



January 17, 2020

HOUSE BILL No. 1119

DIGEST OF HB 1119 (Updated January 16, 2020 10:07 am - DI 77)

Citations Affected: IC 15-16; noncode.

Synopsis: Regulation of pesticide use and application. Makes changes to the statute governing the state chemist's authority to impose civil penalties for purposes of the law concerning pesticides, pesticide use, and pesticide application. Provides that the changes to the state chemist's imposition of civil penalties do not apply to the imposition of a civil penalty pursuant to a proceeding of the state chemist initiated before July 1, 2020.

Effective: July 1, 2020.

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January 8, 2020, read first time and referred to Committee on Agriculture and Rural Development.
January 16, 2020, amended, reported — Do Pass.

HB 1119—LS 6865/DI 129



January 17, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1119

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, 2020]: **Sec. 3.5. As used in this chapter, "adverse effect" has the**
4 **meaning set forth in IC 15-16-5-0.5.**
5 SECTION 2. IC 15-16-4-3, AS ADDED BY P.L.2-2008, SECTION
6 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
7 2020]: Sec. 3. As used in this chapter, "adulterated" refers to a
8 pesticide or pesticide product if:
9 (1) the strength or purity of the pesticide ~~falls below~~ **does not**
10 **meet** the professed standard or quality as expressed on its labeling
11 under which it is sold;
12 (2) any substance has been substituted wholly or in part for the
13 pesticide product; or
14 (3) any valuable constituent of the pesticide product has been
15 wholly or in part removed.
16 SECTION 3. IC 15-16-4-10, AS ADDED BY P.L.2-2008,
17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

HB 1119—LS 6865/DI 129



1 JULY 1, 2020]: Sec. 10. As used in this chapter, "device" means any
 2 instrument or contrivance intended for trapping, destroying, repelling,
 3 or mitigating ~~insects or rodents or destroying, repelling, or mitigating~~
 4 any pest. The term does not include:

- 5 (1) equipment used for the application of pesticides when sold
- 6 separately from the pesticides;
- 7 (2) firearms; or
- 8 (3) simple mechanical devices, including barriers, traps, or
- 9 adhesives, or other simple contrivances that are not subject to this
- 10 chapter as determined by the pesticide review board.

11 SECTION 4. IC 15-16-4-14, AS ADDED BY P.L.2-2008,
 12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2020]: Sec. 14. As used in this chapter, "~~fungi~~" means all
 14 ~~nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants~~
 15 ~~of a lower order than mosses and liverworts); including:~~

- 16 (1) ~~rusts;~~
- 17 (2) ~~smuts;~~
- 18 (3) ~~mildews;~~
- 19 (4) ~~molds;~~
- 20 (5) ~~yeasts;~~
- 21 (6) ~~bacteria; and~~
- 22 (7) ~~viruses;~~

23 ~~except those on or in a living human or other animal: "fungus" has the~~
 24 ~~meaning set forth in IC 15-16-5-14.~~

25 SECTION 5. IC 15-16-4-18, AS ADDED BY P.L.2-2008,
 26 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 27 JULY 1, 2020]: Sec. 18. As used in this chapter, "immediate container"
 28 means the part of a container that is in direct contact with a pesticide.
 29 ~~product. In the case of a pesticide product that is a device, the term~~
 30 ~~includes the device itself.~~

31 SECTION 6. IC 15-16-4-34, AS ADDED BY P.L.2-2008,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 34. As used in this chapter, "plant regulator"
 34 means any substance or mixture of substances, intended through
 35 physiological action, for:

- 36 (1) accelerating or retarding the rate of growth or rate of
- 37 maturation; or
- 38 (2) altering the behavior of ornamental or crop plants or the
- 39 produce of ornamental or crop plants.

40 The term does not include substances ~~to the extent they that~~ are
 41 intended **solely** as plant nutrients, trace elements, nutritional chemicals,
 42 plant inoculants, and soil amendments.



1 SECTION 7. IC 15-16-4-56, AS ADDED BY P.L.2-2008,
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2020]: Sec. 56. For more than one (1) pesticide product to be
 4 considered the same pesticide product, each pesticide product must
 5 exhibit the same:

- 6 (1) product name;
- 7 (2) registrant name;
- 8 (3) United States Environmental Protection Agency registration
 9 number, **if applicable; and**
- 10 (4) labeling, **claims, and branding; and**
- 11 **(5) ingredient statement.**

12 SECTION 8. IC 15-16-4-61, AS ADDED BY P.L.2-2008,
 13 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2020]: Sec. 61. (a) Each pesticide product that is:

- 15 (1) produced, distributed, sold, displayed, or offered for sale
 16 within Indiana; or
- 17 (2) delivered for transportation or transported:
 18 (A) in intrastate commerce; or
 19 (B) between points within Indiana through any point outside
 20 Indiana;

21 must be registered in the office of the state chemist.

22 (b) The application for registration must be made on a form
 23 provided by the state chemist that includes the following information:

- 24 (1) The name and address of the:
 25 (A) applicant; and
 26 (B) person whose name will appear on the label, if a person
 27 other than the applicant.
- 28 (2) The complete brand name of the pesticide **product.**
- 29 (3) A complete copy of the labeling accompanying the pesticide
 30 **product.**
- 31 ~~(4) A statement of all claims to be made for it, including~~
 32 ~~directions for use.~~
- 33 (5) ~~If requested by the state chemist, a full description of the tests~~
 34 ~~made and the results of the tests upon which the claims are based.~~
 35 ~~In the case of renewal of registration, a statement shall be~~
 36 ~~required only with respect to information that is different from~~
 37 ~~that furnished when the pesticide was registered or last~~
 38 ~~reregistered.~~

39 SECTION 9. IC 15-16-4-62, AS AMENDED BY P.L.99-2012,
 40 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2020]: Sec. 62. (a) Each registrant shall pay an annual,
 42 nonrefundable **application** fee of one hundred seventy dollars (\$170)



1 for each application for each pesticide product submitted for
 2 registration **or reregistration.**

3 (b) Each registration expires January 1 of each year.

4 (c) All fees collected by the state chemist under this chapter shall be
 5 paid to the treasurer of Purdue University, who shall deposit the fees in
 6 a special restricted account designated by the treasurer of the board of
 7 trustees of Purdue University.

8 (d) From the account described in subsection (c), the treasurer shall
 9 pay all expenses incurred in administering this chapter, including
 10 expenses for the following:

11 (1) The employment of:

12 (A) inspectors;

13 (B) investigators;

14 (C) researchers;

15 (D) analysts;

16 (E) administrators; and

17 (F) clerical and service staff.

18 (2) Expenses in procuring samples and printing results of
 19 inspections.

20 (3) Purchasing:

21 (A) supplies;

22 (B) equipment; and

23 (C) services.

24 (4) Necessary remodeling.

25 (5) Other expenses of the office of the state chemist.

26 (6) The transfer of ten dollars (\$10) from each fee paid under
 27 subsection (a) on an annual basis to the office of Purdue pesticide
 28 programs to provide education about the safe and effective use of
 29 pesticides.

30 The treasurer is not required to use any other funds, except those
 31 collected as registration fees, to pay any expenses incurred in the
 32 administration of this chapter. The dean of agriculture shall make an
 33 annual financial report to the governor showing total receipts and
 34 expenditures of all fees received under this chapter.

35 (e) A registrant who registers or pays an annual fee after December
 36 31 of any year shall pay a late fee of one hundred seventy dollars
 37 (\$170) as well as the annual fee.

38 (f) Excess funds from the collection of fees under this chapter are
 39 subject to IC 15-16-2-36.

40 SECTION 10. IC 15-16-4-64, AS ADDED BY P.L.120-2008,
 41 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2020]: Sec. 64. (a) The state chemist ~~shall~~ **may** require the



1 submission of the complete formula of any pesticide product, including
2 the:

- 3 (1) confidential statement of formula;
4 (2) analytical methods for the analysis of the pesticide
5 formulation and the analysis of residues of the pesticide product
6 in environmental media; ~~and~~
7 (3) analytical standards of the pesticide product;
8 **(4) safety data sheet;**
9 **(5) physical sample of the pesticide product; and**
10 **(6) a statement of all claims to be made for the pesticide**
11 **product, including a full description of the tests made and the**
12 **results of the tests upon which the claims are based.**

13 In the case of a federally registered product, this requirement may be
14 waived.

15 (b) The state chemist shall register a pesticide product if:

- 16 (1) the state chemist determines that the composition of the
17 pesticide product warrants the proposed claims for the pesticide
18 product;
19 (2) the pesticide product, its labeling, and other material required
20 to be submitted comply with the requirements of section 61 of this
21 chapter; and
22 (3) the state chemist determines that the person submitting the
23 application for registration has complied with the requirements of
24 this chapter, **including satisfying all outstanding judgments**
25 **resulting from a violation of this chapter, after any action has**
26 **been finalized under section 64.5 of this chapter.**

27 (c) The state chemist shall notify the applicant that the pesticide
28 product, labeling, or other material required to be submitted fails to
29 comply with the law if the state chemist determines:

- 30 (1) that the proposed claims for the pesticide product; or
31 (2) the pesticide product, its labeling, and other material required
32 to be submitted;

33 does not comply with this chapter, **including satisfying all**
34 **outstanding judgments resulting from a violation of this chapter,**
35 **after any action has been finalized under section 64.5 of this**
36 **chapter.**

37 (d) If the state chemist notifies an applicant under subsection (c), the
38 state chemist shall give the applicant an opportunity to make the
39 necessary corrections. If upon receipt of notice, the applicant does not
40 make the corrections, the state chemist may refuse to register the
41 pesticide product.

42 (e) The state chemist, in accordance with the procedures specified



1 in this section, may deny, suspend, or cancel the registration of a
 2 pesticide whenever the state chemist determines that:

- 3 (1) the pesticide product;
 4 (2) the pesticide product's labeling; or
 5 (3) the person submitting the application for registration of the
 6 pesticide product;

7 does not comply with this chapter, **including satisfying all**
 8 **outstanding judgments resulting from a violation of this chapter,**
 9 **after any action has been finalized under section 64.5 of this**
 10 **chapter.**

11 (f) If:

- 12 (1) an application for registration is refused; or
 13 (2) the state chemist proposes to deny, suspend, or cancel a
 14 registration;

15 notice of the action and information concerning the person's right to
 16 obtain a review under section 64.5 of this chapter must be given to the
 17 applicant or registrant.

18 SECTION 11. IC 15-16-4-69, AS ADDED BY P.L.2-2008,
 19 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2020]: Sec. 69. (a) Subject to this section, if a person violates
 21 this chapter or a rule adopted under this chapter, the state chemist
 22 under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the
 23 person or:

- 24 (1) deny;
 25 (2) suspend;
 26 (3) revoke; or
 27 (4) amend;

28 the person's registration under this chapter.

29 (b) The state chemist may impose civil penalties **under this section**
 30 only in accordance with the schedule of civil penalties adopted by the
 31 board. The board shall establish a schedule of the civil penalties that
 32 may be imposed under subsection (a) by rule adopted under IC 4-22-2.
 33 The rule adopted under this subsection may not provide for a civil
 34 penalty that exceeds the following:

- 35 (1) ~~Two hundred fifty~~ **Five hundred** dollars (~~\$250~~) (**\$500**) for a
 36 person's first violation.
 37 (2) ~~Five hundred~~ **One thousand** dollars (~~\$500~~) (**\$1,000**) for a
 38 person's second violation.
 39 (3) ~~One Two thousand~~ **five hundred** dollars (~~\$1,000~~) (**\$2,500**) for
 40 a person's third violation and each subsequent violation.

41 (c) ~~If a violation is of a continuing nature, the state chemist may~~
 42 ~~impose a civil penalty for each day that the violation occurred.~~



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

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

8 SECTION 12. IC 15-16-4-73, AS ADDED BY P.L.120-2008,
 9 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2020]: Sec. 73. (a) Except as provided in subsection (f), if the
 11 state chemist:

12 (1) finds any pesticide product:

13 (A) upon any premises; or

14 (B) in any means of conveyance;

15 where it is held for purposes of, or during or after, distribution or
 16 sale; and

17 (2) determines that the pesticide product:

18 (A) is in violation of this chapter; or

19 (B) has been or is intended to be:

20 (i) distributed;

21 (ii) sold; or

22 (iii) used;

23 in violation of this chapter;

24 the state chemist may issue an order under subsection (b).

25 (b) The state chemist may issue a written or printed:

26 (1) stop sale;

27 (2) use; or

28 (3) removal;

29 order to the owner or custodian of a pesticide product.

30 (c) Except as provided in subsection (d), after receiving an order
 31 under subsection (b), the owner or custodian of a pesticide product may
 32 not:

33 (1) sell;

34 (2) use; or

35 (3) remove;

36 the pesticide product described in the order.

37 (d) The owner or custodian of a pesticide product who receives an
 38 order under subsection (b) may:

39 (1) sell;

40 (2) use; or

41 (3) remove;

42 the pesticide product only in accordance with the order or until the



1 pesticide product is released in writing by the state chemist or by order
2 of a court.

3 (e) When a stop sale order is issued under subsection (b), the state
4 chemist shall ~~immediately~~ issue a notification to the dealer or registrant
5 of the pesticide product **within thirty (30) days** that states the
6 following:

7 (1) A stop sale order has been issued on the pesticide product.

8 (2) A reference to the specific language of the law or rule that is
9 believed to have been violated.

10 (f) Labels of pesticide devices may be submitted to the state chemist
11 for approval **evaluation of the need for registration under this**
12 **chapter** before the sale of the pesticide device.

13 SECTION 13. IC 15-16-5-0.5 IS ADDED TO THE INDIANA
14 CODE AS A NEW SECTION TO READ AS FOLLOWS
15 [EFFECTIVE JULY 1, 2020]: **Sec. 0.5. As used in this chapter,**
16 **"adverse effect" means a pesticide exposure to a nontarget site that**
17 **results in:**

18 (1) **pesticide residues in excess of established food or feed**
19 **tolerances established by the United States Environmental**
20 **Protection Agency;**

21 (2) **environmental media standards or benchmarks for**
22 **pesticides established by a federal or state agency; or**

23 (3) **visible, measureable, or documented:**

24 (A) **death;**

25 (B) **illness;**

26 (C) **stunting;**

27 (D) **deformation;**

28 (E) **discoloration; or**

29 (F) **other effects;**

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

31 SECTION 14. IC 15-16-5-7, AS ADDED BY P.L.2-2008,
32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
33 JULY 1, 2020]: Sec. 7. As used in this chapter, "commercial
34 applicator" means a certified applicator, whether or not a private
35 applicator with respect to some uses, who uses or supervises the use of
36 ~~pesticides~~ **pesticide products** for any purpose or on any property other
37 than as provided by section 30 of this chapter.

38 SECTION 15. IC 15-16-5-10, AS ADDED BY P.L.2-2008,
39 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
40 JULY 1, 2020]: Sec. 10. As used in this chapter, "device" ~~means any~~
41 ~~instrument or contrivance, other than a firearm, that is intended for~~
42 ~~trapping, destroying, repelling, or mitigating any pest or any other form~~



1 of plant or animal life other than bacteria, viruses, or other
 2 microorganisms on or in living humans or other living animals. The
 3 term does not include equipment used for the application of pesticides
 4 when sold separately from the pesticides: **has the meaning set forth**
 5 **in IC 15-16-4-10.**

6 SECTION 16. IC 15-16-5-14.7 IS ADDED TO THE INDIANA
 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 8 [EFFECTIVE JULY 1, 2020]: **Sec. 14.7. As used in this chapter,**
 9 **"immediate container" has the meaning set forth in IC 15-16-4-18.**

10 SECTION 17. IC 15-16-5-15.5 IS ADDED TO THE INDIANA
 11 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 12 [EFFECTIVE JULY 1, 2020]: **Sec. 15.5. As used in this chapter,**
 13 **"label" has the meaning set forth in IC 15-16-4-23.**

14 SECTION 18. IC 15-16-5-16, AS ADDED BY P.L.2-2008,
 15 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2020]: Sec. 16. As used in this chapter, "licensed applicator
 17 for hire" means any licensed certified commercial applicator who is
 18 employed by a licensed pesticide business to use or to supervise the use
 19 of any pesticide **product** on the property of another and who has
 20 assumed direct responsibility for the use or supervision of the use of
 21 **pesticides pesticide products** by the business.

22 SECTION 19. IC 15-16-5-19, AS ADDED BY P.L.2-2008,
 23 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2020]: Sec. 19. As used in this chapter, "licensed pesticide
 25 business" means any licensed person that owns, operates, or manages
 26 a business that is engaged in or professes to be engaged in:

- 27 (1) using any pesticide **product**, including restricted use
- 28 pesticides; or
- 29 (2) making diagnostic inspections or reports to determine
- 30 infestations of wood destroying pests.

31 SECTION 20. IC 15-16-5-29, AS ADDED BY P.L.2-2008,
 32 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2020]: Sec. 29. As used in this chapter, "plant regulator"
 34 means any substance or mixture of substances intended, through
 35 physiological action, for:

- 36 (1) accelerating or retarding the rate of growth or rate of
- 37 maturation; or
- 38 (2) altering the behavior of plants or the produce of plants:

39 The term does not include substances to the extent they are intended as
 40 plant nutrients; trace elements; nutritional chemicals; plant inoculants;
 41 or soil amendments: **has the meaning set forth in IC 15-16-4-34.**

42 SECTION 21. IC 15-16-5-34, AS ADDED BY P.L.2-2008,



1 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2020]: Sec. 34. As used in this chapter, "restricted use
3 pesticide" means:

- 4 (1) any pesticide classified as restricted by the administrator of
5 the United States Environmental Protection Agency; or
6 (2) a pesticide that the board has determined to be unduly
7 hazardous to persons, animals, plants, wildlife, waters, or lands
8 other than the pests the pesticide is intended to prevent, destroy,
9 control, or mitigate.

10 **has the meaning set forth in IC 15-16-4-37.**

11 SECTION 22. IC 15-16-5-45, AS ADDED BY P.L.2-2008,
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2020]: Sec. 45. (a) The state chemist shall adopt rules to
14 establish categories and qualifications to certify and license persons to
15 use pesticides and to make diagnostic inspections and reports for wood
16 destroying pests under this chapter. Each category is subject to separate
17 testing procedures and requirements. A person is not required to pay an
18 additional license fee if the person desires to be licensed in more than
19 one (1) of the license categories provided for by the state chemist under
20 this section.

21 (b) The state chemist, in adopting rules under this section, shall
22 establish **examination content and** standards for the certification of
23 persons who use pesticides or who make diagnostic inspections and
24 reports for wood destroying pests. The **examination content and**
25 standards must relate to the following:

26 (1) **The hazards involved in** the use and handling of pesticides,
27 or to the use and handling of the pesticide or class of pesticides
28 covered by the individual's certification.

29 (2) **The job responsibilities of the individual using pesticides**
30 **that are covered by the individual's certification.**

31 (3) **Any relevant information addressed in 40 CFR Part 171.**
32 **and must be relative to the hazards involved. In determining standards,**
33 **the state chemist shall consider the characteristics of the pesticide**
34 **formulation, including the acute dermal and inhalation toxicity; the**
35 **persistence; mobility; and susceptibility to biological concentration; the**
36 **use experience that may reflect an inherent misuse or an unexpected**
37 **good safety record that does not always follow laboratory toxicological**
38 **information; the relative hazards of patterns of use, including granular**
39 **soil applications; ultra-low volume or dust aerial applications; or air**
40 **blast sprayer applications; and the extent of the intended use. The state**
41 **chemist shall observe the relevant regulations of Section 4 of the**
42 **Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et**



1 seq.:

2 (c) The state chemist may require a person certified under this
3 chapter as a commercial applicator or a private applicator to renew the
4 person's certification, under requirements and standards established by
5 the state chemist, to assure that the person maintains a level of
6 competence and ability to use pesticides safely and properly.

7 **(d) An individual who is certified and licensed under this**
8 **chapter must be at least eighteen (18) years of age, as proven by a**
9 **valid government issued identification or an equivalent form of**
10 **identification.**

11 SECTION 23. IC 15-16-5-47, AS ADDED BY P.L.2-2008,
12 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2020]: Sec. 47. (a) A license issued under this chapter is not
14 transferable except in the event of disability or death of the licensee.
15 The state chemist may transfer a license **to an individual who is a**
16 **certified applicator** by issuing a temporary permit to provide for the
17 operation of the business until the expiration of the permanent license.

18 (b) A ~~certificate~~ **certification** issued under this chapter is not
19 transferable.

20 SECTION 24. IC 15-16-5-48, AS ADDED BY P.L.120-2008,
21 SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2020]: Sec. 48. (a) Subject to section 55 of this chapter, a
23 person may not engage in or profess to engage in the business of:

24 (1) using a pesticide; or

25 (2) making diagnostic inspections or reports to determine
26 infestations of wood destroying pests;

27 on the property of another for hire at any time without a pesticide
28 business license issued by the state chemist. The state chemist shall
29 require an annual license fee of forty-five dollars (\$45) for each
30 pesticide business license that is issued.

31 (b) A pesticide business license must be obtained for each **unique**
32 **business location or business name** from which pesticide use or
33 application is conducted.

34 (c) The application for a license must be on a form provided by the
35 state chemist. Each application must contain information necessary for
36 the administration of this chapter.

37 (d) The state chemist may not issue a pesticide business license until
38 the applicant or a pesticide applicator in the applicant's hire who uses
39 or supervises the use of a pesticide on the property of another is
40 certified by passing an examination to demonstrate to the state chemist
41 the applicant's or applicator's knowledge of the:

42 (1) use of pesticides under the category for which the applicant or



- 1 applicator has applied; and
 2 (2) nature and effect of pesticides the applicant or applicator may
 3 apply under the categories.
 4 At least one (1) licensed applicator for hire must be associated with
 5 each location from which pesticides are used for hire.
 6 (e) The state chemist may renew any pesticide business license.
 7 (f) Subject to subsections (a), (b), (c), and (d) and section 65 of this
 8 chapter, if:
 9 (1) the state chemist finds the applicant qualified to engage in the
 10 business of using pesticides or making diagnostic inspections or
 11 reports to determine infestations of wood destroying pests on the
 12 property of another;
 13 (2) the applicant files evidence of financial responsibility required
 14 under section 58 of this chapter; and
 15 (3) the applicant applying for a license involving aerial
 16 application of pesticides has met all of the requirements of:
 17 (A) the Federal Aviation Administration;
 18 (B) the Indiana department of transportation; and
 19 (C) any other applicable federal or state statutes or regulations
 20 to operate the equipment described in the application;
 21 the state chemist may issue a pesticide business license limited to the
 22 categories for which the applicant or a pesticide applicator in the
 23 applicant's hire is qualified. The license expires January 1 of the year
 24 following issue unless it has been invalidated, revoked, or suspended
 25 earlier by the state chemist. A surety bond or certificate of liability
 26 insurance in force or certificate of financial responsibility required
 27 under section 58 of this chapter must be maintained and in effect on a
 28 continuing basis.
 29 (g) The state chemist may limit a license or the operation of a
 30 business to the use of certain pesticides, or to certain areas, or to certain
 31 types of equipment if the applicant is only so qualified.
 32 (h) If a license is not issued as applied for, the state chemist shall
 33 inform the applicant in writing of the reasons the license was not
 34 issued.
 35 SECTION 25. IC 15-16-5-52, AS AMENDED BY P.L.99-2012,
 36 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2020]: Sec. 52. (a) A person applying for a license described
 38 under section 49, 50, or 51 of this chapter must:
 39 (1) submit an application to the state chemist on a form provided
 40 by the state chemist;
 41 (2) pass the appropriate examination provided under section 45 of
 42 this chapter;



1 (3) except for a person who is:

2 (A) applying for a licensed public applicator's license; or

3 (B) an employee of a nonprofit organization;

4 submit a fee of forty-five dollars (\$45) to the state chemist; and

5 (4) if the person will engage in the aerial application of pesticides,

6 submit proof to the state chemist that the person has satisfied

7 aerial application requirements under applicable state and federal

8 laws.

9 (b) Subject to section 65 of this chapter, if a person meets the
10 requirements under subsection (a), the state chemist shall issue the
11 appropriate license to the person, **including satisfying all outstanding**
12 **judgments resulting from a violation of this chapter, after any**
13 **action has been finalized under section 67 of this chapter.**

14 (c) If the state chemist does not issue a license to a person who
15 applied for a license described under subsection (a), the state chemist
16 shall inform the person in writing of the reason the license was not
17 issued.

18 (d) A person who has been issued a license under subsection (b):

19 (1) shall notify the state chemist in writing within ten (10) days
20 after a change in or termination of the person's employment as a
21 licensed applicator for hire, a licensed applicator not for hire, or
22 a licensed public applicator; and

23 (2) may apply to the state chemist to transfer or amend the
24 person's license by submitting an updated application form
25 described under subsection (a)(1).

26 (e) A license issued under subsection (b):

27 (1) expires January 1 of each year; and

28 (2) subject to section 65 of this chapter, may be renewed by the
29 person holding the license if the person:

30 (A) submits a renewal application on a form provided by the
31 state chemist; and

32 (B) except for a person renewing a licensed public applicator's
33 license or an employee of a nonprofit organization, pays a
34 forty-five dollar (\$45) renewal fee;

35 before January 1.

36 SECTION 26. IC 15-16-5-54, AS ADDED BY P.L.2-2008,
37 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2020]: Sec. 54. (a) A private applicator may not be issued a
39 permit to use a restricted use pesticide without first:

40 (1) complying with the certification requirements, including
41 passing an examination, determined by the state chemist
42 necessary to prevent unreasonable adverse effects on the



1 environment, including injury to the applicator or other persons;

2 **and**

3 **(2) satisfying all outstanding judgments resulting from a**
 4 **violation of this chapter, after any action has been finalized**
 5 **under section 67 of this chapter.**

6 (b) Certification standards to determine a person's competency with
 7 respect to the use and handling of the pesticide or class of pesticides
 8 that the private applicator is to be certified to use must be relative to
 9 hazards as described in section 45 of this chapter. In determining these
 10 standards, the state chemist shall observe those standards for private
 11 applicator certification provided by the U.S. Environmental Protection
 12 Agency.

13 (c) A fee of twenty dollars (\$20) must be paid to the state chemist
 14 by each person applying for a certification as a private applicator under
 15 this section.

16 (d) If the state chemist does not certify the private applicator under
 17 this section, the state chemist shall inform the applicant of the reasons
 18 the applicant was not certified and return the applicant's application
 19 fee.

20 (e) The state chemist may require additional knowledge to ensure
 21 that applicators continue to meet the requirements of changing
 22 technology and to assure a continuing level of competence and ability
 23 to use pesticides safely and properly.

24 SECTION 27. IC 15-16-5-55, AS ADDED BY P.L.2-2008,
 25 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 26 JULY 1, 2020]: Sec. 55. Section 48 of this chapter relating to **pesticide**
 27 **business** licenses and requirements for their issuance does not apply to
 28 the following:

29 (1) A farmer who applies pesticides for the farmer's own use or
 30 with ground equipment or manually for the farmer's neighbors if:

31 (A) the farmer operates farm property and operates and
 32 maintains pesticide application equipment primarily for the
 33 farmer's own use;

34 (B) the farmer is not engaged in the business of applying
 35 pesticides for hire and the farmer does not publicly profess to
 36 be a pesticide business;

37 (C) the farmer operates the farmer's pesticide application
 38 equipment only in the vicinity of the farmer's own property
 39 and for the accommodation of the farmer's neighbors **without**
 40 **any compensation;** and

41 (D) the farmer is certified as a private applicator if the farmer
 42 uses restricted use pesticides.



- 1 (2) A veterinarian who uses pesticides as an incidental part of the
- 2 veterinarian's practice, if the veterinarian is not regularly engaged
- 3 in or does not profess to be engaged in the business of using
- 4 pesticides for hire.
- 5 (3) Research personnel applying **general use** pesticides only to
- 6 bona fide experimental plots.
- 7 **(4) A person who uses nonrestricted general use pesticides for**
- 8 **purposes of disinfecting or sanitizing, unless a license is**
- 9 **required by a rule established by the board.**
- 10 SECTION 28. IC 15-16-5-59, AS ADDED BY P.L.120-2008,
- 11 SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 12 JULY 1, 2020]: Sec. 59. (a) Commercial applicators, **private**
- 13 **applicators**, and licensed pest inspectors shall maintain records
- 14 concerning:
- 15 (1) the application of restricted use pesticides;
- 16 **(2) the application of pesticides for hire;**
- 17 **(3) the application of pesticides on golf courses;**
- 18 **(4) the application of pesticides on school property;**
- 19 ~~(5)~~ **(5)** diagnostic inspections to determine infestations of wood
- 20 destroying pests; and
- 21 ~~(6)~~ **(6)** any relevant information that the state chemist determines
- 22 by rule is necessary for purposes of this chapter.
- 23 ~~(b)~~ **(b)** The state chemist may require certified applicators to maintain
- 24 records related to applications of state restricted pesticide uses:
- 25 ~~(c)~~ **(b)** Records required under this section must be kept for:
- 26 (1) two (2) years after the date of the inspection or the application
- 27 of the pesticide; or
- 28 (2) the time specified by rule.
- 29 ~~(c)~~ **(c)** The state chemist shall be provided access to the records by
- 30 the commercial applicator or licensed pest inspector: **required to be**
- 31 **maintained under this section.**
- 32 SECTION 29. IC 15-16-5-65, AS AMENDED BY P.L.99-2012,
- 33 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 34 JULY 1, 2020]: Sec. 65. Subject to section 66 of this chapter, the state
- 35 chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty
- 36 on a person for a violation under this chapter. The state chemist may
- 37 also deny, suspend, revoke, or modify any provision of any license,
- 38 permit, registration, or certification issued under this chapter if the state
- 39 chemist finds that the applicant or the holder of a license, permit,
- 40 registration, or certification has committed any of the following acts,
- 41 each of which is a violation of this chapter:
- 42 (1) Made false or fraudulent claims either verbally or through any



- 1 media misrepresenting the effect of pesticide products or methods
 2 to be used.
- 3 (2) Recommended, used, or supervised the use of any registered
 4 pesticide product in a manner inconsistent with its labeling
 5 approved by the United States Environmental Protection Agency
 6 or Indiana state registration for that pesticide, or in violation of
 7 the United States Environmental Protection Agency or Indiana
 8 state restrictions on the use of that pesticide product.
- 9 (3) Used known ineffective or improper pesticide products or
 10 known ineffective amounts of pesticides.
- 11 (4) Operated faulty or unsafe equipment.
- 12 (5) Operated in a careless or negligent manner.
- 13 (6) Neglected or, after notice, refused to comply with this chapter,
 14 the rules adopted under this chapter, or of any lawful order of the
 15 state chemist or the board.
- 16 (7) Refused or neglected to:
- 17 (A) keep and maintain the records required by this chapter; or
 18 (B) make reports and supply information when required or
 19 requested by the state chemist in the course of an investigation
 20 or inspection.
- 21 (8) Made false or fraudulent records, invoices, or reports.
- 22 (9) Engaged in or professed to be engaged in the business of:
- 23 (A) using a pesticide or any other product regulated under this
 24 chapter or by rules adopted under this chapter; or
 25 (B) making a diagnostic inspection to determine infestations
 26 of a wood destroying pest;
 27 for hire on the property of another without having a business
 28 license issued by the state chemist.
- 29 (10) Used a ~~restricted use or supervised the use of~~ a pesticide
 30 **product that is required to be used under this chapter by a**
 31 **person who is certified, licensed, or permitted** without having
 32 ~~an applicator; a person~~ who is **certified, licensed, or permitted**
 33 under this chapter ~~in direct supervision; conducting the use.~~
- 34 (11) Used fraud or misrepresentation in ~~making an application~~ **the**
 35 **qualification or application** for, or renewal of, a license, permit,
 36 registration, or certification.
- 37 (12) Refused or neglected to comply with any limitations or
 38 restrictions on or in a duly issued license, permit, registration, or
 39 certification.
- 40 (13) Aided or abetted a person to evade this chapter, conspired
 41 with a person to evade this chapter, or allowed a license, permit,
 42 registration, or certification to be used by another person.



- 1 (14) Made false or misleading statements during or after an
 2 inspection concerning any infestation or infection of pests.
 3 (15) Impersonated any federal, state, county, or city inspector,
 4 investigator, or official.
 5 (16) Knowingly purchased or used a pesticide product that was
 6 not registered under IC 15-16-4.
 7 (17) Failed to continuously maintain financial responsibility
 8 required under section 58 of this chapter or to provide proof of
 9 financial responsibility to the state chemist when requested.
 10 (18) Intentionally altered a duly issued license, permit,
 11 registration, or certification.
 12 (19) Recklessly, knowingly, or intentionally impeded or prevented
 13 the state chemist or the state chemist's agent from performing a
 14 duty of the state chemist.

15 SECTION 30. IC 15-16-5-66, AS ADDED BY P.L.2-2008,
 16 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 17 JULY 1, 2020]: Sec. 66. (a) The state chemist may impose civil
 18 penalties only in accordance with **this chapter and** the schedule of
 19 civil penalties adopted by the board.

20 (b) **Except for use violations subject to the criteria established**
 21 **in subsection (d)**, the board shall establish a schedule of civil penalties
 22 that may be imposed under section 65 of this chapter by rule adopted
 23 under IC 4-22-2. The rule adopted under this subsection may not
 24 provide for 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 (1) Five hundred fifty dollars (\$250) (\$500) for a~~
 30 ~~person's first violation.~~

31 ~~(B) Five hundred (2) One thousand dollars (\$500) (\$1,000) for~~
 32 ~~a person's second violation.~~

33 ~~(C) One (3) Two thousand dollars (\$1,000) (\$2,000) for a person's~~
 34 ~~third violation and each subsequent violation.~~

35 (c) If a violation is of a continuing nature, the state chemist may
 36 impose a civil penalty for each day that the violation occurred.

37 (d) **The state chemist shall impose the following penalties for the**
 38 **following violations of this chapter:**

39 (1) **A person who:**

40 (A) **applies a pesticide without a required license,**
 41 **registration, certification, or permit under this chapter;**

42 (B) **makes a misrepresentation with respect to the person's**



- 1 status as the holder of a license, registration, certification,
 2 or permit issued under this chapter; or
 3 (C) fails to comply with any requirements applicable to a
 4 pesticide business license;
 5 shall be assessed a penalty of five hundred dollars (\$500) for
 6 the first offense and a penalty of one thousand dollars (\$1,000)
 7 for a subsequent offense.
- 8 (2) A person who sells a restricted use pesticide to an
 9 applicator who is not licensed or certified to apply a restricted
 10 use pesticide shall be assessed a penalty of one thousand
 11 dollars (\$1,000).
- 12 (3) A person who sells a restricted use pesticide and who fails
 13 to register with the state chemist as a registered pesticide
 14 dealer shall be assessed a penalty of one thousand dollars
 15 (\$1,000).
- 16 (4) A person who violates a stop sale order issued by the state
 17 chemist shall be assessed a penalty of one thousand five
 18 hundred dollars (\$1,500) for each pesticide product that is in
 19 violation of the order.
- 20 (5) A person who violates a stop use order issued by the state
 21 chemist shall be assessed a penalty of two thousand five
 22 hundred dollars (\$2,500).
- 23 (e) Subject to the criteria established in subsection (f), for a use
 24 violation of this chapter, the state chemist shall impose the
 25 following penalty in accordance with this subsection:
- 26 (1) For a violation that receives not more than eight (8) points,
 27 the state chemist shall impose no civil penalty.
- 28 (2) For a violation that receives at least nine (9) points but no
 29 more than eleven (11) points, the state chemist shall impose a
 30 penalty of two hundred fifty dollars (\$250) on the person.
- 31 (3) For a violation that receives at least twelve (12) points but
 32 not more than thirteen (13) points, the state chemist shall
 33 impose a penalty of five hundred dollars (\$500) on the person.
- 34 (4) For a violation that receives at least fourteen (14) points
 35 but not more than sixteen (16) points, the state chemist shall
 36 impose a penalty of seven hundred fifty dollars (\$750) on the
 37 person.
- 38 (5) For a violation that receives at least seventeen (17) points
 39 but not more than nineteen (19) points, the state chemist shall
 40 impose a penalty of one thousand dollars (\$1,000) on the
 41 person.
- 42 (6) For a violation that receives at least twenty (20) points but



- 1 not more than twenty-one (21) points, the state chemist shall
- 2 impose a penalty of two thousand five hundred dollars
- 3 (\$2,500) on the person.
- 4 (7) For a violation that receives at least twenty-two (22) points
- 5 but not more than twenty-five (25) points, the state chemist
- 6 shall impose a penalty of not more than five thousand dollars
- 7 (\$5,000) on the person.
- 8 (8) For a violation that receives at least twenty-six (26) points
- 9 but not more than twenty-nine (29) points, the state chemist
- 10 shall impose a penalty of not more than seven thousand five
- 11 dollars (\$7,500) on the person.
- 12 (9) For a violation that receives thirty (30) points or more, the
- 13 state chemist shall impose a penalty of ten thousand dollars
- 14 (\$10,000) on the person.
- 15 (f) The state chemist shall use the following criteria to establish
- 16 the point value for use in computing the total number of violation
- 17 points for a penalty imposed under subsection (e):
- 18 (1) The following point value shall be assessed based on the
- 19 adverse effect incurred:
- 20 (A) If the violation resulted in exposure to nontarget site or
- 21 animals with no adverse effect, the state chemist shall
- 22 assign a point value of one (1).
- 23 (B) If the violation resulted in exposure to humans with no
- 24 adverse effect, the state chemist shall assign a point value
- 25 of four (4).
- 26 (C) If the violation resulted in exposure to nontarget site
- 27 with adverse effect, the state chemist shall assign a point
- 28 value of two (2).
- 29 (D) If the violation resulted in exposure to animals with
- 30 adverse effect, the state chemist shall assign a point value
- 31 of four (4).
- 32 (E) If the violation resulted in exposure to humans with
- 33 adverse effect, the state chemist shall assign a point value
- 34 of six (6).
- 35 (2) The following point value shall be assessed based on the
- 36 category of product used:
- 37 (A) If the product is general use, the state chemist shall
- 38 assign a point value of one (1).
- 39 (B) If the product is restricted use, the state chemist shall
- 40 assign a point value of four (4).
- 41 (3) The following point value shall be assessed based upon the
- 42 following degrees of responsibility involved in the violation:



- 1 (A) If the degree of responsibility is accidental, such as an
 2 equipment malfunction, the state chemist shall assign a
 3 point value of two (2).
 4 (B) If the degree of responsibility is negligence, the state
 5 chemist shall assign a point value of four (4).
 6 (C) If the degree of responsibility is knowing or intentional,
 7 the state chemist shall assign a point value of ten (10).
 8 (4) The following point value shall be assessed based upon the
 9 person's previous three (3) year history of violations:
 10 (A) If the person has received a warning letter, the state
 11 chemist shall assign a point value of two (2).
 12 (B) If the person has been convicted of a criminal penalty
 13 under this chapter or has committed a violation of this
 14 chapter for which the state chemist has imposed a penalty,
 15 the state chemist shall assign a point value of five (5).
 16 (C) If the person has had the person's license, permit,
 17 certification, or registration issued under this chapter
 18 suspended or revoked, the state chemist shall assign a point
 19 value of seven (7).
 20 (5) The following point value shall be assessed based on the
 21 following types of violations:
 22 (A) If the person's violation is the result of inaccurate
 23 record keeping, the state chemist shall assign a point value
 24 of one (1).
 25 (B) If the person's violation is a result of:
 26 (i) the lack of supervision;
 27 (ii) the use of faulty equipment; or
 28 (iii) the use of a pesticide that is contrary to the
 29 directions printed on the label and that exposes the
 30 person to the pesticide;
 31 the state chemist shall assign a point value of two (2).
 32 (C) If the person's violation is a result of:
 33 (i) the use of a pesticide that is contrary to the directions
 34 printed on the label and that results in the pesticide's
 35 exposure to another person;
 36 (ii) the use of a pesticide that is contrary to the directions
 37 printed on the label concerning precautionary
 38 statements, sites, rates, or other restricted use
 39 requirements applicable to the pesticide; or
 40 (iii) the storage or disposal of a pesticide that is contrary
 41 to the directions printed on the label;
 42 the state chemist shall assign a point value of three (3).



- 1 **(D) If the person's violation results in:**
 2 **(i) water contamination; or**
 3 **(ii) pesticide drift;**
 4 **the state chemist shall assign a point value of three (3).**
 5 **(E) If the person's violation results in direct application to**
 6 **a nontarget site, the state chemist shall assign a point value**
 7 **of four (4).**
 8 **(F) If the person's violation involves:**
 9 **(i) the falsification of a record;**
 10 **(ii) the person's failure to secure a license, permit,**
 11 **registration, or certification required under this chapter;**
 12 **or**
 13 **(iii) a violation of an order issued by the state chemist**
 14 **with respect to a license, permit, registration, or**
 15 **certification issued under this chapter;**
 16 **the state chemist shall assign a point value of six (6).**
 17 ~~(d)~~ **(g)** A proceeding under IC 4-21.5-3 that involves a civil penalty
 18 may be consolidated with any other proceeding commenced under
 19 IC 4-21.5 to enforce this chapter or the rules adopted under this
 20 chapter.
 21 ~~(e)~~ **(h)** Money collected for civil penalties imposed under section 65
 22 of this chapter shall be credited to the office of Purdue pesticide
 23 programs. The money may be used only to provide education about
 24 pesticides.
 25 **SECTION 31. [EFFECTIVE JULY 1, 2020] (a) IC 15-16-5-66, as**
 26 **amended by this act, does not apply to the imposition of a penalty**
 27 **under IC 15-16-5 pursuant to a proceeding of the state chemist**
 28 **initiated under IC 15-16-5-65 before July 1, 2020.**
 29 **(b) IC 15-16-5-66, before its amendment by this act, applies to**
 30 **the imposition of a penalty under IC 15-16-5 pursuant to a**
 31 **proceeding of the state chemist initiated under IC 15-16-5-65**
 32 **before July 1, 2020.**
 33 **(c) This SECTION expires July 1, 2023.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1119, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 15-16-4-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 3.5. As used in this chapter, "adverse effect" has the meaning set forth in IC 15-16-5-0.5.**

SECTION 2. IC 15-16-4-3, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 3. As used in this chapter, "adulterated" refers to a pesticide or pesticide product if:

- (1) the strength or purity of the pesticide ~~falls below~~ **does not meet** the professed standard or quality as expressed on its labeling under which it is sold;
- (2) any substance has been substituted wholly or in part for the pesticide product; or
- (3) any valuable constituent of the pesticide product has been wholly or in part removed.

SECTION 3. IC 15-16-4-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. As used in this chapter, "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating ~~insects or rodents or destroying, repelling, or mitigating~~ any pest. The term does not include:

- (1) equipment used for the application of pesticides when sold separately from the pesticides;
- (2) firearms; or
- (3) simple mechanical devices, including barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

SECTION 4. IC 15-16-4-14, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 14. As used in this chapter, "~~fungi~~" ~~means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts); including:~~

- (1) ~~rusts;~~
- (2) ~~smuts;~~
- (3) ~~mildews;~~



- (4) molds;
- (5) yeasts;
- (6) bacteria; and
- (7) viruses;

except those on or in a living human or other animal: **"fungus" has the meaning set forth in IC 15-16-5-14.**

SECTION 5. IC 15-16-4-18, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 18. As used in this chapter, "immediate container" means the part of a container that is in direct contact with a pesticide. **product. In the case of a pesticide product that is a device, the term includes the device itself.**

SECTION 6. IC 15-16-4-34, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 34. As used in this chapter, "plant regulator" means any substance or mixture of substances, intended through physiological action, for:

- (1) accelerating or retarding the rate of growth or rate of maturation; or
- (2) altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants.

The term does not include substances ~~to the extent they~~ **that** are intended **solely** as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

SECTION 7. IC 15-16-4-56, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 56. For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:

- (1) product name;
- (2) registrant name;
- (3) United States Environmental Protection Agency registration number, **if applicable; and**
- (4) labeling, **claims, and branding; and**
- (5) **ingredient statement.**

SECTION 8. IC 15-16-4-61, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 61. (a) Each pesticide product that is:

- (1) produced, distributed, sold, displayed, or offered for sale within Indiana; or
- (2) delivered for transportation or transported:
 - (A) in intrastate commerce; or



(B) between points within Indiana through any point outside Indiana;
must be registered in the office of the state chemist.

(b) The application for registration must be made on a form provided by the state chemist that includes the following information:

- (1) The name and address of the:
 - (A) applicant; and
 - (B) person whose name will appear on the label, if a person other than the applicant.
- (2) The complete brand name of the pesticide **product**.
- (3) A complete copy of the labeling accompanying the pesticide **product**.
- ~~(4) A statement of all claims to be made for it, including directions for use.~~
- ~~(5) If requested by the state chemist, a full description of the tests made and the results of the tests upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.~~

SECTION 9. IC 15-16-4-62, AS AMENDED BY P.L.99-2012, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 62. (a) Each registrant shall pay an annual, nonrefundable **application** fee of one hundred seventy dollars (\$170) for each application for each pesticide product submitted for registration **or reregistration**.

(b) Each registration expires January 1 of each year.

(c) All fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University, who shall deposit the fees in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(d) From the account described in subsection (c), the treasurer shall pay all expenses incurred in administering this chapter, including expenses for the following:

- (1) The employment of:
 - (A) inspectors;
 - (B) investigators;
 - (C) researchers;
 - (D) analysts;
 - (E) administrators; and
 - (F) clerical and service staff.
- (2) Expenses in procuring samples and printing results of



inspections.

(3) Purchasing:

- (A) supplies;
- (B) equipment; and
- (C) services.

(4) Necessary remodeling.

(5) Other expenses of the office of the state chemist.

(6) The transfer of ten dollars (\$10) from each fee paid under subsection (a) on an annual basis to the office of Purdue pesticide programs to provide education about the safe and effective use of pesticides.

The treasurer is not required to use any other funds, except those collected as registration fees, to pay any expenses incurred in the administration of this chapter. The dean of agriculture shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

(e) A registrant who registers or pays an annual fee after December 31 of any year shall pay a late fee of one hundred seventy dollars (\$170) as well as the annual fee.

(f) Excess funds from the collection of fees under this chapter are subject to IC 15-16-2-36.

SECTION 10. IC 15-16-4-64, AS ADDED BY P.L.120-2008, SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 64. (a) The state chemist ~~shall~~ **may** require the submission of the complete formula of any pesticide product, including the:

- (1) confidential statement of formula;
- (2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; ~~and~~
- (3) analytical standards of the pesticide product;
- (4) safety data sheet;**
- (5) physical sample of the pesticide product; and**
- (6) a statement of all claims to be made for the pesticide product, including a full description of the tests made and the results of the tests upon which the claims are based.**

In the case of a federally registered product, this requirement may be waived.

(b) The state chemist shall register a pesticide product if:

- (1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for the pesticide product;



(2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter; and

(3) the state chemist determines that the person submitting the application for registration has complied with the requirements of this chapter, **including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.**

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

- (1) that the proposed claims for the pesticide product; or
- (2) the pesticide product, its labeling, and other material required to be submitted;

does not comply with this chapter, **including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.**

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may deny, suspend, or cancel the registration of a pesticide whenever the state chemist determines that:

- (1) the pesticide product;
- (2) the pesticide product's labeling; or
- (3) the person submitting the application for registration of the pesticide product;

does not comply with this chapter, **including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 64.5 of this chapter.**

(f) If:

- (1) an application for registration is refused; or
- (2) the state chemist proposes to deny, suspend, or cancel a registration;

notice of the action and information concerning the person's right to obtain a review under section 64.5 of this chapter must be given to the applicant or registrant.

SECTION 11. IC 15-16-4-69, AS ADDED BY P.L.2-2008,



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

- (1) deny;
- (2) suspend;
- (3) revoke; or
- (4) amend;

the person's registration under this chapter.

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

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

~~(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.~~

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

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

SECTION 12. IC 15-16-4-73, AS ADDED BY P.L.120-2008, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

- (1) finds any pesticide product:
 - (A) upon any premises; or
 - (B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or sale; and
- (2) determines that the pesticide product:
 - (A) is in violation of this chapter; or



(B) has been or is intended to be:

- (i) distributed;
- (ii) sold; or
- (iii) used;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

- (1) stop sale;
- (2) use; or
- (3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

- (1) sell;
- (2) use; or
- (3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

- (1) sell;
- (2) use; or
- (3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall ~~immediately~~ issue a notification to the dealer or registrant of the pesticide product **within thirty (30) days** that states the following:

- (1) A stop sale order has been issued on the pesticide product.
- (2) A reference to the specific language of the law or rule that is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for ~~approval~~ **evaluation of the need for registration under this chapter** before the sale of the pesticide device.

SECTION 13. IC 15-16-5-0.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 0.5. As used in this chapter, "adverse effect" means a pesticide exposure to a nontarget site that results in:**

- (1) pesticide residues in excess of established food or feed



tolerances established by the United States Environmental Protection Agency;

(2) environmental media standards or benchmarks for pesticides established by a federal or state agency; or

(3) visible, measureable, or documented:

(A) death;

(B) illness;

(C) stunting;

(D) deformation;

(E) discoloration; or

(F) other effects;

that are detrimental to the nontarget site.

SECTION 14. IC 15-16-5-7, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 7. As used in this chapter, "commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides **pesticide products** for any purpose or on any property other than as provided by section 30 of this chapter.

SECTION 15. IC 15-16-5-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 10. As used in this chapter, "device" ~~means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than bacteria, viruses, or other microorganisms on or in living humans or other living animals. The term does not include equipment used for the application of pesticides when sold separately from the pesticides.~~ **has the meaning set forth in IC 15-16-4-10.**

SECTION 16. IC 15-16-5-14.7 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 14.7. As used in this chapter, "immediate container" has the meaning set forth in IC 15-16-4-18.**

SECTION 17. IC 15-16-5-15.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 15.5. As used in this chapter, "label" has the meaning set forth in IC 15-16-4-23.**

SECTION 18. IC 15-16-5-16, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 16. As used in this chapter, "licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use



of any pesticide **product** on the property of another and who has assumed direct responsibility for the use or supervision of the use of ~~pesticides~~ **pesticide products** by the business.

SECTION 19. IC 15-16-5-19, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 19. As used in this chapter, "licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

- (1) using any pesticide **product**, including restricted use pesticides; or
- (2) making diagnostic inspections or reports to determine infestations of wood destroying pests.

SECTION 20. IC 15-16-5-29, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 29. As used in this chapter, "plant regulator" means ~~any substance or mixture of substances intended, through physiological action, for:~~

- (1) accelerating or retarding the rate of growth or rate of maturation; or
- (2) altering the behavior of plants or the produce of plants:

~~The term does not include substances to the extent they are intended as plant nutrients; trace elements; nutritional chemicals; plant inoculants; or soil amendments.~~ **has the meaning set forth in IC 15-16-4-34.**

SECTION 21. IC 15-16-5-34, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 34. As used in this chapter, "restricted use pesticide" means:

- (1) any pesticide classified as restricted by the administrator of the United States Environmental Protection Agency; or
- (2) a pesticide that the board has determined to be unduly hazardous to persons; animals; plants; wildlife; waters; or lands other than the pests the pesticide is intended to prevent; destroy; control; or mitigate.

has the meaning set forth in IC 15-16-4-37.

SECTION 22. IC 15-16-5-45, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 45. (a) The state chemist shall adopt rules to establish categories and qualifications to certify and license persons to use pesticides and to make diagnostic inspections and reports for wood destroying pests under this chapter. Each category is subject to separate testing procedures and requirements. A person is not required to pay an additional license fee if the person desires to be licensed in more than



one (1) of the license categories provided for by the state chemist under this section.

(b) The state chemist, in adopting rules under this section, shall establish **examination content and standards** for the certification of persons who use pesticides or who make diagnostic inspections and reports for wood destroying pests. The **examination content and standards** must relate to **the following**:

(1) The hazards involved in the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by the individual's certification.

(2) The job responsibilities of the individual using pesticides that are covered by the individual's certification.

(3) Any relevant information addressed in 40 CFR Part 171. and must be relative to the hazards involved. In determining standards, the state chemist shall consider the characteristics of the pesticide formulation, including the acute dermal and inhalation toxicity, the persistence, mobility, and susceptibility to biological concentration, the use experience that may reflect an inherent misuse or an unexpected good safety record that does not always follow laboratory toxicological information, the relative hazards of patterns of use, including granular soil applications, ultra-low volume or dust aerial applications, or air blast sprayer applications, and the extent of the intended use. The state chemist shall observe the relevant regulations of Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.):

(c) The state chemist may require a person certified under this chapter as a commercial applicator or a private applicator to renew the person's certification, under requirements and standards established by the state chemist, to assure that the person maintains a level of competence and ability to use pesticides safely and properly.

(d) An individual who is certified and licensed under this chapter must be at least eighteen (18) years of age, as proven by a valid government issued identification or an equivalent form of identification.

SECTION 23. IC 15-16-5-47, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 47. (a) A license issued under this chapter is not transferable except in the event of disability or death of the licensee. The state chemist may transfer a license **to an individual who is a certified applicator** by issuing a temporary permit to provide for the operation of the business until the expiration of the permanent license.

(b) A ~~certificate~~ **certification** issued under this chapter is not



transferable.

SECTION 24. IC 15-16-5-48, AS ADDED BY P.L.120-2008, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

- (1) using a pesticide; or
- (2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars (\$45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each **unique** business location **or business name** from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

- (1) use of pesticides under the category for which the applicant or applicator has applied; and
- (2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to subsections (a), (b), (c), and (d) and section 65 of this chapter, if:

- (1) the state chemist finds the applicant qualified to engage in the business of using pesticides or making diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another;
- (2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and
- (3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:
 - (A) the Federal Aviation Administration;
 - (B) the Indiana department of transportation; and



(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application; the state chemist may issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

SECTION 25. IC 15-16-5-52, AS AMENDED BY P.L.99-2012, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

- (1) submit an application to the state chemist on a form provided by the state chemist;
- (2) pass the appropriate examination provided under section 45 of this chapter;
- (3) except for a person who is:
 - (A) applying for a licensed public applicator's license; or
 - (B) an employee of a nonprofit organization;
 submit a fee of forty-five dollars (\$45) to the state chemist; and
- (4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person, **including satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 67 of this chapter.**

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):



- (1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and
 - (2) may apply to the state chemist to transfer or amend the person's license by submitting an updated application form described under subsection (a)(1).
- (e) A license issued under subsection (b):
- (1) expires January 1 of each year; and
 - (2) subject to section 65 of this chapter, may be renewed by the person holding the license if the person:
 - (A) submits a renewal application on a form provided by the state chemist; and
 - (B) except for a person renewing a licensed public applicator's license or an employee of a nonprofit organization, pays a forty-five dollar (\$45) renewal fee;
- before January 1.

SECTION 26. IC 15-16-5-54, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 54. (a) A private applicator may not be issued a permit to use a restricted use pesticide without first:

- (1) complying with the certification requirements, including passing an examination, determined by the state chemist necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons; and**
- (2) satisfying all outstanding judgments resulting from a violation of this chapter, after any action has been finalized under section 67 of this chapter.**

(b) Certification standards to determine a person's competency with respect to the use and handling of the pesticide or class of pesticides that the private applicator is to be certified to use must be relative to hazards as described in section 45 of this chapter. In determining these standards, the state chemist shall observe those standards for private applicator certification provided by the U.S. Environmental Protection Agency.

(c) A fee of twenty dollars (\$20) must be paid to the state chemist by each person applying for a certification as a private applicator under this section.

(d) If the state chemist does not certify the private applicator under this section, the state chemist shall inform the applicant of the reasons the applicant was not certified and return the applicant's application



fee.

(e) The state chemist may require additional knowledge to ensure that applicators continue to meet the requirements of changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

SECTION 27. IC 15-16-5-55, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 55. Section 48 of this chapter relating to **pesticide business** licenses and requirements for their issuance does not apply to the following:

- (1) A farmer who applies pesticides for the farmer's own use or with ground equipment or manually for the farmer's neighbors if:
 - (A) the farmer operates farm property and operates and maintains pesticide application equipment primarily for the farmer's own use;
 - (B) the farmer is not engaged in the business of applying pesticides for hire and the farmer does not publicly profess to be a pesticide business;
 - (C) the farmer operates the farmer's pesticide application equipment only in the vicinity of the farmer's own property and for the accommodation of the farmer's neighbors **without any compensation**; and
 - (D) the farmer is certified as a private applicator if the farmer uses restricted use pesticides.
- (2) A veterinarian who uses pesticides as an incidental part of the veterinarian's practice, if the veterinarian is not regularly engaged in or does not profess to be engaged in the business of using pesticides for hire.
- (3) Research personnel applying **general use** pesticides only to bona fide experimental plots.
- (4) A person who uses nonrestricted general use pesticides for purposes of disinfecting or sanitizing, unless a license is required by a rule established by the board.**

SECTION 28. IC 15-16-5-59, AS ADDED BY P.L.120-2008, SECTION 78, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 59. (a) Commercial applicators, **private applicators**, and licensed pest inspectors shall maintain records concerning:

- (1) the application of restricted use pesticides;
- (2) the application of pesticides for hire;**
- (3) the application of pesticides on golf courses;**
- (4) the application of pesticides on school property;**



(2) (5) diagnostic inspections to determine infestations of wood destroying pests; and

(3) (6) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) ~~The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses:~~

(c) (b) Records required under this section must be kept for:

(1) two (2) years after the date of the inspection or the application of the pesticide; or

(2) the time specified by rule.

(d) (c) ~~The state chemist shall be provided access to the records by the commercial applicator or licensed pest inspector:~~ **required to be maintained under this section.**

SECTION 29. IC 15-16-5-65, AS AMENDED BY P.L.99-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

(1) Made false or fraudulent claims either verbally or through any media misrepresenting the effect of pesticide products or methods to be used.

(2) Recommended, used, or supervised the use of any registered pesticide product in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide product.

(3) Used known ineffective or improper pesticide products or known ineffective amounts of pesticides.

(4) Operated faulty or unsafe equipment.

(5) Operated in a careless or negligent manner.

(6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist or the board.

(7) Refused or neglected to:

(A) keep and maintain the records required by this chapter; or

(B) make reports and supply information when required or



requested by the state chemist in the course of an investigation or inspection.

- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
 - (A) using a pesticide or any other product regulated under this chapter or by rules adopted under this chapter; or
 - (B) making a diagnostic inspection to determine infestations of a wood destroying pest;
 - for hire on the property of another without having a business license issued by the state chemist.
- (10) Used ~~a restricted use or supervised the use of~~ a pesticide **product that is required to be used under this chapter by a person who is certified, licensed, or permitted** without having ~~an applicator; a person~~ who is **certified, licensed, or permitted** under this chapter ~~in direct supervision; conducting the use.~~
- (11) Used fraud or misrepresentation in ~~making an application the~~ **qualification or application** for, or renewal of, a license, permit, registration, or certification.
- (12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.
- (13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.
- (14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.
- (15) Impersonated any federal, state, county, or city inspector, investigator, or official.
- (16) Knowingly purchased or used a pesticide product that was not registered under IC 15-16-4.
- (17) Failed to continuously maintain financial responsibility required under section 58 of this chapter or to provide proof of financial responsibility to the state chemist when requested.
- (18) Intentionally altered a duly issued license, permit, registration, or certification.
- (19) Recklessly, knowingly, or intentionally impeded or prevented the state chemist or the state chemist's agent from performing a duty of the state chemist.

SECTION 30. IC 15-16-5-66, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: Sec. 66. (a) The state chemist may impose civil penalties only in accordance with **this chapter and** the schedule of



civil penalties adopted by the board.

(b) **Except for use violations subject to the criteria established in subsection (d)**, the board shall establish a schedule of civil penalties that may be imposed under section 65 of this chapter by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

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

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

~~(A) Two~~ **(1) Five** hundred ~~fifty~~ dollars ~~(\$250)~~ **(\$500)** for a person's first violation.

~~(B) Five hundred~~ **(2) One thousand** dollars ~~(\$500)~~ **(\$1,000)** for a person's second violation.

~~(C) One~~ **(3) Two** thousand dollars ~~(\$1,000)~~ **(\$2,000)** for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) The state chemist shall impose the following penalties for the following violations of this chapter:

(1) A person who:

(A) applies a pesticide without a required license, registration, certification, or permit under this chapter;

(B) makes a misrepresentation with respect to the person's status as the holder of a license, registration, certification, or permit issued under this chapter; or

(C) fails to comply with any requirements applicable to a pesticide business license;

shall be assessed a penalty of five hundred dollars (\$500) for the first offense and a penalty of one thousand dollars (\$1,000) for a subsequent offense.

(2) A person who sells a restricted use pesticide to an applicator who is not licensed or certified to apply a restricted use pesticide shall be assessed a penalty of one thousand dollars (\$1,000).

(3) A person who sells a restricted use pesticide and who fails to register with the state chemist as a registered pesticide dealer shall be assessed a penalty of one thousand dollars (\$1,000).

(4) A person who violates a stop sale order issued by the state chemist shall be assessed a penalty of one thousand five hundred dollars (\$1,500) for each pesticide product that is in



violation of the order.

(5) A person who violates a stop use order issued by the state chemist shall be assessed a penalty of two thousand five hundred dollars (\$2,500).

(e) Subject to the criteria established in subsection (f), for a use violation of this chapter, the state chemist shall impose the following penalty in accordance with this subsection:

(1) For a violation that receives not more than eight (8) points, the state chemist shall impose no civil penalty.

(2) For a violation that receives at least nine (9) points but no more than eleven (11) points, the state chemist shall impose a penalty of two hundred fifty dollars (\$250) on the person.

(3) For a violation that receives at least twelve (12) points but not more than thirteen (13) points, the state chemist shall impose a penalty of five hundred dollars (\$500) on the person.

(4) For a violation that receives at least fourteen (14) points but not more than sixteen (16) points, the state chemist shall impose a penalty of seven hundred fifty dollars (\$750) on the person.

(5) For a violation that receives at least seventeen (17) points but not more than nineteen (19) points, the state chemist shall impose a penalty of one thousand dollars (\$1,000) on the person.

(6) For a violation that receives at least twenty (20) points but not more than twenty-one (21) points, the state chemist shall impose a penalty of two thousand five hundred dollars (\$2,500) on the person.

(7) For a violation that receives at least twenty-two (22) points but not more than twenty-five (25) points, the state chemist shall impose a penalty of not more than five thousand dollars (\$5,000) on the person.

(8) For a violation that receives at least twenty-six (26) points but not more than twenty-nine (29) points, the state chemist shall impose a penalty of not more than seven thousand five hundred dollars (\$7,500) on the person.

(9) For a violation that receives thirty (30) points or more, the state chemist shall impose a penalty of ten thousand dollars (\$10,000) on the person.

(f) The state chemist shall use the following criteria to establish the point value for use in computing the total number of violation points for a penalty imposed under subsection (e):

(1) The following point value shall be assessed based on the



adverse effect incurred:

- (A) If the violation resulted in exposure to nontarget site or animals with no adverse effect, the state chemist shall assign a point value of one (1).
 - (B) If the violation resulted in exposure to humans with no adverse effect, the state chemist shall assign a point value of four (4).
 - (C) If the violation resulted in exposure to nontarget site with adverse effect, the state chemist shall assign a point value of two (2).
 - (D) If the violation resulted in exposure to animals with adverse effect, the state chemist shall assign a point value of four (4).
 - (E) If the violation resulted in exposure to humans with adverse effect, the state chemist shall assign a point value of six (6).
- (2) The following point value shall be assessed based on the category of product used:
- (A) If the product is general use, the state chemist shall assign a point value of one (1).
 - (B) If the product is restricted use, the state chemist shall assign a point value of four (4).
- (3) The following point value shall be assessed based upon the following degrees of responsibility involved in the violation:
- (A) If the degree of responsibility is accidental, such as an equipment malfunction, the state chemist shall assign a point value of two (2).
 - (B) If the degree of responsibility is negligence, the state chemist shall assign a point value of four (4).
 - (C) If the degree of responsibility is knowing or intentional, the state chemist shall assign a point value of ten (10).
- (4) The following point value shall be assessed based upon the person's previous three (3) year history of violations:
- (A) If the person has received a warning letter, the state chemist shall assign a point value of two (2).
 - (B) If the person has been convicted of a criminal penalty under this chapter or has committed a violation of this chapter for which the state chemist has imposed a penalty, the state chemist shall assign a point value of five (5).
 - (C) If the person has had the person's license, permit, certification, or registration issued under this chapter suspended or revoked, the state chemist shall assign a point



value of seven (7).

(5) The following point value shall be assessed based on the following types of violations:

(A) If the person's violation is the result of inaccurate record keeping, the state chemist shall assign a point value of one (1).

(B) If the person's violation is a result of:

- (i) the lack of supervision;**
- (ii) the use of faulty equipment; or**
- (iii) the use of a pesticide that is contrary to the directions printed on the label and that exposes the person to the pesticide;**

the state chemist shall assign a point value of two (2).

(C) If the person's violation is a result of:

- (i) the use of a pesticide that is contrary to the directions printed on the label and that results in the pesticide's exposure to another person;**
- (ii) the use of a pesticide that is contrary to the directions printed on the label concerning precautionary statements, sites, rates, or other restricted use requirements applicable to the pesticide; or**
- (iii) the storage or disposal of a pesticide that is contrary to the directions printed on the label;**

the state chemist shall assign a point value of three (3).

(D) If the person's violation results in:

- (i) water contamination; or**
- (ii) pesticide drift;**

the state chemist shall assign a point value of three (3).

(E) If the person's violation results in direct application to a nontarget site, the state chemist shall assign a point value of four (4).

(F) If the person's violation involves:

- (i) the falsification of a record;**
- (ii) the person's failure to secure a license, permit, registration, or certification required under this chapter;**
- or**
- (iii) a violation of an order issued by the state chemist with respect to a license, permit, registration, or certification issued under this chapter;**

the state chemist shall assign a point value of six (6).

(g) A proceeding under IC 4-21.5-3 that involves a civil penalty may be consolidated with any other proceeding commenced under



IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

~~(e)~~ **(h)** Money collected for civil penalties imposed under section 65 of this chapter shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides."

Delete pages 2 through 5.

Page 6, delete lines 1 through 41.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1119 as introduced.)

LEHE

Committee Vote: yeas 12, nays 0.

