

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 6427**

**BILL NUMBER:** HB 1059

**NOTE PREPARED:** Jan 18, 2008

**BILL AMENDED:** Jan 17, 2008

**SUBJECT:** Commercial Fertilizer Law.

**FIRST AUTHOR:** Rep. Battles

**FIRST SPONSOR:**

**BILL STATUS:** CR Adopted - 1<sup>st</sup> House

**FUNDS AFFECTED:**  GENERAL  
 DEDICATED  
 FEDERAL

**IMPACT:** State & Local

**Summary of Legislation:** (Amended) This bill makes changes to the commercial fertilizer law, including changing the definition of "blending" for fertilizers and adding a definition of "ammonium nitrate". It authorizes a \$50 fee for certification and education programs. It establishes civil penalties for violating the commercial fertilizer law, and makes it a Class A misdemeanor to knowingly and intentionally violate the commercial fertilizer law. The bill changes the membership of the Fertilizer Advisory Board.

*Miscellaneous.* The bill amends certain definitions concerning pesticide laws. It removes specific volume requirements for exempted bulk pesticide containers. It removes certain pesticides from the list of restricted pesticides. It requires pesticide product applicants to comply with the pesticide product laws. It allows the state chemist to deny a pesticide product registration. It amends a pesticide product applicant's and registrant's right to a review of a state chemist's action.

It changes the membership of the Pesticide Review Board. It allows members to continue to serve until a successor is appointed and qualified. The board's travel reimbursement must meet Purdue University's travel policies.

It allows the state chemist to have access to production records of pesticide products. The state chemist may refer violations to the prosecuting attorney. (Current law requires referral.)

It amends the definition of "property" under pesticide use and application laws to include vehicles. It includes diagnostic inspections and determining infestations of wood-destroying pests as qualifications to obtain a pesticide business license.

The bill adds technician registrations to the licenses that are invalid if the business does not maintain financial responsibility. It prohibits (1) verbal misrepresentations concerning the effect of pesticides; (2) using known ineffective amounts of pesticides; (3) refusing to supply the state chemist information during an investigation or inspection; (4) intentionally altering a license; (5) failing to provide proof of financial responsibility; and (6) impeding duties of the state chemist. Assaulting the state chemist or the chemist's agent while performing their duties is a Class A misdemeanor.

It allows the state chemist to specify the time period certain pesticide records must be kept. It removes the 60-day time limit to file a claim from a pesticide accident and seven-day notification of licensee's after an accident claim is filed. The bill makes technical and conforming changes.

**Effective Date:** July 1, 2008.

**Explanation of State Expenditures:** *State Chemist.* SECTION 3 of the bill provides that the state chemist may establish fees for services to implement a certification and education program for specified categories of fertilizer material applicators. The state chemist must determine the content of the education programs. This program will be modeled after the pesticide private applicator program. Any additional expenses incurred by the state chemist will be offset by fees generated from certification.

*Indiana Fertilizer Advisory Board.* SECTION 5 of the bill adds two members to the board: one representative from the livestock industry and one representative of the Department of Agriculture (IDOA). Each member of the board who is not a state employee is entitled to receive per diem and reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties. Each member who is a state employee is entitled to reimbursement for travel expenses and other expenses incurred in connection with the member's duties. The board meets once a year. Increased expenses are estimated at less than \$300.

(Revised) *Miscellaneous.* These provisions are recodification trailers and should have no impact.

**Explanation of State Revenues:** SECTION 3 provides that the state chemist may establish fees for services to implement a certification and education program. Fees collected must be paid to the Treasurer of Purdue University to be used in meeting all necessary expenses in carrying out the provisions.

The Fertilizer Board is proposing a rule that requires re-certification once every 5 years with a 3-phase implementation cycle starting with persons obtaining material from permitted animal feeding operations and from outside the state lines. The 2<sup>nd</sup> phase includes commercial applicators of inorganic (commercial) fertilizer, and the 3<sup>rd</sup> phase includes all applicators of organic and inorganic fertilizer on an agricultural operation of 100 or more acres. The rule, when fully implemented, is projected to have an estimated 24,000 participants: 2,000 commercial or for-hire organic applicators; 2,500 commercial or for-hire inorganic applicators; and 20,000 agricultural producers or farmers.

The proposed rule imposes a maximum \$50 fee for a 5-year certification. Given the anticipated number of participants and a maximum fee of \$50, revenue generated could equal an estimated \$1.2 M every five years, or \$240,000 annually on average.

*Civil Penalties.* SECTION 4 provides that the state chemist may impose civil penalties under a schedule adopted by the board. The amount of revenue that will be collected from penalties will depend on the number and nature of violations and the penalty schedule adopted by the board.

*Criminal Penalties:* SECTION 4 provides that a person who knowingly or intentionally violates the bill's provisions commits a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund (from fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class A misdemeanor is \$5,000. However, any additional revenue would likely be small.

**Explanation of Local Expenditures:** *Criminal Penalties.* A Class A misdemeanor is punishable by up to one year in jail.

**Explanation of Local Revenues:** *Criminal Penalties.* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** State Chemist; IDOA.

**Local Agencies Affected:** Trial courts, local law enforcement agencies.

**Information Sources:** State Chemist's Office, Mike Hancock, Fertilizer Administrator, 765-494-1547.

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