



March 9, 2021

ENGROSSED SENATE BILL No. 227

DIGEST OF SB 227 (Updated March 9, 2021 1:31 pm - DI 142)

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.

Leising, Glick, Lanane

(HOUSE SPONSORS — LEHE, PRESCOTT)

January 7, 2021, read first time and referred to Committee on Agriculture.
January 12, 2021, reported favorably — Do Pass.
January 14, 2021, read second time, ordered engrossed. Engrossed.
January 25, 2021, read third time, passed. Yeas 49, nays 0.

HOUSE ACTION

February 23, 2021, read first time and referred to Committee on Agriculture and Rural Development.
March 9, 2021, amended, reported — Do Pass.

ES 227—LS 6356/DI 142



March 9, 2021

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.

ENGROSSED SENATE BILL No. 227

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**
5 **IAC 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) **pesticide residues in excess of environmental media**
10 **standards or benchmarks for pesticides established by a**
11 **federal or state agency; or**
12 (3) **visible, measurable, or documented:**
13 (A) **death;**
14 (B) **illness;**
15 (C) **stunting;**
16 (D) **deformation;**
17 (E) **discoloration; or**

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- 1 **(F) other effects;**
 2 **that are detrimental to the nontarget site.**
 3 SECTION 2. IC 15-16-4-69, AS AMENDED BY P.L.91-2020,
 4 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2021]: Sec. 69. (a) Subject to this section, if a person violates
 6 this chapter or a rule adopted under this chapter, the state chemist
 7 under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the
 8 person or:
 9 (1) deny;
 10 (2) suspend;
 11 (3) revoke; or
 12 (4) amend;
 13 the person's registration under this chapter.
 14 (b) The state chemist may impose civil penalties under this section
 15 only in accordance with the schedule of civil penalties adopted by the
 16 board. The board shall establish a schedule of the civil penalties that
 17 may be imposed under subsection (a) by rule adopted under IC 4-22-2.
 18 The rule adopted under this subsection may not provide for a civil
 19 penalty that exceeds the following:
 20 (1) Two hundred fifty dollars (\$250) for a person's first violation.
 21 (2) Five hundred dollars (\$500) for a person's second violation.
 22 (3) One thousand dollars (\$1,000) for a person's third violation
 23 and each subsequent violation.
 24 **subsections (c) through (e). However, this section does not require**
 25 **the state chemist to impose a civil penalty on a person for any**
 26 **violation of this chapter or a rule adopted under this chapter.**
 27 (c) Except for a violation described in subsection (d) or (e), the
 28 state chemist may impose a civil penalty not exceeding two
 29 hundred fifty dollars (\$250) for a violation of this chapter or any
 30 rule adopted under this chapter. A civil penalty imposed under this
 31 subsection may be adjusted for mitigating actions described in
 32 subsection (f). A civil penalty under this subsection may not be
 33 imposed unless a warning for a violation has previously been issued
 34 to the person for the same violation within the previous five (5)
 35 years.
 36 (d) Subject to adjustment under subsection (f) for mitigating
 37 actions, the state chemist may impose a civil penalty not exceeding
 38 five hundred dollars (\$500) if the state chemist finds that a person
 39 has done any of the following:
 40 (1) Unknowingly committed an act described in section 57(1)
 41 of this chapter.
 42 (2) Committed an act described in section 57(2) through 57(5)



- 1 of this chapter.
 2 (3) Unknowingly committed an act described in section 66(1)
 3 of this chapter.
 4 (4) Committed an act described in section 66(2) or 66(3) of
 5 this chapter.
 6 (5) Unknowingly committed an act described in 357
 7 IAC 1-3-3.
 8 (6) Stored a nonrestricted use pesticide in a minibulk pesticide
 9 storage container outside of secondary containment.
 10 (e) The state chemist may impose a civil penalty of one thousand
 11 dollars (\$1,000) if the state chemist finds that a person has done
 12 any of the following:
 13 (1) Knowingly committed an act described in section 57(1) of
 14 this chapter.
 15 (2) Committed an act described in section 57(9) of this
 16 chapter.
 17 (3) Knowingly committed an act described in section 66(1) of
 18 this chapter.
 19 (4) Committed an act described in section 67, 68, 73(c), or 77
 20 of this chapter.
 21 (5) Committed an act described in 357 IAC 1-3-2.
 22 (6) Knowingly committed an act described in 357 IAC 1-3-3.
 23 (7) Stored:
 24 (A) any pesticide in a bulk pesticide storage container; or
 25 (B) a restricted use pesticide in a minibulk pesticide
 26 storage container;
 27 outside of secondary containment.
 28 (8) After notice, refused to comply with this chapter, the rules
 29 adopted under this chapter, or a lawful order of the state
 30 chemist or board.
 31 (f) The state chemist may not adjust the amount of the civil
 32 penalty for a violation listed in subsection (e). The state chemist
 33 may reduce the amount of the civil penalty for a violation listed in
 34 subsection (c) or (d) if the state chemist finds that the person
 35 responsible for the violation has taken any of the following
 36 mitigating actions:
 37 (1) Cooperated with the state chemist during the investigation
 38 or inspection process.
 39 (2) Took corrective action to prevent future similar violations.
 40 (3) Compensated a victim for any adverse effects that resulted
 41 from the violation.
 42 The state chemist may reduce the amount of the civil penalty by



1 **twenty percent (20%) for each mitigating action taken by the**
 2 **person responsible for the violation.**

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

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

10 SECTION 3. IC 15-16-5-0.5 IS ADDED TO THE INDIANA CODE
 11 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 12 1, 2021]: **Sec. 0.5. As used in this chapter, "adverse effect" has the**
 13 **meaning set forth in IC 15-16-4-3.5.**

14 SECTION 4. IC 15-16-5-66, AS AMENDED BY P.L.91-2020,
 15 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2021]: Sec. 66. (a) The state chemist may impose civil
 17 penalties under this section only in accordance with ~~the schedule of~~
 18 ~~civil penalties adopted by the board.~~ **subsections (b) through (d).**
 19 **However, this section does not require the state chemist to impose**
 20 **a civil penalty on a person for any violation of this chapter or a**
 21 **rule adopted under this chapter.**

22 ~~(b)~~ The board shall establish a schedule of civil penalties that may
 23 be imposed under section 65 of this chapter by rule adopted under
 24 IC 4-22-2. The rule adopted under this subsection may not provide for
 25 a civil penalty that exceeds the following:

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

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

30 ~~(A)~~ Two hundred fifty dollars ~~(\$250)~~ for a person's first
 31 violation.

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

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

36 **(b) Except for a violation described in subsection (c) or (d), the**
 37 **state chemist may impose a civil penalty not exceeding two**
 38 **hundred fifty dollars (\$250) for a violation of this chapter or any**
 39 **rule adopted under this chapter. A civil penalty imposed under this**
 40 **subsection may be adjusted for mitigating actions described in**
 41 **subsection (e). A civil penalty under this subsection may not be**
 42 **imposed unless a warning for a violation has previously been issued**



1 to the person for the same violation within the previous five (5)
2 years.

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

7 (1) After written notice, neglected to:

8 (A) keep and maintain records; or

9 (B) make reports and supply information when required or
10 requested by the state chemist in the course of an
11 investigation or inspection;

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

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

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

17 (4) After written notice, neglected to comply with any
18 limitations or restrictions on or in a duly issued license,
19 permit, registration, or certification as described in section
20 65(12) of this chapter.

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

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

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

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

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

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

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

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



- 1 chapter.
 2 (4) Refused to:
 3 (A) keep and maintain records; or
 4 (B) make reports and supply information when required or
 5 requested by the state chemist in the course of an
 6 investigation or inspection;
 7 as described in section 65(7) of this chapter.
 8 (5) Intentionally committed an act described in section 65(8)
 9 of this chapter.
 10 (6) Knowingly committed an act described in section 65(9) or
 11 65(10) of this chapter.
 12 (7) Committed an act described in section 65(11) of this
 13 chapter.
 14 (8) Refused to comply with any limitations or restrictions on
 15 or in a duly issued license, permit, registration, or
 16 certification as described in section 65(12) of this chapter;
 17 (9) Committed an act described in section 65(13), 65(15),
 18 65(18), or 65(19) of this chapter.
 19 (10) Committed an act described in 355 IAC 4-7-7.
 20 (11) Recommended, used, or supervised the use of a restricted
 21 use pesticide product in a manner inconsistent with its
 22 labeling and resulting in an adverse effect.
 23 (12) Applied a restricted use pesticide in a manner that allows
 24 it to drift from the target site in a sufficient quantity to cause
 25 an adverse effect to a nontarget site (as defined in 357
 26 IAC 1-12-1).
 27 (e) The state chemist may not adjust the amount of the civil
 28 penalty for a violation listed in subsection (d). The state chemist
 29 may reduce the amount of the civil penalty for a violation listed in
 30 subsection (b) or (c) if the state chemist finds that the person
 31 responsible for the violation has taken any of the following
 32 mitigating actions:
 33 (1) Cooperated with the state chemist during the investigation
 34 or inspection process.
 35 (2) Took corrective action to prevent future similar violations.
 36 (3) Compensated a victim for any adverse effects that resulted
 37 from the violation.
 38 The state chemist may reduce the amount of the civil penalty by
 39 twenty percent (20%) for each mitigating action taken by the
 40 person responsible for the violation.
 41 (e) (f) A proceeding under IC 4-21.5-3 that involves a civil penalty
 42 may be consolidated with any other proceeding commenced under



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

3 ~~(d)~~ (g) Money collected for civil penalties imposed under section 65
4 of this chapter shall be credited to the office of Purdue pesticide
5 programs. The money may be used only to provide education about
6 pesticides.



COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture, to which was referred Senate Bill No. 227, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 227 as introduced.)

LEISING, Chairperson

Committee Vote: Yeas 7, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred Senate Bill 227, 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, line 9, after "(2)" insert "**pesticide residues in excess of**".
and when so amended that said bill do pass.

(Reference is to SB 227 as printed January 13, 2021.)

AYLESWORTH

Committee Vote: yeas 11, nays 0.

