

No. 45, S.]

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**CHAPTER 250**

AN ACT to create 26.30 of the statutes, relating to control of forest insect pests and tree diseases.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

26.30 of the statutes is created to read:

**26.30 FOREST INSECTS AND DISEASES; COMMISSION JURISDICTION; PROCEDURE.**

(1) **PURPOSE.** It is the public policy of the state to control forest pests on or threatening forests of the state in order to protect the forest resources, promote good forest management, enhance the growth and maintenance of forests, promote stability of forest-using industries, aid in fire control by reducing the menace created by dying and dead trees, conserve forest cover on watersheds and protect wildlife, recreational values and other values of the forest.

(2) **POWERS OF THE COMMISSION.** The commission is vested with authority and jurisdiction in all matters relating to the prevention, detection and control of forest pests on the forest lands of the state, and to do all things necessary in the exercise of such authority and jurisdiction, except that this shall not be construed to grant any powers or authority to the conservation commission for the silvicultural control of forest pests on any land. It is the intent that this section shall apply only to the detection and control of forest pests on forest lands and nothing in this section shall be construed to affect the authority of the state department of agriculture as outlined in chs. 93 and 94. The action of the commission under sub. (4) shall be co-ordinated with the state department of agriculture in accordance with s. 14.65. The directors of the conservation department and state department of agriculture shall execute annually a memorandum of agreement to enable the co-ordination of pest control work of the 2 departments.

(3) **DEFINITIONS.** As used in this section:

(a) "Forest pest" means any insect or disease which is harmful, injurious or destructive to forests or timber.

(b) "Forests" or "forest lands" mean any area on which trees exist, standing or down, alive or dead, actually or potentially valuable for forest products, watershed or wildlife protection or recreational uses in contrast

to shade, horticulture or ornamental trees valuable for landscape, agricultural, aesthetic or similar purposes.

(c) "Infestation" includes actual, potential, incipient or emergency infestation or infection by forest pests.

(d) "Control" includes prevent, retard, suppress, eradicate or destroy.

(e) "Control zone" means an area of land which, in the judgment of the commission, constitutes a present or potential forest pest breeding ground of a nature to be harmful, detrimental and injurious to permanent forest growth in the district or zone upon which control measures are justified.

(4) SURVEYS, INVESTIGATIONS AND CONTROL. The commission shall make surveys and investigations to determine the presence, condition and extent of infestations and it shall also carry on control measures when necessary. For such purposes the commission or its agents may enter public and private lands at reasonable times without incurring a liability to anyone.

(5) CO-OPERATIVE AGREEMENTS. To carry out the purposes of this section the commission may enter into arrangements or agreements with the university of Wisconsin, the state department of agriculture, other departments of this and other states, the U. S. department of agriculture and other federal agencies and with counties, towns, corporations and individuals.

(6) RESPONSIBILITY OF FOREST LANDOWNERS. Every owner of forest lands or timber shall exercise every reasonable effort to control and destroy forest pests on forest lands or timber owned by him or under his control. In case of his failure, neglect or inability to do so, the work may be performed as provided in this section.

(7) DESIGNATION OF INFESTATION CONTROL ZONES. (a) Whenever the commission finds that an area in the state is infested or threatened with infestation by forest pests, it shall determine whether proven measures of control are needed and are available at reasonable cost with respect to the value of the forest lands or timber to be protected and the area affected. Such control measures may be applied through cooperative agreements as provided in subs. (5) and (8) or the commission may designate a proposed zone of infestation covering the area in which control measures are to be applied. When a proposed zone of infestation is designated and before the establishment thereof, the commission shall hold a public hearing thereon. Notice of such hearing shall be published in one or more newspapers having a general circulation in the county or counties covered in whole or in part by the proposed zone. The notice shall contain a description of the lands included in the proposed zone of infestation and a time and place where owners of forest lands in the proposed zone may show cause orally or in writing why the zone should or should not be established. The commission shall consider any statements received in determining whether the zone shall be established. If the commission determines that a zone should be established it shall issue an order establishing the zone of infestation.

(b) Upon the establishment of a zone of infestation by the commission, notice thereof shall be published in one or more newspapers having a general circulation in the area affected by such zone.

(c) When the commission finds that an emergency condition exists and that the delays necessitated by the procedure outlined in pars. (a) and (b) would result in an epidemic or infestation, it may by order establish a zone of infestation without public hearing, giving such notice as it may deem feasible.

(8) COMMISSION TO CONTROL INFESTATION IF OWNER FAILS TO ACT. Upon the establishment of a zone of infestation, the commission shall

apply measures of control on public and private forest lands within the established zone if the owner fails, refuses, neglects or is unable to undertake adequate control measures. The commission shall endeavor to enter into agreements with owners of forest lands concerning the control work on their lands and fixing a pro rata basis on which the costs of such work will be shared between the state and such owner. Failure of the commission to offer an agreement to or execute an agreement with any owner shall not relieve him of any liability under this act or impair the right of the commission to enter on the lands of said owner to conduct control operations.

(9) DISTRIBUTION AND COLLECTION OF COSTS. (a) At the completion of the control measures in any area, or at the end of the calendar year, the commission shall prepare a certified statement of the expenses incurred in carrying out such measures including expenses of owners covered by agreements pursuant to sub. (8) but these charges shall not include salary or expenses of regular permanent or seasonal personnel of the commission, or operating costs for such regular equipment as may be owned or purchased by the commission for insect pest control work. The statement shall show the amount which the commission determines to be the state's share of the expenses, but this amount shall not be less than 50 per cent of such expenses incurred on forest lands. The share of the state may include any federal aid funds and the value of contributions made available by other co-operators, but not federal funds allocated to a specific control project. The balance of such costs shall constitute a charge on an acreage basis against the owners of lands in the area 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 commission shall consider present values and the present and potential benefits to such owner and to the state as a whole from the application of control measures, the cost of applying such measures to his land, and other such factors as in the discretion of the commission will enable it to determine an equitable distribution of the costs to all such owners. No charge shall be made against owners to the extent that they have individually or collectively contributed funds, supplies or services pursuant to agreement, and 160 acres or less of forest land owned by any person within any county shall be exempt from any control cost.

(b) As soon as the expenses incurred by the state in forest pest control work have been paid by the state treasurer, the commission shall send to each landowner, a bill covering an equitable share of such expenses as herein provided.

1. When such work has been performed on county lands, the commission shall send to the proper county treasurer a bill for the county's share of such expenses and a copy of the bill shall be filed with the director of budget and accounts. The county shall have until October 1 of each year to pay such bill. If payment is not made by October 1 of each year, the secretary of state upon information certified to him by the director of budget and accounts, shall include such amount as a part of the next levy against the county for state taxes, but no county shall be required to pay more than \$5,000 of such amount in any one year. Any unpaid levy under this section shall remain a charge against the county and the secretary of state shall include such unpaid sums in the state tax levy of the respective counties in subsequent years.

2. When such work has been performed on other public or private lands the commission shall certify to such owner the claim of the state in writing and list the items of expense incurred in such pest control work. Such claims shall be paid within 60 days and, if not paid within such time, the state may begin an action thereon at any time within 2 years.

3. If any claim is not paid within 60 days, the state may file a mechanics lien within 6 months after the 60-day period expires against the land affected in accordance with ch. 289, and shall have the necessary remedies to enforce the lien.

(10) DISSOLUTION OF INFESTATION CONTROL ZONES. Whenever the commission finds that forest pest control within an established zone of infestation is no longer necessary or feasible it shall set aside the order establishing the zone.

Approved June 16, 1955.

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