

Mosquito Control's Enabling Statute

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Delaware Code

TITLE 16

Health and Safety

Regulatory Provisions Concerning Public Health

CHAPTER 19. MOSQUITO CONTROL

§ 1901. Department of Natural Resources and Environmental Control -- Supervision.

The duties, powers and functions of the former Mosquito Control Commission of the State and the State Highway Department shall be under the supervision and control of the Department of Natural Resources and Environmental Control, which Department may perform all the duties, powers and functions formerly vested in the Mosquito Control Commission and the State Highway Department. (Code 1935, c. 182; 45 Del. Laws, c. 27, § 1; 16 Del. C. 1953, § 1901; 57 Del. Laws, c. 739, §§ 228-230.)

§ 1902. Department of Natural Resources and Environmental Control -- Powers and duties.

(a) The Department of Natural Resources and Environmental Control, hereinafter referred to as the Department, may:

(1) Take all necessary and proper steps and measures for the eradication of mosquitoes, including but not limited to source reduction methods that alter or eliminate the habitats of immature mosquitoes, biological controls such as native fish stocking, and the application of insecticides by air or ground to control immature or adult mosquitoes, all done in order to effect nuisance relief, to protect public health, and to help avoid adverse impacts to local economies from severe mosquito infestations; and

(2) Treat as nuisances all stagnant pools of water or other breeding places of mosquitoes to help protect the public's well being and health; and

(3) Purchase all needed equipment, supplies and materials, and employ such labor and services as may be proper or necessary in the furtherance of the objects of this chapter of this title and fix the compensation and prescribe the duties of all employees, agents and servants; and

(4) Enter upon land, whether privately-owned or not, for the purpose of determining the breeding places of immature mosquitoes or occurrence of adult mosquitoes, and treat with proper means all such breeding places or adult mosquito populations wherever situated, doing no unnecessary damage; and

(5) Generally do any and all things necessary or incident to the powers granted and to carry out the objects specified in this chapter of this title. This may include at the Secretary's discretion the promulgation of rules and regulations to help effectuate the purposes of this subchapter of this chapter of this title.

(b) Control measures taken for the eradication of mosquitoes shall, to the extent practicable, not be injurious to pets, livestock or wildlife. The Department shall perform and exercise the authority and powers granted under this chapter of this title within the limitations of any appropriation made under any appropriation act of the General Assembly for mosquito control purposes. (Code 1935, c. 182; 45 Del. Laws, c. 309, § 1; 46 Del. Laws, c. 309, § 1; 16 Del. C. 1953, § 1902; 76 Del. Laws, c. 151, § 1.)

§ 1903. Declaration of nuisance.

Any accumulation of water in which mosquitoes are breeding or are likely to breed is declared to be a nuisance. (Code 1935, c. 182; 45 Del. Laws, c. 271, § 3; 46 Del. Laws, c. 309, § 2; 16 Del. C. 1953, § 1903.)

§ 1904. Source reduction practices for mosquito control; notice of entry, claims, damages and payments.

(a) Source reduction practices for mosquito control involving physical, topographical, or hydrological alterations of wetlands or other aquatic habitats, such as but not limited to the installation of shallow ponds or small ditches to harbor or allow access for mosquito-eating fishes, or the construction of shallow ponds or small ditches or the placement of fill to eliminate or usurp mosquito-rearing sites, must be done in an environmentally-compatible manner and to the extent practicable shall limit adverse impacts to flora and fauna and shall only be undertaken after all required federal and state permits have been obtained. A property owner must be informed at least 30 days in advance in writing, of any intention to perform such source reduction work. Any property owner objecting to the proposed source reduction work, or who is aggrieved or who claims injury or damages due to the execution of any source reduction work of the Department on said property, may file a protest with the Department setting forth the grievance or claim. The Department shall thereupon and within 30 days after the filing of such protest or claim set a time, place and location for a public hearing thereof. If the protest involves a property owner asserting that the proposed source reduction work is not necessary or is otherwise improper, such work shall not commence or proceed until the protest has been denied by the Secretary after the public hearing. In all such cases the decision of the Department as to the necessity and appropriateness of such source reduction work shall be final. Any damage claimed by any party on account of source reduction work of the Department upon that party's property may be judicially determined. The amount of any damage that may be awarded such party shall be paid by the Department.

(b) This section shall not apply to the application of mosquito control insecticides which are subject to other federal and state laws and regulations governing their legal applications, and are also subject to the Department's administrative policies and procedures for making such applications. This section shall also not apply to the use of biological controls such as the stocking of native fish that consume immature mosquitoes, which is a practice subject to the Department's administrative policies and procedures. (Code 1935, c. 182; 45 Del Laws, c. 271, § 4; 46 Del. Laws, c. 309, § 2; 16 Del. C. 1953, § 1904; 57 Del. Laws, c. 739, § 232; 70 Del. Laws, c. 186, § 1; 76 Del. Laws, c. 151, § 2.)

§ 1905. Obstructions and interferences.

Whoever obstructs or interferes with the entry of the Department or its employees upon land or who obstructs or interferes with, molests or damages any of the work performed by it is guilty of a misdemeanor. (Code 1935, c. 182; 45 Del. Laws, c. 271, § 5; 46 Del. Laws, c. 309, § 2; 16 Del. C. 1953, § 1905; 57 Del. Laws, c. 739, § 233.)

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