

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

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

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

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

## SENATE ENROLLED ACT No. 227

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

- (1) pesticide residues in excess of established food or feed tolerances established by the United States Environmental Protection Agency;**
- (2) pesticide residues in excess of environmental media standards or benchmarks for pesticides established by a federal or state agency; or**
- (3) visible, measurable, or documented:**
  - (A) death;**
  - (B) illness;**
  - (C) stunting;**
  - (D) deformation;**
  - (E) discoloration; or**
  - (F) other effects;**

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

SECTION 2. IC 15-16-4-69, AS AMENDED BY P.L.91-2020, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2021]: 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.

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

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

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

- (1) Unknowingly committed an act described in section 57(1) of this chapter.
- (2) Committed an act described in section 57(2) through 57(5) of this chapter.
- (3) Unknowingly committed an act described in section 66(1) of this chapter.
- (4) Committed an act described in section 66(2) or 66(3) of



**this chapter.**

**(5) Unknowingly committed an act described in 357 IAC 1-3-3.**

**(6) Stored a nonrestricted use pesticide in a minibulk pesticide storage container outside of secondary containment.**

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

**(1) Knowingly committed an act described in section 57(1) of this chapter.**

**(2) Committed an act described in section 57(9) of this chapter.**

**(3) Knowingly committed an act described in section 66(1) of this chapter.**

**(4) Committed an act described in section 67, 68, 73(c), or 77 of this chapter.**

**(5) Committed an act described in 357 IAC 1-3-2.**

**(6) Knowingly committed an act described in 357 IAC 1-3-3.**

**(7) Stored:**

**(A) any pesticide in a bulk pesticide storage container; or**

**(B) a restricted use pesticide in a minibulk pesticide storage container;**

**outside of secondary containment.**

**(8) After notice, refused to comply with this chapter, the rules adopted under this chapter, or a lawful order of the state chemist or board.**

**(f) The state chemist may not adjust the amount of the civil penalty for a violation listed in subsection (e). The state chemist may reduce the amount of the civil penalty for a violation listed in subsection (c) or (d) if the state chemist finds that the person responsible for the violation has taken any of the following mitigating actions:**

**(1) Cooperated with the state chemist during the investigation or inspection process.**

**(2) Took corrective action to prevent future similar violations.**

**(3) Compensated a victim for any adverse effects that resulted from the violation.**

**The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.**

**(e) (g) 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.

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

SECTION 4. IC 15-16-5-66, AS AMENDED BY P.L.91-2020, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: 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.~~ **subsections (b) through (d). However, this section does not require the state chemist to impose a civil penalty on a person for any violation of this chapter or a rule adopted under this chapter.**

~~(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.

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

**(c) Subject to adjustment under subsection (e) for mitigating actions, the state chemist may impose a civil penalty not exceeding**



five hundred dollars (\$500) if the state chemist finds that a person has done any of the following:

- (1) After written notice, neglected to:
  - (A) keep and maintain records; or
  - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection;

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

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

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

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

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

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

- (7) Recommended, used, or supervised the use of a restricted use pesticide product in a manner inconsistent with its labeling and resulting in no adverse effect.

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

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

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

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

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

- (4) Refused to:
  - (A) keep and maintain records; or
  - (B) make reports and supply information when required or



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

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

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

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

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

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

(9) Committed an act described in section 65(13), 65(15), 65(18), or 65(19) of this chapter.

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

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

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

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

(1) Cooperated with the state chemist during the investigation or inspection process.

(2) Took corrective action to prevent future similar violations.

(3) Compensated a victim for any adverse effects that resulted from the violation.

The state chemist may reduce the amount of the civil penalty by twenty percent (20%) for each mitigating action taken by the person responsible for the violation.

~~(e)~~ (f) 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.

~~(d)~~ (g) 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.



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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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