

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.

SENATE ENROLLED ACT No. 438

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

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

SECTION 1. IC 15-16-4-3, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 2. IC 15-16-4-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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

SEA 438 — CC 1



adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

SECTION 3. IC 15-16-4-14, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 4. IC 15-16-4-18, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 5. IC 15-16-4-28, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. As used in this chapter, "person" means: any:

- (1) an individual;
- (2) a partnership;
- (3) an association;
- (4) a fiduciary;
- (5) a corporation; or
- (6) an organized group of persons;

whether incorporated or not.

SECTION 6. IC 15-16-4-34, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 UPON PASSAGE]: 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, **and if applicable;**
- (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 UPON PASSAGE]: 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 UPON PASSAGE]: 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) **the** confidential statement of formula;
- (2) **the** analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide product in environmental media; ~~and~~
- (3) **the** analytical standards of the pesticide product;
- (4) **the safety data sheet;**
- (5) **the 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 dollars (\$250) for a person's first violation.
- (2) Five hundred dollars (\$500) for a person's second violation.
- (3) One thousand dollars (\$1,000) 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)~~ (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 UPON PASSAGE]: 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 15-16-5-7, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 14. IC 15-16-5-10, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 15. IC 15-16-5-16, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 16. IC 15-16-5-19, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 17. IC 15-16-5-29, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 18. IC 15-16-5-34, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 19. IC 15-16-5-39.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]: **Sec. 39.6. The board shall establish a working group to review civil penalties. Before December 1, 2020, the working group shall make recommendations concerning civil penalties to the:**

- (1) board; and
- (2) general assembly in an electronic format under IC 5-14-6.

SECTION 20. IC 15-16-5-45, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 21. IC 15-16-5-47, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 22. IC 15-16-5-48, AS ADDED BY P.L.120-2008, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 23. IC 15-16-5-55, AS ADDED BY P.L.2-2008, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 24. 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;**
- ~~(5)~~ **(5)** diagnostic inspections to determine infestations of wood destroying pests; and
- ~~(6)~~ **(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 25. IC 15-16-5-65, AS AMENDED BY P.L.99-2012, SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: 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 26. 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 **under this section** only in accordance with the schedule of civil penalties adopted by the board.

(b) 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 hundred fifty dollars (\$250) for a person's first violation.

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

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

~~(e)~~ 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 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 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.

SECTION 27. [EFFECTIVE UPON PASSAGE] (a) **As used in this SECTION, "policy" refers to the FY 2019 pesticide enforcement response policy developed by the state chemist.**

(b) **The state chemist shall suspend its enforcement of the policy.**



(c) This SECTION expires July 1, 2021.
SECTION 28. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 438 — CC 1

