commissioner's designated employee, representative, or agent.

Subd. 6. **Compliance agreement.** "Compliance agreement" means a written agreement between an entity and a regulatory agency to achieve compliance with regulatory requirements.

Subd. 7. **Conveyance.** "Conveyance" is a means of transportation.

Subd. 8. **Department.** "Department" means the Department of Agriculture.

Subd. 9. **Emergency regulation.** "Emergency regulation" means a regulation placed in effect by the commissioner without prior public notice in order to take necessary and immediate regulatory action.

Subd. 10. **Eradication.** "Eradication" means elimination of a pest from a defined geographic area.

Subd. 11. **Exotic species.** "Exotic species" means a species that is not native to the area. Exotic species also means a species occurring outside its natural range.

Subd. 12. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 12a. **Individual.** "Individual" means a single human being who is not the sole proprietor of a registered business related to plant protection or export certification.

Subd. 13. **Infected.** "Infected" means a plant that is:

(1) contaminated with pathogenic microorganisms;

(2) being parasitized;

(3) a host or carrier of an infectious, transmissible, or contagious pest; or

(4) so exposed to a plant listed in clause (1), (2), or (3) that one of those conditions can reasonably be expected to exist and the plant may also pose a risk of contamination to other plants or the environment.

Subd. 14. **Infested.** "Infested" means a plant that contains an unacceptable level of plant pests, including weeds, or contains or harbors plant pests in a quantity that may threaten other plants.

Subd. 15. **Invasive species.** "Invasive species" means an exotic species whose introduction and establishment causes, or may cause, economic or environmental harm or harm to human health.

Subd. 16. **Mark.** "Mark" means an official indicator affixed by the commissioner for purposes of identification or separation, to, on, around, or near, plants or plant material known or suspected to be infested or infected with a plant pest or that otherwise needs to be distinguished from other plants or materials. This includes, but is not limited to, paint, markers, tags, seals, stickers, tape, ribbons, signs, or placards.

Subd. 17. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 18. **Owner.** "Owner" includes, but is not limited to, the person with the legal right of possession, proprietorship of, or responsibility for the property or place where any of the articles regulated in this chapter are found, or the person who is in possession of, proprietorship of, or has responsibility for the regulated articles.

Subd. 19. **Permit.** "Permit" means a document issued by a regulatory official that allows the movement of any regulated item from one location to another in accordance with specified conditions or requirements and for a specified purpose.

Subd. 20. **Entity.** " Entity " means a registered business such as a firm, corporation, partnership, association, trust, joint stock company, unincorporated organization, or sole proprietorship; the state; a state agency; or a political subdivision.

Subd. 21. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 22. **Phytosanitary certificate or export certificate.** "Phytosanitary certificate" or "export certificate" means a document authorized or prepared by a duly authorized federal or state official that

affirms, declares, or verifies that an article, plant, plant product, shipment, or any other officially regulated article meets applicable, legally established, plant pest regulations, including this chapter.

Subd. 23. **Plant.** "Plant" means a plant, plant product, plant part, or reproductive or propagative part of a plant, plant product, or plant part, including all growing media, packing material, or containers associated with the plant, plant part, or plant product.

Subd. 24. **Plant pest.** "Plant pest" means any organism determined by the commissioner to be capable of causing harm to terrestrial plants, including but not limited to insects, snails, nematodes, fungi, viruses, bacterium, microorganisms, mycoplasma-like organisms, weeds, and parasitic plants.

Subd. 25. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 26. **Public nuisance.** "Public nuisance" means:

(1) a plant, appliance, conveyance, or article that is infested with plant pests that may cause significant damage or harm; or

(2) premises where a plant pest is found.

Subd. 27. **Quarantine.** "Quarantine" means an enforced isolation or restriction of free movement of plants, plant material, animals, animal products, or any article or material in order to treat, control, or eradicate a plant pest.

Subd. 28. **Regulated article.** "Regulated article" means any item, the movement of which is governed by quarantine or this chapter.

Subd. 29. MS 2022 [Repealed, 2023 c 43 art 2 s 142]

Subd. 30. **Significant damage or harm.** "Significant damage" or "harm" means a level of adverse impact that results in unacceptable economic damage, injury, or loss for a particular plant.

History: *2003 c 128 art 4 s 2; 2012 c 244 art 1 s 7; 2023 c 43 art 2 s 47-56*

18G.03 POWERS AND DUTIES OF COMMISSIONER.

Subdivision 1. **Entry and inspection.** (a) The commissioner may enter and inspect a public or private place that might harbor plant pests and may require that the owner destroy or treat plant pests, plants, or other material.

(b) If the owner fails to properly comply with a directive of the commissioner, the commissioner may have any necessary work done at the owner's expense. The commissioner shall notify the owner of the deadline for paying those expenses. If the owner does not reimburse the commissioner for an expense within a time specified by the commissioner, the expense is a charge upon the county as provided in subdivision 4.

(c) If a plant pest infestation or infection threatens plants of an area in the state, the commissioner may take any measures necessary to eliminate or alleviate the potential significant damage or harm.

(d) The commissioner may collect fees required by this chapter.

(e) The commissioner may issue and enforce written or printed "stop-sale" orders, compliance agreements, and other directives and requests to the owner or custodian of any plants or articles infested or infected with a plant pest.

Subd. 2. **Rules.** The commissioner may adopt rules to carry out the purposes of this chapter.

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

Subd. 4. **Collection of charges for work done for owner.** If the commissioner incurs an expense in conjunction with carrying out subdivision 1 and is not reimbursed by the owner of the land, the expense is a legal charge against the land. After the expense is incurred, the commissioner shall file verified and itemized statements of the cost of all services rendered with the county auditor of the county in which the land is located. The county auditor shall place a lien in favor of the commissioner against the land involved, which must be certified by the county auditor and collected according to section 429.101.

Subd. 5. **Certain species not subject to chapter 18G.** This chapter does not apply to exotic aquatic plants and wild animal species regulated under chapter 84D.

History: *2003 c 128 art 4 s 3; 1Sp2005 c 1 art 1 s 28; 2007 c 57 art 1 s 15; 2023 c 43 art 2 s 57*

18G.04 ERADICATION, CONTROL, AND ABATEMENT OF NUISANCES; ISSUING CONTROL ORDERS.

Subdivision 1. **Public nuisance.** Any premises, plant, appliance, conveyance, or article that is infected or infested with plant pests that may cause significant damage or harm and any premises where any plant pest is found is a public nuisance and must be prosecuted as a public nuisance in all actions and proceedings. All legal remedies for the prevention and abatement of a nuisance apply to a public nuisance under this section. It is unlawful for any person to maintain a public nuisance.

Subd. 2. **Control order.** In order to prevent the introduction or spread of plant pests, the commissioner may issue orders for necessary control measures. These orders may indicate the type of specific control to be used, the compound or material, the manner or the time of application, and who is responsible for carrying out the control order. Control orders may include directions to control or abate the plant pest to an acceptable level; eradicate the plant pest; restrict the movement of the plant pest or any material, article, appliance, plant, or means of conveyance suspected to be carrying the plant pest; or destroy plants or plant products infested or infected with a plant pest. Material suspected of being infested or infected with a plant pest may be confiscated by the commissioner.

History: *2003 c 128 art 4 s 4; 2023 c 43 art 2 s 58*

18G.05 DISCOVERY OF PLANT PESTS; OFFICIAL MARKING OF INFESTED OR INFECTED ARTICLES.

Upon knowledge of the existence of a plant pest within the state, the commissioner may conspicuously mark all plants, infested areas, materials, and articles known or suspected to be infected or infested with the plant pest. An entity or individual in possession of the premises or area in which the existence of the plant pest is suspected must be notified by the commissioner with prescribed control measures. An entity or individual must comply with the commissioner's control order within the prescribed time. If the commissioner determines that satisfactory control or mitigation of the pest has been achieved, the order must be released.

History: *2003 c 128 art 4 s 5; 2023 c 43 art 2 s 59*

18G.06 ESTABLISHMENT OF QUARANTINE RESTRICTIONS.

Subdivision 1. **Scope.** The commissioner may impose a quarantine restricting or regulating the production, movement, or existence of plants, plant products, agricultural commodities, crop seed, farm products, or other articles or materials in order that the introduction or spread of a plant pest may be prevented or limited or an existing plant pest may be controlled or eradicated.

Subd. 2. **Quarantine notice.** (a) The commissioner may issue orders to take prompt regulatory action in plant pest emergencies on regulated articles. If continuing quarantine action is required, a formal quarantine may be imposed. Orders may be issued to retain necessary quarantine action on a few properties if eradication treatments have been applied and continuing quarantine action is no longer necessary for the majority of the regulated area.

(b) The commissioner may place an emergency regulation or quarantine in effect without prior public notice in order to take immediate regulatory action to prevent the introduction or establishment of a plant pest.

(c) The commissioner may enter into cooperative agreements with the United States Department of Agriculture and other federal, state, city, or county agencies to assist in the enforcement of federal quarantines. The commissioner may adopt a quarantine or regulation against a plant pest or an area not covered by a federal quarantine. The commissioner may seize, destroy, or require treatment of products moved from a federally regulated area if they were not moved in accordance with the federal quarantine regulations or, if certified, they were found to be infested with the pest organism.

(d) The commissioner may impose a quarantine against a plant pest that is not quarantined in other states to prevent the spread of the plant pest within this state. The commissioner may enact a quarantine against a plant pest of regional or national significance even when no federal domestic quarantine has been adopted. These quarantines regulate intrastate movement between quarantined and nonquarantined areas of this state. The commissioner may enact a parallel state quarantine if there is a federal quarantine applied to a portion of the state.

(e) The commissioner may impose a state exterior quarantine if the plant pest is not established in this state but is established in other states. State exterior quarantines may be enacted even if no federal domestic quarantine has been adopted. The commissioner may issue control orders at destinations necessary to prevent the introduction or spread of plant pests.

Subd. 3. **Description of regulated areas.** (a) The regulated area to be described in a quarantine may involve the entire state, portions of the state, or certain names and locations of infested properties.

(b) Regulated quarantine areas may be subdivided into suppression areas and generally infested areas if it is desirable to control movement into suppression areas from generally infested areas.

(c) Quarantine provisions or areas regulated may be amended by the commissioner through publication of a notice to that effect in local newspapers or through direct written notice to affected property owners.

(d) If an infestation in a specific regulated area has been eliminated to the extent that movement of the regulated articles no longer present a pest risk, the quarantine in that area may be removed. The commissioner may also exempt areas from specified requirements until eradication has been achieved.

Subd. 4. **Movement of regulated articles.** (a) A regulated article may be refused entry into this state if it is prohibited or is required to be certified and comes from an area regulated by a state or federal quarantine. The owner or carrier of regulated articles that are reportedly originating in nonregulated areas of a quarantined

state must provide proof of origin of the regulated articles. An invoice, waybill, or other shipping document satisfactory to the receiving state regulatory official is acceptable as proof of origin.

(b) Certificates or permits are required for the movement of regulated articles from a regulated area to any point outside the regulated area. Certificates or permits are not required for a regulated article originating outside of a regulated area moving to another nonregulated area or moving through or reshipped from a regulated area when the point of origin of the article is clearly indicated on a waybill, bill of lading, shipper's invoice, or other similar document accompanying the shipment. Shipments moving through or being reshipped from a regulated area must be safeguarded against infestation while within the regulated area.

Subd. 5. **Public notification of a state quarantine or emergency regulation.** (a) For plant pest threats of imminent concern, the commissioner may declare an emergency quarantine or enact emergency orders.

(b) If circumstances permit, public notice and a public hearing must be held to solicit comments regarding the proposed state quarantine. If a plant pest threat is of imminent concern and there is insufficient time to allow full public comment on the proposed quarantine, the commissioner may impose an emergency quarantine until a state quarantine can be implemented.

(c) Upon establishment of a state quarantine, and upon institution of modifications or repeal, notices must be sent to the principal parties of interest, including federal and state authorities, and to organizations representing the public involved in the restrictive measures.

Subd. 6. **Quarantine repeal.** A quarantine may be repealed when its purpose has been accomplished. If a quarantine has attained its objective or if the progress of events has clearly proved that attainment is not possible by the restrictions adopted, a quarantine may be modified or repealed.

History: *2003 c 128 art 4 s 6; 2023 c 43 art 2 s 60,61*

18G.07 TREE CARE AND TREE TRIMMING COMPANY REGISTRATION.

Subdivision 1. **Creation of registry.** (a) The commissioner shall maintain a list of all persons, businesses, and companies that employ persons who provide tree care or tree trimming services in Minnesota. All commercial tree care providers, tree trimmers, and employers that direct employees to remove trees, limbs, branches, brush, or shrubs for hire must be registered with the commissioner.

(b) Persons or companies who are required to be registered under paragraph (a) must register annually by providing the following to the commissioner:

(1) accurate and up-to-date business name, address, and telephone number;

(2) a complete list of all Minnesota counties in which they work; and

(3) a nonrefundable fee of $25 for initial application or renewing the registration.

(c) All persons and companies required to be registered under paragraph (a) must register before conducting the activities specified in paragraph (a). Annual registration expires December 31, must be renewed annually, and the renewal fee remitted by January 1 of the year for which it is issued. In addition, a penalty of ten percent of the renewal fee due must be charged for each month, or portion of a month, that the fee is delinquent up to a maximum of 30 percent for any application for renewal postmarked after December 31.

Subd. 2. **Information dissemination.** The commissioner shall provide registered tree care companies with information and data regarding any existing or potential regulated forest pest infestations within the state.

Subd. 3. **Violation.** It is unlawful for a person to advertise tree care or tree trimming services in Minnesota without being registered with the commissioner.

History: *2003 c 128 art 4 s 7; 2010 c 333 art 1 s 10; 2012 c 244 art 1 s 8*

18G.09 SHIPMENT OF PLANT PESTS AND BIOLOGICAL CONTROL AGENTS.

(a) A person may not sell, offer for sale, move, convey, transport, deliver, ship, or offer for shipment any plant pest, noxious weed, or biological control agent without a permit from the United States Department of Agriculture, Animal and Plant Health Inspection Service or its state equivalent. A permit may be issued only after the commissioner determines that the proposed shipment or use will not create a hazard to the agricultural, forest, or horticultural interests of this state or the state's general environmental quality. For interstate movement, the permit must be affixed conspicuously to the exterior of each shipping container, box, package, or appliance; accompany each shipping container, box, package, or appliance; or comply with other directions of the commissioner. Shipping containers must be escape-proof and the commissioner shall specify labeling and shipping protocols.

(b) This section does not apply to:

(1) intrastate shipments of federal- or state-approved biological control agents used in this state for control of plant pests; and

(2) interstate shipments of organisms that the United States Department of Agriculture has specifically identified as not needing a permit for movement.

History: *2003 c 128 art 4 s 8; 2020 c 89 art 4 s 6*

18G.10 EXPORT CERTIFICATION, INSPECTIONS, CERTIFICATES, PERMITS, AND FEES.

Subdivision 1. **Purpose.** To ensure continued access to foreign and domestic markets, the commissioner shall provide inspection and certification services to ensure that appropriate phytosanitary restrictions or requirements are fully met.

Subd. 2. **Disposition and use of money received.** All fees and penalties collected under this chapter and interest attributable to the money in the account must be deposited in the state treasury and credited to the nursery and phytosanitary account in the agricultural fund. Money in the account, including interest earned, is appropriated to the commissioner for the administration and enforcement of this chapter.

Subd. 3. **Cooperative agreements.** The commissioner may enter into cooperative agreements with federal and state agencies for administration of the export certification program.

Subd. 4. **Phytosanitary and export certificates.** An exporter of plants or plant products desiring to originate shipments from Minnesota to a foreign country requiring a phytosanitary certificate or export certificate must submit an application to the commissioner. Application for phytosanitary certificates or export certificates must be made on forms provided or approved by the commissioner or the USDA. The commissioner may conduct inspections of plants, plant products, or facilities for persons that have applied for or intend to apply for a phytosanitary certificate or export certificate from the commissioner.

The commissioner may issue a phytosanitary certificate or export certificate if the plants or plant products satisfactorily meet the requirements of the importing state or foreign country and the United States Department of Agriculture requirements. The requirements of the destination states or countries must be met by the applicant.

Subd. 5. **Certificate fees.** (a) The commissioner shall assess fees sufficient to recover all costs for the inspection, service, and work performed in carrying out the issuance of a phytosanitary certificate or export certificate.

(b) If laboratory analysis or other technical analysis is required to issue a certificate, the commissioner must set and collect the fee to recover this additional cost.

(c) The certificate fee is $75 or a fee amount, not to exceed $300, that is sufficient to recover all processing costs for each phytosanitary or export certificate issued. The certificate fee is in addition to any mileage or inspection time charges that are assessed.

(d) For services provided for in subdivision 7 that are goods and services provided for the direct and primary use of a private individual, business, or other entity, the commissioner must set and collect the fees to cover the cost of the services provided.

Subd. 6. **Certificate denial or cancellation.** The commissioner may deny or cancel the issuance of a phytosanitary or export certificate for any of the following reasons:

(1) failure of the plants or plant products to meet quarantine, regulations, and requirements imposed by the country, state, or other jurisdiction for which the phytosanitary or export certificate is being requested;

(2) failure to completely or accurately provide the information requested on the application form;

(3) failure to ship the exact plants or plant products which were inspected and approved; or

(4) failure to pay any fees or costs due the commissioner.

Subd. 7. **Supplemental, additional, or other certificates and permits.** (a) The commissioner may provide inspection, sampling, or certification services to ensure that Minnesota plant treatment processes, plant products, or commodities meet import requirements of other states or countries.

(b) The state plant regulatory official may issue permits and certificates verifying that various Minnesota agricultural plant treatment processes, products, or commodities meet specified plant health requirements, treatment requirements, or pest absence assurances based on determinations by the commissioner.

Subd. 8. **Misuse of a certificate or permit.** (a) Certificates and permits may not be altered, counterfeited, obtained, or used improperly, for any plant product.

(b) Certificates and permits are not transferable to another location or another person.

History: *2003 c 128 art 4 s 9; 1Sp2005 c 1 art 1 s 29,30; 2012 c 244 art 1 s 9,10; 1Sp2015 c 4 art 2 s 12-14; 2023 c 43 art 2 s 62-64*

18G.11 COOPERATION WITH OTHER JURISDICTIONS.

Subdivision 1. **Detection and control agreements.** The commissioner may enter into cooperative agreements with organizations, entities, civic groups, governmental agencies, or other organizations to adopt and execute plans to detect and control areas infested or infected with plant pests. The cooperative agreements may include provisions of joint funding of any control treatment.

If a plant pest infestation or infection occurs and cannot be adequately controlled by individuals, entities, owners, tenants, or local units of government, the commissioner may conduct the necessary control measures independently or on a cooperative basis with federal or other units of government.

Subd. 2. **New and emerging plant pest programs.** The commissioner may make grants to municipalities or enter into contracts with municipalities, nurseries, colleges, universities, state or federal agencies in connection with new or emerging plant pests programs, including research, or any other organization with the legal authority to enter into contractual agreements.

History: *2003 c 128 art 4 s 10; 2007 c 57 art 1 s 16; 2023 c 43 art 2 s 65*

18G.12 INVASIVE SPECIES MANAGEMENT AND INVESTIGATION.

Subdivision 1. **Plant pest and invasive species research.** The commissioner shall conduct research to prevent the introduction or spread of plant pests that are also terrestrial invasive species into the state and to investigate the feasibility of their control or eradication.

Subd. 2. **Statewide program.** The commissioner shall establish a statewide program to prevent the introduction and the spread of plant pests that are also terrestrial invasive species. To the extent possible, the program must provide coordination of efforts among governmental entities and private organizations.

Subd. 3. **Invasive species management plan.** The commissioner shall prepare and maintain a long-term terrestrial invasive species management plan which may include specific plans for individual species. The plan must address:

(1) coordination strategies for detection and prevention of accidental introductions;

(2) methods to disseminate information about harmful invasive species to the general public and appropriate agricultural and resource management agencies or organizations;

(3) coordination of control efforts for selected harmful terrestrial invasive species; and

(4) participation by local units of government and other state and federal agencies in the development and implementation of local management efforts.

Subd. 4. **Regional cooperation.** The commissioner shall seek cooperation with other states and Canadian provinces for the purposes of management and control of harmful invasive species.

Subd. 5. MS 2008 [Repealed, 2009 c 94 art 1 s 107]

History: *2003 c 128 art 4 s 11; 2023 c 43 art 2 s 66,67*

18G.13 LOCAL PEST CONTROL.

Subdivision 1. **Purpose.** The purpose of this section is to authorize political subdivisions to establish and fund their own programs to control pests that are likely to cause economic or environmental harm or harm to human health.

Subd. 2. **Control.** The governing body of a county, city, or town may appropriate money to control native or exotic pests.

Subd. 3. **Cost.** The governing body of the political subdivision may levy a tax on the taxable property within the subdivision to defray the cost of the activities authorized under subdivision 2.

Subd. 4. **Certificates of indebtedness.** To provide funds for activities authorized in subdivision 2 in advance of collection of the tax under subdivision 3, the governing body may, 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 the tax. The total amount of the certificates, including principal and interest, must not exceed 90 percent of the amount of the levy and must be payable from the proceeds of the levy no later than two years from the date of issuance. They must be issued on terms and conditions determined by the governing body and must 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 the certificates for authorized purposes without complying with statutory or charter provisions requiring that expenditures be based on a prior budget authorization or other budgeting requirements.

Subd. 5. **Deposit of proceeds in separate fund.** The proceeds of a tax levied under subdivision 3 or an issue of certificates of indebtedness under subdivision 4 must be deposited in the municipal treasury in a separate fund and spent only for purposes authorized by this section. If no disbursement is made from the fund for a period of five years, any money remaining in the fund may be transferred to the general fund.

Subd. 6. **Penalty.** A person who prevents, obstructs, or interferes with the county authorities or their agents in carrying out subdivisions 2 to 5, or neglects to comply with the rules and regulations of the county commissioners adopted under authority of those subdivisions, is guilty of a misdemeanor.

Subd. 7. **Regulations; scope.** A city council, board of county commissioners, or town board may by resolution or ordinance adopt and enforce regulations to control and prevent the spread of plant pests and diseases. The regulations may authorize appropriate officers and employees to:

(1) enter and inspect any public or private place that might harbor plant pests;

(2) provide for the summary removal of diseased trees from public or private places if necessary to prevent the spread of the disease;

(3) require the owner to destroy or treat plant pests, diseased or invasive plants, or other infested material; and

(4) provide for the work at the expense of the owner.

The expense must 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, "private place" means every place except a private home.

History: *2003 c 128 art 4 s 12*

18G.14 MOSQUITO ABATEMENT.

Subdivision 1. **Declaration of policy.** The abatement or suppression of mosquitoes is advisable and necessary for the maintenance and improvement of the health, welfare, and prosperity of the people. Areas where mosquitoes incubate or hatch are declared to be public nuisances and may be abated under this section. Mosquito abatement may be undertaken under this section anywhere in the state by any governmental unit.

Subd. 2. **Establishing local board.** A governmental unit may engage in mosquito abatement and establish a mosquito abatement board upon adoption of a resolution to that effect by its governing body or upon adoption of a proposal to that effect by the voters of the governmental unit in the manner provided in subdivision 3.

Subd. 3. **Petition; hearing; election.** If a petition signed by five percent of the property owners or 250 owners, whichever is less, is presented to a governing body requesting the governmental unit to engage in

mosquito abatement, a public hearing must be held on the petition by the governing body within 15 days of presentation of the petition. If the governing body does not, within 15 days after the hearing, adopt a resolution to undertake mosquito abatement, the governing body must order a vote to be taken at the next regular election or town meeting on the proposal to undertake mosquito abatement. The governing body must provide ballots to be used at the election or meeting. The ballot must bear the words "Shall the (governmental unit) of ..... engage in mosquito abatement?" If the majority of the votes are affirmative, the governing body must take appropriate action as soon as possible to carry on mosquito abatement. A proposal to undertake mosquito abatement that is rejected by the voters must not be resubmitted to the voters for two years.

Subd. 4. **Discontinuing program.** If a governmental unit by action of its governing body or voters has chosen to engage in mosquito abatement, the abatement program may be discontinued in the following manner:

(1) 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 this subdivision; and

(2) 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 5.

Subd. 5. **Petition; hearing; and election to discontinue.** If a petition signed by five percent of the property owners or 250 owners, whichever is less, is presented to the governing body engaged in mosquito abatement requesting it to discontinue mosquito abatement, a public hearing must be held on the petition by the governing body within 15 days after presentation of the petition. If the governing body does not, within 15 days after the hearing, adopt a resolution to discontinue mosquito abatement, the governing body must order a vote to be taken at the next regular election or town meeting on the proposal to discontinue mosquito abatement. The governing body shall provide ballots to be used at the election or meeting. The ballot must bear the words "Shall the (governmental unit) of ..... discontinue mosquito abatement?" If a majority of the votes are affirmative, the governing body must take appropriate action as soon as possible to discontinue mosquito abatement. A proposal to discontinue mosquito abatement that is rejected by the voters must not be resubmitted to the voters for two years.

Subd. 6. **Abatement board.** A governing body that has decided, in the manner required by this section, to engage in mosquito abatement, shall appoint three persons to serve as members of a mosquito abatement board with powers specified in subdivision 8. Each member of the board holds office at the pleasure of the governing body and serves without compensation, except that board members may be reimbursed for actual expenses incurred in fulfilling board duties.

Subd. 7. **Officers; meetings.** Immediately after appointment of the board and at the first meeting in each succeeding calendar year, the board shall elect a chair, a secretary, a treasurer, and other necessary officers. The board shall provide for the time and place of holding regular meetings and may establish rules for proceedings. All meetings of the board are open to the public. Two members of the board 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 that record and account must be open at all reasonable times for public inspection.

Subd. 8. **Powers of board.** A mosquito abatement board and a joint board established under this section may, either by board action or through its members, officers, agents, or employees, as may be appropriate:

(1) enter any property within the governmental unit at reasonable times to determine whether mosquito breeding exists;

(2) take necessary and proper steps for the abatement of mosquitoes and other insects and arachnids, such as ticks, mites, and spiders, as the commissioner may designate;

(3) subject to the paramount control of county and state authorities, lagoon and clean up any stagnant pool of water and clean up shores of lakes and streams and other mosquito breeding places;

(4) spray with insecticides, approved by the commissioner, areas in the governmental unit found to be breeding places for mosquitoes or other insects or arachnids designated under clause (2);

(5) purchase supplies and equipment and employ persons necessary and proper for mosquito abatement;

(6) accept gifts of money or equipment to be used for mosquito abatement; and

(7) enter into contracts necessary to accomplish mosquito abatement.

Subd. 9. **Cooperate with state departments.** Each mosquito abatement board and each governmental unit engaged in mosquito abatement shall cooperate with the University of Minnesota, the commissioners of agriculture, health, natural resources, and transportation, and the agricultural experiment station.

Subd. 10. **Tax levy.** An annual tax may be levied for mosquito abatement purposes on all taxable property in any governmental unit undertaking mosquito abatement under this section. The tax must be certified, levied, and collected in the same manner as other taxes levied by the governmental unit.

Subd. 11. **Certificates of indebtedness.** At any time after the annual tax levy has been certified to the county auditor, and not earlier than October 10 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 levied under subdivision 10. Certificates must not be issued in excess of 50 percent of the amount of the tax levy, as spread by the county auditor, to be collected for mosquito abatement. No certificate may be issued to become due and payable later than December 31 of the year succeeding the year in which the tax levy was made. The certificates must not be sold for less than par and accrued interest, and must not bear a greater rate of interest than five percent per annum. Each certificate must state upon its face that the proceeds of the certificate must be used for the mosquito abatement fund, the total amount of the certificates issued, and the amount embraced in the tax levy for that particular purpose. The certificates must be numbered consecutively and be in denominations of $100 or multiples of $100, may have interest coupons attached, and must be otherwise of a form, on terms, and made payable at a place that will best aid in their negotiation. The proceeds of the tax assessed and collected on account of the mosquito abatement fund must be irrevocably pledged for the redemption of the certificates issued. The certificates must be paid solely from the money derived from the levy for the year against which the certificates were issued, or, if they are not sufficient for that purpose, from the levy for the mosquito abatement fund in the next succeeding year. The money derived from the sale of the certificates must be credited to the mosquito abatement fund for the calendar year immediately succeeding the levy and may not be used or spent until the succeeding year. No certificates for any year may be issued until all certificates for prior years have been paid. No certificates may be extended.

Subd. 12. **Deposit and use of funds.** All money received for mosquito abatement purposes, either by way of tax collection or the sale of certificates of indebtedness, must be deposited in the treasury of the governmental unit to the credit of a special fund to be designated as the mosquito abatement fund, must not be used for any other purpose, and must be drawn upon by the proper officials upon the properly authenticated voucher of the mosquito abatement board. No money may be paid from the 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 chair and the secretary of the mosquito abatement board. Each mosquito abatement board shall annually file an itemized statement of all receipts and disbursements with its governing body.

Subd. 13. **Duties of commissioner.** The commissioner:

(1) may establish rules for the conduct of mosquito abatement operations of governmental units and boards engaged in mosquito abatement; and

(2) is an ex officio member of a mosquito abatement board. The commissioner may appoint representatives to act for the commissioner as ex officio members of boards.

Subd. 14. **Natural resources.** The commissioner of natural resources must approve mosquito abatement plans or order modifications the commissioner of natural resources considers necessary for the protection of public water, wild animals, and natural resources before control operations are started on state lands administered by the commissioner of natural resources or in public waters listed on the Department of Natural Resources public waters inventory. The commissioner of natural resources may make necessary modifications in an approved plan or revoke approval of a plan at any time upon written notice to the governing body or mosquito abatement board.

Subd. 15. **Cooperation between governmental units.** If two or more adjacent governmental units have authorized mosquito abatement and appointed the members of the mosquito abatement board, the governing bodies may, by written contract, arrange for pooling mosquito abatement funds, apportioning all costs, cooperating in the use of equipment and personnel, and engaging jointly in mosquito abatement upon terms and conditions and subject to mutually agreed-upon rules. 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 chair of each of the boards or other board members.

Subd. 16. **Unorganized towns; powers of county board.** In any town that is unorganized politically, the county board of the county in which the town is situated has all the rights, powers, and duties conferred by this section upon the governing bodies of towns, including town boards, and the county board must act as though it were the governing body and town board of that town and may authorize and undertake mosquito abatement in the town and cause taxes to be levied for mosquito abatement the same as though the town were organized politically and the county board were the governing body and town board. The cost of mosquito abatement in such a town must be paid solely by a tax levy on the property within the town where mosquito abatement is undertaken and no part of the expense of mosquito abatement in that town may be a county expense or paid by the county.

Subd. 17. **Cost of state's service; refunds.** The actual cost to the state of any service rendered or expense incurred by the commissioner of agriculture or natural resources under this section for the benefit of a mosquito abatement board must be reimbursed by the appropriate governmental unit.

History: *2003 c 128 art 4 s 13; 2004 c 228 art 1 s 13,14*

18G.16 MS 2006 [Repealed, 2007 c 57 art 1 s 170]