

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1147

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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 15-15-1-27, AS AMENDED BY P.L.75-2010, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 27. (a) The state seed commissioner shall administer this chapter. The state seed commissioner may authorize an agent to act for the state seed commissioner under this chapter.

(b) The state seed commissioner may do any of the following to administer this chapter:

- (1) Sample, inspect, analyze, and test agricultural and vegetable seed distributed within Indiana for seeding and sowing purposes, when, where, and to the extent the state seed commissioner considers necessary to determine whether the agricultural or vegetable seed is in compliance with this chapter.
- (2) Notify a seed distributor of any violations of this chapter.
- (3) Adopt rules:
  - (A) governing:
    - (i) methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and
    - (ii) tolerances to be followed in the administration of this chapter; and
  - (B) necessary for the efficient enforcement of this chapter.
- (4) Adopt rules to establish lists of prohibited and restricted

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noxious weeds.

(5) Adopt rules to establish reasonable standards of germination (as defined by rule adopted under section 28 of this chapter) for vegetable seed.

(6) Adopt rules to establish standards for the effectiveness of legume inoculant applied to pre-inoculated seed.

(7) Adopt rules to govern the treatment of seed and the labeling and distribution of treated seed.

(8) Publish at least one (1) time each year, in the form the seed commissioner considers proper, information concerning:

(A) the sales of agricultural and vegetable seed; and

(B) the results of the analysis of official samples of agricultural and vegetable seed sold within Indiana as compared with the analysis guaranteed on the label.

Information concerning production and use of agricultural and vegetable seed may not disclose the operation of any person.

(9) Enter any:

(A) public or private property during regular business hours;  
or

(B) vehicle that transports seed, whether by land, water, or air, at any time the vehicle is accessible;

to inspect seed and the records relating to the seed, subject to this chapter and the rules adopted under this chapter.

(10) As used in this subdivision, "stop sale order" refers to a written order issued by the state seed commissioner to the owner or custodian of a lot of agricultural or vegetable seed that the state seed commissioner has found violates this chapter or rules adopted under this chapter. The state seed commissioner may issue and enforce stop sale orders. A stop sale order prohibits the future sale, processing, and movement of the seed until the state seed commissioner issues a release from the stop sale order. The owner or custodian of the seed is entitled to appeal a stop sale order to a court with jurisdiction in the locality in which the seed is found, as provided in IC 4-21.5, seeking a judgment as to the justification for the order for the discharge of the seed from the stop sale order in accordance with the findings of the court. This subdivision does not limit the right of the state seed commissioner to proceed as otherwise authorized by this chapter.

(11) Establish and maintain or make provisions for seed testing facilities.

(12) Employ qualified persons.

(13) Incur necessary expenses.

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(14) Test or provide for testing seed for purity and germination (as defined by rule adopted under section 28 of this chapter) for farmers and dealers on request of a farmer or dealer **and:**

- (A) prescribe rules governing such testing; and
- (B) charge for the tests made.

**Without adopting a rule, the state seed commissioner shall charge fees that are commensurate with fees that are standard in the seed testing industry.**

(15) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

(16) Enter the property of a producer of hybrid seed to determine whether the seed produced is as the seed is represented.

(17) Issue a written special use permit to a person to use a prohibited noxious weed seed or a restricted noxious weed seed for purposes of research, development, production, or education, subject to subsection (c).

(18) Adopt rules under IC 4-22-2 to establish fees that are necessary for the administration of this chapter, including costs of inspections, analysis, and publications.

(19) Adopt rules under IC 4-22-2 to establish civil fines for the following:

- (A) Failure to submit a report required under this chapter.
- (B) Failure to pay a fee required under this chapter.

(c) The seed commissioner, in response to an application for the issuance of a special use permit under subsection (b)(17), may:

- (1) issue a special use permit;
- (2) issue a special use permit subject to conditions; or
- (3) deny a special use permit request.

In determining whether to issue a special use permit, the seed commissioner shall consider each species of prohibited noxious weed or restricted noxious weed separately. The seed commissioner may revoke a special use permit at any time if it appears that the permit holder is not complying with the conditions established under the special use permit.

SECTION 2. IC 15-15-1-34, AS AMENDED BY P.L.75-2010, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 34. (a) ~~A distributor of agricultural seed in packages of not more than one (1) pound shall pay not later than January 15 of each year an annual fee of forty-five dollars (\$45) for each brand of seed distributed. Payment of an annual fee is not required of retailers who furnish quantities of not more than one (1) pound from a properly labeled container of seed on which the inspection fee has~~

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been paid:

~~(b)~~ (a) A person who distributes agricultural or vegetable seed in Indiana may apply to the state seed commissioner for a permit to use the person's own labeling, report the quantity of seed sold, and pay the inspection fee on the basis of the report.

~~(c)~~ (b) In making application for a permit under subsection ~~(b)~~; (a), the distributor must agree to the following:

- (1) Label the seed with the information required by law.
- (2) Keep the records the state seed commissioner considers necessary to indicate accurately the number and size of containers of each kind of agricultural and vegetable seed distributed and the quantity of such seed distributed in bulk.
- (3) Grant the state seed commissioner or the state seed commissioner's authorized representative permission to examine the records described in subdivision (2) and verify the statement of quantity of seed distributed.
- (4) Report under oath to the state seed commissioner on forms furnished by the state seed commissioner the quantity of agricultural and vegetable seed sold during the period covered.

~~(d)~~ (c) The state seed commissioner may grant a permit under subsection ~~(b)~~ (a) if the state seed commissioner determines that the applicant's proposed report of the quality of agricultural and vegetable seed sold will lead to efficient enforcement of this chapter. The state seed commissioner may revoke the permit at any time if it appears to the state seed commissioner that the distributor is not complying with the agreement described in subsection ~~(c)~~ (b) or this chapter. If:

- (1) the report is not filed and the inspection fee not paid before ten (10) days following the due date;
- (2) the report of volume is false; or
- (3) the labeling requirements of this chapter have not been complied with;

the state seed commissioner may revoke the permit. If the inspection fee is unpaid after the ten (10) day grace period, a penalty shall be assessed in the amount of ten percent (10%) in addition to the amount due.

~~(e)~~ (d) The report of quantity sold required under subsection ~~(c)~~(4) (b)(4) is due, and the inspection fees required under this chapter are payable, semiannually on the last day of the month following the end of the semiannual period. The first half reporting period ends June 30 and the second half reporting period ends December 31.

SECTION 3. IC 15-15-2-6, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,

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2022]: Sec. 6. (a) The state chemist shall charge, collect, and receive ~~the sum~~ **a minimum fee** of twenty-five dollars (\$25):

- (1) at the time of registering a pure or mixed culture of microorganisms or materials described in section 3 of this chapter for each material or culture registered; and
- (2) not later than the fifteenth day of January of each succeeding year until the pure or mixed cultures of microorganisms or material is no longer sold, distributed, offered, or displayed for sale in Indiana.

(b) Money received under subsection (a) must be forwarded to the treasurer of Purdue University, who shall expend the money on vouchers to be filed with the auditor of state to pay all necessary expenses incurred in implementing this chapter, including:

- (1) the employment of inspectors, chemists, and bacteriologists;
- (2) the expenses incurred in procuring samples;
- (3) printing bulletins; and
- (4) giving the results of inspections, as provided by this chapter;

and for any other expenses of Purdue University agricultural programs, as authorized by law and in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall submit to the governor an annual classified report showing the total receipts and expenditures of all fees received under this chapter.

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

SECTION 4. IC 15-15-2-9, AS ADDED BY P.L.2-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. **(a)** The state chemist may:

- (1) prescribe and enforce rules necessary to implement this chapter;
- (2) refuse to issue a permit; or
- (3) refuse to register or cancel the registration of any product used for promoting plant growth or any pure or mixed cultures of microorganisms or materials used for promoting plant growth if the state chemist believes the product, cultures, or materials:
  - (A) are registered under a name that would be misleading as to the materials of which they are made; or
  - (B) are sold under false or misleading claims.

**(b) The state chemist may adopt rules under IC 4-22-2 to establish fees that are necessary for the administration of this chapter, including costs of inspections, registration of products, and product analysis.**

SECTION 5. [EFFECTIVE JULY 1, 2022] **(a) 360 IAC 1-7-1 and**

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**360 IAC 1-7-2 are void. The publisher of the Indiana Administrative Code and Indiana Register shall remove these sections from the Indiana Administrative Code.**

**(b) This SECTION expires July 1, 2023.**



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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

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

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