
PRELIMINARY DRAFT
No. 3383

PREPARED BY
LEGISLATIVE SERVICES AGENCY
2021 GENERAL ASSEMBLY

DIGEST

Citations Affected: IC 15-16.

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

Effective: July 1, 2021.



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

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

1 SECTION 1. IC 15-16-4-3.5 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2021]: **Sec. 3.5. As used in this chapter, "adverse effect" means**
4 **a pesticide exposure to a nontarget site (as defined in 357 IAC**
5 **1-12-1) that results in:**

6 (1) **pesticide residues in excess of established food or feed**
7 **tolerances established by the United States Environmental**
8 **Protection Agency;**

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

11 (3) **visible, measurable, or documented:**

12 (A) **death;**

13 (B) **illness;**

14 (C) **stunting;**

15 (D) **deformation;**

16 (E) **discoloration; or**

17 (F) **other effects;**

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

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

25 (1) **deny;**

26 (2) **suspend;**

27 (3) **revoke; or**

28 (4) **amend;**

29 **the person's registration under this chapter.**

30 (b) **The state chemist may impose civil penalties under this section**
31 **only in accordance with the schedule of civil penalties adopted by the**



1 board. The board shall establish a schedule of the civil penalties that
 2 may be imposed under subsection (a) by rule adopted under IC 4-22-2.
 3 The rule adopted under this subsection may not provide for a civil
 4 penalty that exceeds the following:

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

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

12 (c) Except for a violation described in subsection (d) or (e), the
 13 state chemist may impose a civil penalty not exceeding two
 14 hundred fifty dollars (\$250) for a violation of this chapter or any
 15 rule adopted under this chapter. A civil penalty imposed under this
 16 subsection may be adjusted for mitigating actions described in
 17 subsection (f). A civil penalty under this subsection may not be
 18 imposed unless a warning for a violation has previously been issued
 19 to the person for the same violation within the previous five (5)
 20 years.

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

- 25 (1) Unknowingly committed an act described in section 57(1)
 26 of this chapter.
- 27 (2) Committed an act described in section 57(2) through 57(5)
 28 of this chapter.
- 29 (3) Unknowingly committed an act described in section 66(1)
 30 of this chapter.
- 31 (4) Committed an act described in section 66(2) or 66(3) of
 32 this chapter.
- 33 (5) Unknowingly committed an act described in 357
 34 IAC 1-3-3.
- 35 (6) Stored a nonrestricted use pesticide in a minibulk pesticide
 36 storage container outside of secondary containment.

37 (e) The state chemist may impose a civil penalty of one thousand
 38 dollars (\$1,000) if the state chemist finds that a person has done
 39 any of the following:

- 40 (1) Knowingly committed an act described in section 57(1) of
 41 this chapter.
- 42 (2) Committed an act described in section 57(9) of this
 43 chapter.
- 44 (3) Knowingly committed an act described in section 66(1) of
 45 this chapter.
- 46 (4) Committed an act described in section 67, 68, 73(c), or 77



- 1 of this chapter.
 2 (5) Committed an act described in 357 IAC 1-3-2.
 3 (6) Knowingly committed an act described in 357 IAC 1-3-3.
 4 (7) Stored:
 5 (A) any pesticide in a bulk pesticide storage container; or
 6 (B) a restricted use pesticide in a minibulk pesticide
 7 storage container;
 8 outside of secondary containment.
 9 (8) After notice, refused to comply with this chapter, the rules
 10 adopted under this chapter, or a lawful order of the state
 11 chemist or board.
 12 (f) The state chemist may not adjust the amount of the civil
 13 penalty for a violation listed in subsection (e). The state chemist
 14 may reduce the amount of the civil penalty for a violation listed in
 15 subsection (c) or (d) if the state chemist finds that the person
 16 responsible for the violation has taken any of the following
 17 mitigating actions:
 18 (1) Cooperated with the state chemist during the investigation
 19 or inspection process.
 20 (2) Took corrective action to prevent future similar violations.
 21 (3) Compensated a victim for any adverse effects that resulted
 22 from the violation.
 23 The state chemist may reduce the amount of the civil penalty by
 24 twenty percent (20%) for each mitigating action taken by the
 25 person responsible for the violation.
 26 (e) (g) A proceeding under IC 4-21.5-3 that involves the imposition
 27 of a civil penalty may be consolidated with any other proceeding
 28 commenced under IC 4-21.5 to enforce this chapter or the rules
 29 adopted under this chapter.
 30 (d) (h) Money collected for civil penalties imposed under this
 31 section shall be credited to the office of Purdue pesticide programs.
 32 The money may be used only to provide education about pesticides.
 33 SECTION 3. IC 15-16-5-0.5 IS ADDED TO THE INDIANA CODE
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 35 1, 2021]: **Sec. 0.5. As used in this chapter, "adverse effect" has the**
 36 **meaning set forth in IC 15-16-4-3.5.**
 37 SECTION 4. IC 15-16-5-66, AS AMENDED BY P.L.91-2020,
 38 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 39 JULY 1, 2021]: Sec. 66. (a) The state chemist may impose civil
 40 penalties under this section only in accordance with the schedule of
 41 civil penalties adopted by the board. **subsections (b) through (d).**
 42 **However, this section does not require the state chemist to impose**
 43 **a civil penalty on a person for any violation of this chapter or a**
 44 **rule adopted under this chapter.**
 45 (b) The board shall establish a schedule of civil penalties that may
 46 be imposed under section 65 of this chapter by rule adopted under



1 IC 4-22-2. The rule adopted under this subsection may not provide for
2 a civil penalty that exceeds the following:

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

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

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

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

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

13 (b) Except for a violation described in subsection (c) or (d), the
14 state chemist may impose a civil penalty not exceeding two
15 hundred fifty dollars (\$250) for a violation of this chapter or any
16 rule adopted under this chapter. A civil penalty imposed under this
17 subsection may be adjusted for mitigating actions described in
18 subsection (e). A civil penalty under this subsection may not be
19 imposed unless a warning for a violation has previously been issued
20 to the person for the same violation within the previous five (5)
21 years.

22 (c) Subject to adjustment under subsection (e) for mitigating
23 actions, the state chemist may impose a civil penalty not exceeding
24 five hundred dollars (\$500) if the state chemist finds that a person
25 has done any of the following:

26 (1) After written notice, neglected to:

27 (A) keep and maintain records; or

28 (B) make reports and supply information when required or
29 requested by the state chemist in the course of an
30 investigation or inspection;

31 as described in section 65(7) of this chapter.

32 (2) Committed an act described in section 65(8) of this
33 chapter.

34 (3) Unknowingly committed an act described in section 65(9)
35 or 65(10) of this chapter.

36 (4) After written notice, neglected to comply with any
37 limitations or restrictions on or in a duly issued license,
38 permit, registration, or certification as described in section
39 65(12) of this chapter.

40 (5) Committed an act described in section 65(14) or 65(16) of
41 this chapter.

42 (6) Recommended, used, or supervised the use of a
43 nonrestricted use pesticide product in a manner inconsistent
44 with its labeling and resulting in an adverse effect.

45 (7) Recommended, used, or supervised the use of a restricted
46 use pesticide product in a manner inconsistent with its



1 labeling and resulting in no adverse effect.

2 (8) Applied a nonrestricted use pesticide in a manner that
3 allows it to drift from the target site in a sufficient quantity to
4 cause an adverse effect to a nontarget site (as defined in 357
5 IAC 1-12-1).

6 (d) The state chemist may impose a civil penalty of one thousand
7 dollars (\$1,000) if the state chemist finds that a person has done
8 any of the following:

9 (1) Committed an act described in section 64(a) of this
10 chapter.

11 (2) Committed an act described in section 65(5) of this
12 chapter.

13 (3) After notice, refused to comply with this chapter, the rules
14 adopted under this chapter, or any lawful order of the state
15 chemist or the board as described in section 65(6) of this
16 chapter.

17 (4) Refused to:

18 (A) keep and maintain records; or

19 (B) make reports and supply information when required or
20 requested by the state chemist in the course of an
21 investigation or inspection;

22 as described in section 65(7) of this chapter.

23 (5) Intentionally committed an act described in section 65(8)
24 of this chapter.

25 (6) Knowingly committed an act described in section 65(9) or
26 65(10) of this chapter.

27 (7) Committed an act described in section 65(11) of this
28 chapter.

29 (8) Refused to comply with any limitations or restrictions on
30 or in a duly issued license, permit, registration, or
31 certification as described in section 65(12) of this chapter;

32 (9) committed an act described in sections 65(13), 65(15),
33 65(18), or 65(19) of this chapter.

34 (10) Committed an act described in 355 IAC 4-7-7.

35 (11) Recommended, used, or supervised the use of a restricted
36 use pesticide product in a manner inconsistent with its
37 labeling and resulting in an adverse effect.

38 (12) Applied a restricted use pesticide in a manner that allows
39 it to drift from the target site in a sufficient quantity to cause
40 an adverse effect to a nontarget site (as defined in 357 IAC
41 1-12-1).

42 (e) The state chemist may not adjust the amount of the civil
43 penalty for a violation listed in subsection (d). The state chemist
44 may reduce the amount of the civil penalty for a violation listed in
45 subsection (b) or (c) if the state chemist finds that the person
46 responsible for the violation has taken any of the following



- 1 **mitigating actions:**
2 **(1) Cooperated with the state chemist during the investigation**
3 **or inspection process.**
4 **(2) Took corrective action to prevent future similar violations.**
5 **(3) Compensated a victim for any adverse effects that resulted**
6 **from the violation.**
7 **The state chemist may reduce the amount of the civil penalty by**
8 **twenty percent (20%) for each mitigating action taken by the**
9 **person responsible for the violation.**
10 **(e) (f)** A proceeding under IC 4-21.5-3 that involves a civil penalty
11 may be consolidated with any other proceeding commenced under
12 IC 4-21.5 to enforce this chapter or the rules adopted under this
13 chapter.
14 **(d) (g)** Money collected for civil penalties imposed under section 65
15 of this chapter shall be credited to the office of Purdue pesticide
16 programs. The money may be used only to provide education about
17 pesticides.

