

HOUSE BILL No. 1215

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-16.

Synopsis: Enforcement of pesticide violations. Provides a list of violations for which the state chemist may impose a civil penalty. Eliminates the schedule of civil penalties as adopted by the Indiana pesticide review board. (Under current law, the state chemist imposes a civil penalty in accordance with a schedule of civil penalties as adopted by the Indiana pesticide review board.) Provides that the state chemist may reduce a civil penalty for certain violations by 20% for each mitigating action taken by a person responsible for the violation.

Effective: July 1, 2021.

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January 14, 2021, read first time and referred to Committee on Agriculture and Rural Development.



First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

HOUSE BILL No. 1215



A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 15-16-4-3.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2021]: **Sec. 3.5. As used in this chapter, "adverse effect" means**
4 **a pesticide exposure to a nontarget site (as defined in 357**
5 **IAC 1-12-1) that results in:**
6 **(1) pesticide residues in excess of established food or feed**
7 **tolerances established by the United States Environmental**
8 **Protection Agency;**
9 **(2) environmental media standards or benchmarks for**
10 **pesticides established by a federal or state agency; or**
11 **(3) visible, measurable, or documented:**
12 **(A) death;**
13 **(B) illness;**
14 **(C) stunting;**
15 **(D) deformation;**
16 **(E) discoloration; or**
17 **(F) other effects;**



1 **that are detrimental to the nontarget site.**

2 SECTION 2. IC 15-16-4-69, AS AMENDED BY P.L.91-2020,
3 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 2021]: Sec. 69. (a) Subject to this section, if a person violates
5 this chapter or a rule adopted under this chapter, the state chemist
6 under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the
7 person or:

- 8 (1) deny;
9 (2) suspend;
10 (3) revoke; or
11 (4) amend;

12 the person's registration under this chapter.

13 (b) The state chemist may impose civil penalties under this section
14 only in accordance with the schedule of civil penalties adopted by the
15 board. The board shall establish a schedule of the civil penalties that
16 may be imposed under subsection (a) by rule adopted under IC 4-22-2.
17 The rule adopted under this subsection may not provide for a civil
18 penalty that exceeds the following:

- 19 (1) Two hundred fifty dollars (\$250) for a person's first violation.
20 (2) Five hundred dollars (\$500) for a person's second violation.
21 (3) One thousand dollars (\$1,000) for a person's third violation
22 and each subsequent violation.

23 **subsections (c) through (e). However, this section does not require**
24 **the state chemist to impose a civil penalty on a person for any**
25 **violation of this chapter or a rule adopted under this chapter.**

26 (c) Except for a violation described in subsection (d) or (e), the
27 state chemist may impose a civil penalty not exceeding two
28 hundred fifty dollars (\$250) for a violation of this chapter or any
29 rule adopted under this chapter. A civil penalty imposed under this
30 subsection may be adjusted for mitigating actions described in
31 subsection (f). A civil penalty under this subsection may not be
32 imposed unless a warning for a violation has previously been issued
33 to the person for the same violation within the previous five (5)
34 years.

35 (d) Subject to adjustment under subsection (f) for mitigating
36 actions, the state chemist may impose a civil penalty not exceeding
37 five hundred dollars (\$500) if the state chemist finds that a person
38 has done any of the following:

- 39 (1) Unknowingly committed an act described in section 57(1)
40 of this chapter.
41 (2) Committed an act described in section 57(2) through 57(5)
42 of this chapter.



- 1 **(3) Unknowingly committed an act described in section 66(1)**
 2 **of this chapter.**
- 3 **(4) Committed an act described in section 66(2) or 66(3) of**
 4 **this chapter.**
- 5 **(5) Unknowingly committed an act described in 357**
 6 **IAC 1-3-3.**
- 7 **(6) Stored a nonrestricted use pesticide in a minibulk pesticide**
 8 **storage container outside of secondary containment.**
- 9 **(e) The state chemist may impose a civil penalty of one thousand**
 10 **dollars (\$1,000) if the state chemist finds that a person has done**
 11 **any of the following:**
- 12 **(1) Knowingly committed an act described in section 57(1) of**
 13 **this chapter.**
- 14 **(2) Committed an act described in section 57(9) of this**
 15 **chapter.**
- 16 **(3) Knowingly committed an act described in section 66(1) of**
 17 **this chapter.**
- 18 **(4) Committed an act described in section 67, 68, 73(c), or 77**
 19 **of this chapter.**
- 20 **(5) Committed an act described in 357 IAC 1-3-2.**
- 21 **(6) Knowingly committed an act described in 357 IAC 1-3-3.**
- 22 **(7) Stored:**
- 23 **(A) any pesticide in a bulk pesticide storage container; or**
 24 **(B) a restricted use pesticide in a minibulk pesticide**
 25 **storage container;**
- 26 **outside of secondary containment.**
- 27 **(8) After notice, refused to comply with this chapter, the rules**
 28 **adopted under this chapter, or a lawful order of the state**
 29 **chemist or board.**
- 30 **(f) The state chemist may not adjust the amount of the civil**
 31 **penalty for a violation listed in subsection (e). The state chemist**
 32 **may reduce the amount of the civil penalty for a violation listed in**
 33 **subsection (c) or (d) if the state chemist finds that the person**
 34 **responsible for the violation has taken any of the following**
 35 **mitigating actions:**
- 36 **(1) Cooperated with the state chemist during the investigation**
 37 **or inspection process.**
- 38 **(2) Took corrective action to prevent future similar violations.**
- 39 **(3) Compensated a victim for any adverse effects that resulted**
 40 **from the violation.**
- 41 **The state chemist may reduce the amount of the civil penalty by**
 42 **twenty percent (20%) for each mitigating action taken by the**



1 **person responsible for the violation.**

2 (e) (g) A proceeding under IC 4-21.5-3 that involves the imposition
3 of a civil penalty may be consolidated with any other proceeding
4 commenced under IC 4-21.5 to enforce this chapter or the rules
5 adopted under this chapter.

6 (d) (h) Money collected for civil penalties imposed under this
7 section shall be credited to the office of Purdue pesticide programs.
8 The money may be used only to provide education about pesticides.

9 SECTION 3. IC 15-16-5-0.5 IS ADDED TO THE INDIANA CODE
10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
11 1, 2021]: **Sec. 0.5. As used in this chapter, "adverse effect" has the
12 meaning set forth in IC 15-16-4-3.5.**

13 SECTION 4. IC 15-16-5-66, AS AMENDED BY P.L.91-2020,
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2021]: Sec. 66. (a) The state chemist may impose civil
16 penalties under this section only in accordance with ~~the schedule of~~
17 ~~civil penalties adopted by the board.~~ **subsections (b) through (d).**
18 **However, this section does not require the state chemist to impose**
19 **a civil penalty on a person for any violation of this chapter or a**
20 **rule adopted under this chapter.**

21 (b) The board shall establish a schedule of civil penalties that may
22 be imposed under section 65 of this chapter by rule adopted under
23 IC 4-22-2. The rule adopted under this subsection may not provide for
24 a civil penalty that exceeds the following:

25 (1) For a violation committed by a person who is required to be
26 certified as a private applicator, one hundred dollars (\$100).

27 (2) For a violation by a person who is not described in subdivision
28 (1), the following:

29 (A) Two hundred fifty dollars (\$250) for a person's first
30 violation.

31 (B) Five hundred dollars (\$500) for a person's second
32 violation.

33 (C) One thousand dollars (\$1,000) for a person's third
34 violation and each subsequent violation.

35 (b) **Except for a violation described in subsection (c) or (d), the**
36 **state chemist may impose a civil penalty not exceeding two**
37 **hundred fifty dollars (\$250) for a violation of this chapter or any**
38 **rule adopted under this chapter. A civil penalty imposed under this**
39 **subsection may be adjusted for mitigating actions described in**
40 **subsection (e). A civil penalty under this subsection may not be**
41 **imposed unless a warning for a violation has previously been issued**
42 **to the person for the same violation within the previous five (5)**



- 1 years.
- 2 (c) Subject to adjustment under subsection (e) for mitigating
- 3 actions, the state chemist may impose a civil penalty not exceeding
- 4 five hundred dollars (\$500) if the state chemist finds that a person
- 5 has done any of the following:
- 6 (1) After written notice, neglected to:
- 7 (A) keep and maintain records; or
- 8 (B) make reports and supply information when required or
- 9 requested by the state chemist in the course of an
- 10 investigation or inspection;
- 11 as described in section 65(7) of this chapter.
- 12 (2) Committed an act described in section 65(8) of this
- 13 chapter.
- 14 (3) Unknowingly committed an act described in section 65(9)
- 15 or 65(10) of this chapter.
- 16 (4) After written notice, neglected to comply with any
- 17 limitations or restrictions on or in a duly issued license,
- 18 permit, registration, or certification as described in section
- 19 65(12) of this chapter.
- 20 (5) Committed an act described in section 65(14) or 65(16) of
- 21 this chapter.
- 22 (6) Recommended, used, or supervised the use of a
- 23 nonrestricted use pesticide product in a manner inconsistent
- 24 with its labeling and resulting in an adverse effect.
- 25 (7) Recommended, used, or supervised the use of a restricted
- 26 use pesticide product in a manner inconsistent with its
- 27 labeling and resulting in no adverse effect.
- 28 (8) Applied a nonrestricted use pesticide in a manner that
- 29 allows it to drift from the target site in a sufficient quantity to
- 30 cause an adverse effect to a nontarget site (as defined in 357
- 31 IAC 1-12-1).
- 32 (d) The state chemist may impose a civil penalty of one thousand
- 33 dollars (\$1,000) if the state chemist finds that a person has done
- 34 any of the following:
- 35 (1) Committed an act described in section 64(a) of this
- 36 chapter.
- 37 (2) Committed an act described in section 65(5) of this
- 38 chapter.
- 39 (3) After notice, refused to comply with this chapter, the rules
- 40 adopted under this chapter, or any lawful order of the state
- 41 chemist or the board as described in section 65(6) of this
- 42 chapter.



- 1 **(4) Refused to:**
 2 **(A) keep and maintain records; or**
 3 **(B) make reports and supply information when required or**
 4 **requested by the state chemist in the course of an**
 5 **investigation or inspection;**
 6 **as described in section 65(7) of this chapter.**
 7 **(5) Intentionally committed an act described in section 65(8)**
 8 **of this chapter.**
 9 **(6) Knowingly committed an act described in section 65(9) or**
 10 **65(10) of this chapter.**
 11 **(7) Committed an act described in section 65(11) of this**
 12 **chapter.**
 13 **(8) Refused to comply with any limitations or restrictions on**
 14 **or in a duly issued license, permit, registration, or**
 15 **certification as described in section 65(12) of this chapter.**
 16 **(9) Committed an act described in section 65(13), 65(15),**
 17 **65(18), or 65(19) of this chapter.**
 18 **(10) Committed an act described in 355 IAC 4-7-7.**
 19 **(11) Recommended, used, or supervised the use of a restricted**
 20 **use pesticide product in a manner inconsistent with its**
 21 **labeling and resulting in an adverse effect.**
 22 **(12) Applied a restricted use pesticide in a manner that allows**
 23 **it to drift from the target site in a sufficient quantity to cause**
 24 **an adverse effect to a nontarget site (as defined in 357**
 25 **IAC 1-12-1).**
 26 **(e) The state chemist may not adjust the amount of the civil**
 27 **penalty for a violation listed in subsection (d). The state chemist**
 28 **may reduce the amount of the civil penalty for a violation listed in**
 29 **subsection (b) or (c) if the state chemist finds that the person**
 30 **responsible for the violation has taken any of the following**
 31 **mitigating actions:**
 32 **(1) Cooperated with the state chemist during the investigation**
 33 **or inspection process.**
 34 **(2) Took corrective action to prevent future similar violations.**
 35 **(3) Compensated a victim for any adverse effects that resulted**
 36 **from the violation.**
 37 **The state chemist may reduce the amount of the civil penalty by**
 38 **twenty percent (20%) for each mitigating action taken by the**
 39 **person responsible for the violation.**
 40 **(f) A proceeding under IC 4-21.5-3 that involves a civil penalty**
 41 **may be consolidated with any other proceeding commenced under**
 42 **IC 4-21.5 to enforce this chapter or the rules adopted under this**



1 chapter.

2 ~~(d)~~ (g) Money collected for civil penalties imposed under section 65
3 of this chapter shall be credited to the office of Purdue pesticide
4 programs. The money may be used only to provide education about
5 pesticides.

