

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	1

MR. SPEAKER:

Your Committee on Agriculture and Rural Development, to which was referred House Bill 1059, 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:

- 1 Page 6, after line 30, begin a new paragraph and insert:
- 2 "SECTION 6. IC 15-3-3.5-2 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. As used in this
- 4 chapter, unless otherwise provided:
- 5 (1) The term "active ingredient" means:
- 6 (A) in the case of a pesticide other than a plant regulator,
- 7 defoliant, or desiccant, an ingredient that will:
- 8 (i) prevent;
- 9 (ii) destroy;
- 10 (iii) repel; or
- 11 (iv) mitigate;
- 12 insects, nematodes, fungi, rodents, weeds, or other pests;
- 13 (B) in the case of a plant regulator, an ingredient that, through
- 14 physiological action, will accelerate or retard the rate of
- 15 growth or rate of maturation or ~~otherwise~~ alter the behavior of:

- 1 (i) ornamental or crop plants; or
- 2 (ii) the produce of ornamental or crop plants;
- 3 (C) in the case of a defoliant, an ingredient that will cause the
- 4 leaves or foliage to drop from a plant; ~~and~~
- 5 (D) in the case of a desiccant, an ingredient that will
- 6 artificially accelerate the drying of plant tissue; **and**
- 7 **(E) in the case of a nitrogen stabilizer, an ingredient that**
- 8 **will prevent or hinder the process of nitrification,**
- 9 **denitrification, ammonia volatilization, or urease**
- 10 **production through an action affecting soil bacteria.**
- 11 (2) The term "adulterated" means a pesticide that has its strength
- 12 or purity fall below the professed standard or quality as expressed
- 13 on labeling or under which it is sold, or if any substance has been
- 14 substituted wholly or in part for the pesticide product or if any
- 15 valuable constituent of the pesticide product has been wholly or
- 16 in part abstracted.
- 17 (3) The term "antidote" means the most practical immediate
- 18 treatment in case of poisoning and includes first aid treatment.
- 19 (4) The term "board" means the Indiana pesticide review board
- 20 created by this chapter to collect, analyze, and interpret
- 21 information on matters relating to the use of pesticides.
- 22 (5) The term "defoliant" means any substance or mixture of
- 23 substances intended to cause leaves or foliage to drop from a
- 24 plant with or without causing abscission.
- 25 (6) The term "desiccant" means any substance or mixture of
- 26 substances intended for artificially accelerating the drying of plant
- 27 tissues.
- 28 (7) The term "device" means any instrument or contrivance
- 29 intended for trapping, destroying, repelling, or mitigating insects
- 30 or rodents or destroying, repelling, or mitigating fungi, weeds,
- 31 nematodes, or other pests as may be designated by the board. The
- 32 term does not include:
- 33 (A) equipment used for the application of pesticides when sold
- 34 separately from the pesticides;
- 35 (B) firearms; or
- 36 (C) simple mechanical devices, such as barriers, traps, or
- 37 adhesives, or other simple contrivances that are not subject to
- 38 this chapter as determined by the pesticide review board.

- 1 (8) The term "distribute" means to offer for sale, sell, exchange,
2 barter or otherwise supply or offer to supply pesticide products.
- 3 (9) The term "fungi" means all non-chlorophyll-bearing
4 thallophytes (all non-chlorophyll-bearing plants of a lower order
5 than mosses and liverworts), including rusts, smuts, mildews,
6 molds, yeasts, bacteria, and viruses, except those on or in living
7 man or other animals.
- 8 (10) The term "fungicide" means any substance or mixture of
9 substances intended for preventing, destroying, repelling, or
10 mitigating any fungi.
- 11 (11) The term "herbicide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling, or
13 mitigating any weed.
- 14 (12) The term "highly volatile herbicide" means those herbicides
15 that the board has determined to be capable of emitting vapors
16 that may cause serious injury to desired plants by reason of
17 movement of the vapors from the area of application of the
18 herbicide to areas inhabited by the desired plants.
- 19 (13) The term "inert ingredient" means an ingredient that is not an
20 active ingredient.
- 21 (14) The term "ingredient statement" means ~~either:~~ **any of the**
22 **following:**
- 23 (A) A statement of the name and percentage of each active
24 ingredient, together with the total percentage of the inert
25 ingredients, in the pesticide. ~~or~~
- 26 (B) A statement of the name of each active ingredient in
27 decreasing order of abundance and the total percentage of
28 active ingredients, together with the name of each and total
29 percentage of the inert ingredients, if any, in the pesticide.
30 ~~except clause (A) shall apply if the preparation is highly toxic~~
31 ~~to man, determined under section 10 of this chapter; and~~
32 ~~in addition to clause (A) and clause (B); if a pesticide contains~~
33 ~~arsenic in any form; a statement of the percentages of total and~~
34 ~~water soluble arsenic; each calculated as elemental arsenic.~~
- 35 (15) The term "insect" means any small invertebrate animals
36 generally having the body more or less obviously segmented, for
37 the most part belonging to the class Insecta, comprising six (6)
38 legged, usually winged forms, including beetles, bugs, bees, flies,

- 1 and other allied classes of arthropods whose members are
 2 wingless and usually have more than six (6) legs, including
 3 spiders, mites, ticks, centipedes, and wood lice.
- 4 (16) The term "insecticide" means any substance or mixture of
 5 substances intended for preventing, destroying, repelling, or
 6 mitigating any insects that may be present in any environment.
- 7 (17) The term "label" means the written, printed, or graphic
 8 matter on, or attached to, a pesticide product or the immediate
 9 container of the pesticide product, and any outside container or
 10 wrapper of the retail package of the pesticide product.
- 11 (18) The term "labeling" means all labels and other written,
 12 printed, or graphic matter:
- 13 (A) upon the pesticide product or any of its containers or
 14 wrappers;
- 15 (B) accompanying the pesticide product at any time; or
- 16 (C) to which reference is made on the label or in literature
 17 accompanying the pesticide product, except when accurate,
 18 nonmisleading reference is made to current official
 19 publications of:
- 20 (i) the United States ~~Departments~~ **Department** of
 21 Agriculture; ~~or~~
- 22 (ii) **the United States Department of** Interior;
- 23 (iii) the United States ~~Public Department of Health Service;~~
 24 **and Human Services;**
- 25 (iv) **the United States Environmental Protection Agency;**
- 26 (v) state experiment stations;
- 27 (vi) state agricultural colleges; or
- 28 (vii) other similar federal institutions or official agencies of
 29 this state or other states authorized by law to conduct
 30 research in the field of pesticides.
- 31 (19) The term "misbranded" means:
- 32 (A) any pesticide product if its labeling bears any statement,
 33 design, or graphic representation relative to the pesticide
 34 product or to its ingredients that is false or misleading;
- 35 (B) any pesticide product:
- 36 (i) if it is an imitation of or is offered for sale under the
 37 name of another pesticide product;
- 38 (ii) if its labeling bears any reference to registration under

- 1 this chapter;
- 2 (iii) if the labeling accompanying it does not contain
- 3 instructions for use that are necessary and, if complied with,
- 4 adequate for the protection of the public;
- 5 (iv) if the label does not contain a warning or caution
- 6 statement that may be necessary and, if complied with,
- 7 adequate to prevent injury to living man and other vertebrate
- 8 animals;
- 9 (v) if the label does not bear an ingredient statement on that
- 10 part of the immediate container and on any outside container
- 11 or wrapper through which the ingredient statement on the
- 12 immediate container cannot be clearly read, of the retail
- 13 package that is presented or displayed under customary
- 14 conditions of purchase. However, a pesticide product is not
- 15 misbranded under this definition if the size or form of the
- 16 immediate container, or the outside container or wrapper of
- 17 the retail package, makes it impracticable to place the
- 18 ingredient statement on the part that is presented or
- 19 displayed under customary conditions of purchase and the
- 20 ingredient statement appears prominently on another part of
- 21 the immediate container, or outside container or wrapping,
- 22 or labeling, as permitted by the state chemist;
- 23 (vi) if any word, statement, or other information required
- 24 under this chapter or the Federal Insecticide, Fungicide, and
- 25 Rodenticide Act (7 U.S.C. 135 et seq.) to appear on the
- 26 labeling is not prominently placed on the labeling with
- 27 conspicuousness (as compared with other words, statements,
- 28 designs, or graphic matter in the labeling) and in terms as to
- 29 render it likely to be read and understood by the average
- 30 individual under customary conditions of purchase and use;
- 31 (vii) if in the case of an insecticide, nematocide, fungicide,
- 32 or herbicide, when used as directed or in accordance with
- 33 commonly recognized practice, it shall be injurious to living
- 34 man or other vertebrate animals or vegetation, except weeds,
- 35 to which it is applied, or to the person applying the
- 36 pesticide;
- 37 (viii) in the case of a plant regulator, defoliant, or desiccant
- 38 when used as directed it shall be injurious to living man or

1 other vertebrate animals, or vegetation to which it is applied,
2 or to the person applying the pesticide. However, physical or
3 physiological effects on plants or parts of plants shall not be
4 deemed to be injurious, when this is the purpose for which
5 the plant regulator, defoliant, or desiccant was applied, in
6 accordance with the label claims and recommendations; or
7 (ix) if the immediate container does not clearly display the
8 United States Environmental Protection Agency
9 establishment number indicating the specific location where
10 the pesticide product was produced.

11 (20) The term "nematocide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling, or
13 mitigating nematodes.

14 (21) The term "nematode" means the invertebrate animals of the
15 phylum nemathelminthes and class Nematoda, that is,
16 unsegmented round worms with elongated, fusiform, or saclike
17 bodies covered with cuticle, and inhabiting soil, water, plants, or
18 plant parts also called nemas or eelworms.

19 (22) The term "person" means any individual, partnership,
20 association, fiduciary, corporation, or organized group of persons
21 whether incorporated or not.

22 (23) The term "pesticide" means:

23 (A) any substance or mixture of substances intended for
24 preventing, destroying, repelling, or mitigating a pest; and

25 (B) any substance or mixture of substances intended for use as
26 a plant regulator, defoliant, or desiccant.

27 (24) The term "pesticides for use by prescription only" means any
28 pesticide that the board has found to be more hazardous by one
29 (1) criterion or another than a restricted use pesticide so that any
30 specific use and application shall be determined and prescribed
31 by a qualified pest management specialist approved by the state
32 chemist.

33 (25) The term "plant regulator" means any substance or mixture
34 of substances, intended through physiological action, for
35 accelerating or retarding the rate of growth or rate of maturation,
36 or for otherwise altering the behavior of ornamental or crop plants
37 or the produce of ornamental or crop plants, but shall not include
38 substances to the extent that they are intended as plant nutrients,

- 1 trace elements, nutritional chemicals, plant inoculants, and soil
2 amendments.
- 3 (26) The term "registrant" means the person registering any
4 pesticide product under this chapter.
- 5 (27) The term "restricted use pesticide" means any pesticide
6 classified as a restricted use pesticide by the administrator of the
7 United States Environmental Protection Agency or a pesticide
8 that the board has determined to be unduly hazardous to persons,
9 animals, plants, wildlife, waters, or lands, other than the pests it
10 is intended to prevent, destroy, control, or mitigate.
- 11 (28) The term "rodenticide" means any substance or mixture of
12 substances intended for preventing, destroying, repelling, or
13 mitigating rodents or any other vertebrate animal that the board
14 shall declare to be a pest.
- 15 (29) The term "weed" means any plant that grows where the plant
16 is not wanted.
- 17 (30) The term "aquatic ecologist" means a scientist with a degree
18 in, or extensive training in, or experience in at least one (1) of the
19 following:
- 20 (A) Aquatic ecology.
 - 21 (B) Limnology.
 - 22 (C) Invertebrate zoology.
 - 23 (D) Invertebrate ecology.
 - 24 (E) Ichthyology.
 - 25 (F) Aquatic botany.
 - 26 (G) Algology.
 - 27 (H) Primary production ecology.
- 28 (31) The term "terrestrial ecologist" means a scientist with a
29 degree in, or extensive training in, or experience in at least one (1)
30 of the following:
- 31 (A) Animal ecology.
 - 32 (B) Plant ecology.
 - 33 (C) Vertebrate natural history.
 - 34 (D) Herpetology.
 - 35 (E) Ornithology.
 - 36 (F) Mammalogy.
 - 37 (G) Field zoology.
- 38 (32) The term "bulk pesticides" means any pesticide or mixture of

1 pesticides that is transported or held in an immediate reusable
 2 container in undivided quantities greater than one hundred (100)
 3 pounds net dry weight or fifty-five (55) U.S. gallons liquid
 4 measure. The term does not include pesticides that are in the
 5 custody of the ultimate user and have been prepared for
 6 application by the ultimate user to use in dilution formula
 7 strength.

8 (33) "Final printed labeling" means the printed label and other
 9 labeling that will appear on or accompany a pesticide product.

10 (34) "Front panel" means the part of a label that is visible to a
 11 purchaser under normal conditions of sales displays.

12 (35) "Immediate container" means that part of a container that is
 13 in direct contact with a pesticide product.

14 (36) "Pest" has the meaning set forth in IC 15-3-3.6-2(22).

15 (37) "Pesticide formulation" means a pesticide product comprised
 16 of all active ingredients and inert ingredients.

17 (38) "Pesticide product" means a pesticide or device offered for
 18 distribution or use, including any labeling.

19 (39) "Produce" means to manufacture, prepare, compound,
 20 process, or change the container of a pesticide product or an
 21 active ingredient. The term does not include the dilution by
 22 individuals of formulated pesticides for the individual's use done
 23 according to the directions on a label.

24 (40) "Wildlife" has the meaning set forth in IC 15-3-3.6-2(29).

25 SECTION 7. IC 15-3-3.5-3 IS AMENDED TO READ AS
 26 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. ~~It is unlawful for any~~
 27 **Except as provided in section 4 of this chapter, a person to may not**
 28 produce, distribute, display, sell, or offer for sale within ~~this state~~
 29 **Indiana** or deliver for transportation or transport in intrastate
 30 commerce or between points within ~~this state~~ **Indiana** through any
 31 point outside ~~this state~~ **Indiana** any of the following:

32 (1) Any pesticide product that has not been registered under
 33 section 5 of this chapter.

34 (2) Any pesticide product if any of the claims made for it or any
 35 of the directions for its use differ in substance from the
 36 representations made in connection with its registration.

37 (3) A pesticide product if the composition of the product differs
 38 from the composition as represented in connection with its

- 1 registration. However, at the discretion of the state chemist, a
 2 change in the labeling or formula of a pesticide may be made
 3 within a registration period without requiring reregistration of the
 4 product.
- 5 (4) Any pesticide (except a bulk pesticide or a pesticide in a
 6 container **specifically** designed and constructed to accommodate
 7 the return and refill of ~~greater than fifty-five (55) gallons liquid or~~
 8 ~~one hundred (100) pounds of dry material~~) **the container** unless
 9 it is in the registrant's or the manufacturer's unbroken immediate
 10 container, and there is affixed to that container, and to any outside
 11 container or wrapper of the retail package through which the
 12 required information on the immediate container cannot be clearly
 13 read, a label bearing:
- 14 (A) the name and address of the manufacturer, registrant, or
 15 person for whom manufactured;
 - 16 (B) the name, brand, or trademark under which the pesticide
 17 product is sold; and
 - 18 (C) the net weight or measure of the content, subject, however,
 19 to reasonable variations as the state chemist may permit.
- 20 ~~(5) The pesticides commonly known as standard lead arsenate,~~
 21 ~~basic lead arsenate, calcium arsenate, magnesium arsenate, zinc~~
 22 ~~arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate, and~~
 23 ~~barium fluosilicate unless they have been distinctly colored or~~
 24 ~~discolored as provided by rules adopted under this chapter; or any~~
 25 ~~other white powder pesticide that the state chemist, after~~
 26 ~~investigation of and after public hearing on the necessity for~~
 27 ~~action for the protection of the public health and the feasibility of~~
 28 ~~coloration or discoloration, shall, by rule, require to be distinctly~~
 29 ~~colored or discolored unless it has been so colored or discolored.~~
 30 ~~The state chemist may exempt any pesticide to the extent that it~~
 31 ~~is intended for a particular use or uses from the coloring or~~
 32 ~~discoloring required or authorized by this section if the state~~
 33 ~~chemist determines that coloring or discoloring is not necessary~~
 34 ~~for the protection of the public health.~~
- 35 ~~(6) (5)~~ Any pesticide product that is adulterated or misbranded.
- 36 ~~(7) (6)~~ Any pesticide in containers violating rules adopted under
 37 section 10(3) of this chapter. Pesticides found in containers that
 38 are unsafe due to damage may be seized and impounded.

- 1 ~~(8)~~ (7) A highly volatile herbicide, ~~(as defined in section 2(12) of~~
 2 ~~this chapter)~~ except on written permission by the state chemist.
 3 ~~(9)~~ (8) Any bulk pesticide unless it is accompanied in all transfers
 4 of custody or ownership by or held in storage vessels to which is
 5 affixed a label bearing the information specified in subdivision
 6 (4).

7 SECTION 8. IC 15-3-3.5-7 IS AMENDED TO READ AS
 8 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) The state chemist
 9 shall require the submission of the complete formula of any pesticide
 10 product, including the confidential:

- 11 (1) statement of formula;
 12 (2) analytical methods for the analysis of the pesticide
 13 formulation and the analysis of residues of the pesticide product
 14 in environmental media; and
 15 (3) analytical standards of the pesticide product.

16 In the case of a federally registered product, this requirement may be
 17 waived.

18 (b) **The state chemist shall register a pesticide product, if:**

- 19 (1) the state chemist determines that the composition of the
 20 pesticide product is ~~such as to warrant warrants~~ the proposed
 21 claims for it; ~~and~~ if
 22 (2) the pesticide product, ~~and~~ its labeling, and other material
 23 required to be submitted comply with the requirements of section
 24 5 of this chapter; ~~the state chemist shall register the pesticide~~
 25 ~~product. and~~
 26 (3) **the state chemist determines that the person submitting**
 27 **the application for registration has complied with the**
 28 **requirements of this chapter.**

29 (c) **The state chemist shall notify the applicant that the pesticide**
 30 **product, labeling, or other material required to be submitted fails**
 31 **to comply with the law** if it does ~~not appear to~~ the state chemist
 32 **determines:**

- 33 (1) that the pesticide product is ~~such as to warrant the proposed~~
 34 claims for it **the pesticide product**; or if
 35 (2) the pesticide product, ~~and~~ its labeling, and other material
 36 required to be submitted;

37 do not comply with this chapter.

38 (d) **If the state chemist notifies an applicant under subsection**

1 (c), the state chemist shall ~~notify~~ **give** the applicant ~~of the manner in~~
 2 ~~which the pesticide product, labeling, or other material required to be~~
 3 ~~submitted fail to comply with the law so as to afford the applicant an~~
 4 opportunity to make the necessary corrections. If upon receipt of
 5 notice, the applicant does not make the corrections, the state chemist
 6 may refuse to register the pesticide product.

7 ~~(d)~~ (e) The state chemist, in accordance with the procedures
 8 specified in this section, may **deny**, suspend, or cancel the registration
 9 of a pesticide whenever the state chemist determines that the:

10 (1) pesticide product; ~~or its~~

11 (2) **pesticide product's** labeling; ~~or~~

12 (3) **the person submitting the application for registration of**
 13 **the pesticide product;**

14 does not comply with this chapter.

15 ~~(e)~~ Whenever (f) If:

16 (1) an application for registration is refused; or

17 (2) the state chemist proposes to **deny**, suspend, or cancel a
 18 registration;

19 notice of ~~such~~ **the action shall and information concerning the**
 20 **person's right to obtain a review under section 7.5 of this chapter**
 21 **must** be given to the applicant or registrant. ~~who shall have fifteen (15)~~
 22 ~~days from the date of such notice to request a hearing on the proposed~~
 23 ~~action in accordance with IC 4-21-5.~~

24 SECTION 9. IC 15-3-3.5-7.5 IS ADDED TO THE INDIANA
 25 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2008]: **Sec. 7.5. (a) A person who is:**

27 (1) **regulated under this chapter; and**

28 (2) **aggrieved by any decision by the state chemist;**

29 **may obtain a review by the board, if the person files a written**
 30 **petition with the board not later than thirty (30) days after the**
 31 **state chemist's decision.**

32 (b) **The board shall provide a copy of a petition filed under**
 33 **subsection (a) to the state chemist not later than seven (7) days**
 34 **after receiving the petition.**

35 (c) **Not more than fifteen (15) days after receiving a petition**
 36 **under subsection (b), the state chemist shall certify and file with**
 37 **the board a transcript of any record related to the petition,**
 38 **including a transcript of any evidence received.**

1 **(d) Whenever a hearing is held under this section, the board**
 2 **may designate one (1) or more persons as the board's agent or**
 3 **representative to conduct the hearing. The agent or representative**
 4 **shall conduct the hearing in the manner provided by IC 4-21.5-3.**

5 **(e) After hearing the appeal, the board shall affirm, set aside, or**
 6 **modify the action of the state chemist. However, the state chemist's**
 7 **finding of facts that are supported by the substantial evidence is**
 8 **considered conclusive.**

9 **(f) A person aggrieved by any action of the board may obtain**
 10 **judicial review under IC 4-21.5-5.**

11 SECTION 10. IC 15-3-3.5-12 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) ~~There is created~~
 13 The Indiana pesticide review board ~~consisting~~ **is established. The**
 14 **board consists** of the following members:

15 (1) One (1) representative of the state department of health.

16 ~~(2) One (1) representative of the state toxicologist.~~

17 ~~(3) One (1) representative of the state veterinarian.~~

18 ~~(4)~~ **(2)** One (1) representative of the department of natural
 19 resources.

20 ~~(5)~~ **(3)** One (1) representative of the department of environmental
 21 management.

22 ~~(6)~~ **(4)** One (1) representative of the Purdue University office of
 23 agricultural research programs.

24 ~~(7)~~ **(5)** One (1) representative of the Purdue University
 25 cooperative extension service.

26 ~~(8)~~ **(6)** Two (2) ecologists with earned doctorate degrees:

27 (A) one (1) a terrestrial ecologist; and

28 (B) one (1) an aquatic ecologist.

29 ~~No more than one (1) ecologist may be from a state supported~~
 30 ~~university or college and no~~ **Not** more than one (1) ecologist may
 31 be a plant ecologist.

32 ~~(9)~~ **(7)** One (1) public representative.

33 ~~(10)~~ **(8)** One (1) representative of the pesticide industry.

34 ~~(11)~~ **(9)** Two (2) representatives of producers of agricultural crops
 35 or products on which pesticides are applied or that may be
 36 affected by the application of pesticides:

37 (A) one (1) of whom represents producers of agronomic crops;

38 and

1 (B) one (1) of whom represents producers of nonagronomic
2 crops.

3 ~~(+2)~~ **(10)** One (1) public representative from conservation
4 organizations.

5 ~~(+3)~~ **(11)** Three (3) qualified scientists, one (1) each in the fields
6 of entomology, plant pathology, and weed science. One (1)
7 scientist must be the representative of either the Purdue
8 University office of agricultural research programs or the Purdue
9 University cooperative extension service.

10 ~~(+4)~~ **(12)** Three (3) certified and licensed commercial applicators
11 of pesticides who must represent three (3) different certificate or
12 license categories established under IC 15-3-3.6-5.

13 ~~(+5)~~ **(13)** The state chemist, who **is an ex officio member and**
14 shall serve as a nonvoting member.

15 ~~(+6)~~ **(14)** The pesticide administrator for the office of the state
16 chemist, who shall serve as a nonvoting member.

17 ~~(+7)~~ **(15)** The pesticide training coordinator, who shall serve as a
18 nonvoting member.

19 (b) The voting members shall be appointed by the governor for
20 terms of four (4) years **and, subject to subsection (d), continue until**
21 **the member's successor is approved and qualified.** Appointments
22 shall be made so that no more than five (5) terms expire annually.

23 (c) Voting members may be appointed for successive terms at the
24 discretion of the governor.

25 (d) The governor may remove a voting member of the board prior
26 to the expiration of the member's term for cause.

27 SECTION 11. IC 15-3-3.5-16 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. ~~Ten (+0)~~ **(a) Nine**
29 **(9)** members of the board shall constitute a quorum. ~~and~~

30 **(b)** Official actions ~~will be~~ **are** subject to approval by a simple
31 majority of board members present at a called meeting.

32 **(c)** The ~~chairman~~ **chairperson** shall actively participate in all
33 decisions of the board.

34 SECTION 12. IC 15-3-3.5-17 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. ~~State officials and~~
36 ~~staff members of state offices as well as Purdue University office of~~
37 ~~agricultural research programs and cooperative extension service staff~~
38 ~~members appointed to the board shall serve without compensation but~~

1 shall be entitled to receive per diem payments at rates and under
2 conditions incident to these positions: **The following individuals**
3 **appointed to the board shall serve without compensation but are**
4 **entitled to receive per diem payments at rates and under conditions**
5 **incident to these positions:**

- 6 (1) **State officials.**
- 7 (2) **Staff members of state offices.**
- 8 (3) **Staff members of the Purdue University office of**
9 **agricultural research programs.**
- 10 (4) **Cooperative extension service staff members.**

11 Other members are entitled to reimbursement for traveling and other
12 expenses as provided in the ~~state~~ **Purdue University** travel policies
13 and procedures, established by the ~~Indiana~~ **Purdue University**
14 department of ~~administration~~ **transportation** and approved by the
15 ~~budget agency~~. **Purdue University vice president of business**
16 **services.**

17 SECTION 13. IC 15-3-3.5-18, AS AMENDED BY P.L.40-2006,
18 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
19 JULY 1, 2008]: Sec. 18. The state chemist ~~individually~~ or ~~through~~
20 the state chemist's agent may do the following:

21 (1) Enter any public or private premises, including any vehicle of
22 transport during regular business hours: ~~in order~~

- 23 (A) to:
 - 24 (i) have access to; and ~~to~~
 - 25 (ii) obtain samples of;
 - 26 pesticide products; and
 - 27 (B) to:
 - 28 (i) examine; and
 - 29 (ii) copy;
- 30 records relating to ~~their~~ **the production**, use, transportation,
31 and sale **of pesticide products**, subject to this chapter and the
32 rules adopted under this chapter.

33 (2) Enter at ~~at~~ **a reasonable times time** in or upon any:

- 34 (A) private; or
 - 35 (B) public property;
- 36 for the purpose of inspection and investigating conditions
37 possibly resulting from the use or misuse of a pesticide product.

38 SECTION 14. IC 15-3-3.5-19 IS AMENDED TO READ AS

1 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. **(a)** The
 2 examination of pesticide products shall be made under the direction of
 3 the state chemist for the purpose of determining whether the pesticide
 4 products comply with ~~the requirements of~~ this chapter.

5 **(b)** If it appears after an examination that a pesticide product fails
 6 to comply with this chapter, and the state chemist contemplates
 7 instituting proceedings against any person, the state chemist shall ~~cause~~
 8 **give** appropriate notice to ~~be given to~~ the person. ~~Any~~

9 **(c)** A person notified **under subsection (b)** shall be given a
 10 opportunity to present the person's views, either orally or in writing,
 11 with regard to the contemplated proceedings, ~~and, to the state chemist.~~

12 **(d)** If ~~in the opinion of~~ the state chemist it ~~shall appear that~~
 13 **determines that a person violated** this chapter, ~~has been violated by~~
 14 ~~the person, then subject to subsection (e),~~ the state chemist ~~shall may~~
 15 refer the facts to the prosecuting attorney for the county in which the
 16 violation occurred with a copy of the results of the analysis or the
 17 examination of the pesticide product. ~~Nothing in~~

18 **(e)** This chapter may **not** be construed as requiring the state chemist
 19 to report for prosecution or for the institution of other proceedings
 20 minor violations of this chapter whenever the state chemist believes
 21 that the public interests will be best served by other action.

22 SECTION 15. IC 15-3-3.5-25 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 25. (a) Except as
 24 provided in subsection ~~(c), (f), whenever if the state chemist:~~

25 **(1) finds** any pesticide product: ~~is found by the state chemist~~

26 **(A)** upon any premises; or

27 **(B)** in any means of conveyance;

28 where it is held for purposes of, or during or after, distribution, ~~or~~
 29 sale, **or use;** and

30 **(2) there is reason to believe determines** that the pesticide
 31 product:

32 **(A)** is in violation of this chapter; or ~~that the pesticide product~~

33 **(B)** has been or is intended to be:

34 **(i)** distributed; ~~or~~

35 **(ii)** sold; **or**

36 **(iii)** used;

37 in violation of this chapter;

38 the state chemist may issue a ~~written or printed stop sale, use, or~~

1 removal order to the owner or custodian of the pesticide product; and
 2 after receipt of the order, the owner or custodian may not sell, use, or
 3 remove the pesticide product described in the order except in
 4 accordance with the provisions of the order or until the pesticide
 5 product is released in writing by the state chemist or by order of a
 6 proper court: **an order under subsection (b).**

7 **(b) The state chemist may issue a written or printed:**

8 **(1) stop sale;**

9 **(2) use; or**

10 **(3) removal;**

11 **order to the owner or custodian of a pesticide product.**

12 **(c) Except as provided in subsection (d), after receiving an order**
 13 **under subsection (b), the owner or custodian of a pesticide product**
 14 **may not:**

15 **(1) sell;**

16 **(2) use; or**

17 **(3) remove;**

18 **the pesticide product described in the order.**

19 **(d) The owner or custodian of a pesticide product who receives**
 20 **an order under subsection (b) may:**

21 **(1) sell;**

22 **(2) use; or**

23 **(3) remove;**

24 **the pesticide product only in accordance with the provisions of the**
 25 **order or until the pesticide product is released in writing by the**
 26 **state chemist or by order of a court.**

27 ~~(b)~~ **(e)** When a stop sale order is issued under subsection ~~(a)~~; **(b)**, the
 28 state chemist shall immediately issue a notification to the dealer or
 29 registrant of the pesticide product that states the following:

30 (1) A stop sale order has been issued on the pesticide product.

31 (2) A reference to the specific language of the law or ~~regulation~~
 32 **rule** that is believed to have been violated.

33 ~~(c)~~ **(f)** Labels of pesticide devices may be submitted to the state
 34 chemist for approval before the sale of the pesticide device.

35 SECTION 16. IC 15-3-3.5-35 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 35. ~~(Delegation of~~
 37 ~~Duties) All authority~~ **The state chemist may delegate to an employee**
 38 **or agent any function that is** vested in the state chemist by virtue of

1 the provisions of this chapter. may with like force and effect be
 2 executed by his authorized agent or agents.

3 SECTION 17. IC 15-3-3.6-2, AS AMENDED BY P.L.40-2006,
 4 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2008]: Sec. 2. As used in this chapter:

6 (1) "Agricultural commodity" means any plant, or part of a plant,
 7 and animals or animal products produced primarily for sale,
 8 consumption, propagation, or other use by man or animals.

9 (2) "Animal" means all vertebrate and invertebrate species,
 10 including man and other mammals, birds, fish, and shellfish.

11 (3) "Beneficial insects" means insects that, during some part of
 12 their life cycles, are effective pollinators of plants, are parasites
 13 or predators of pests, or are otherwise useful to man.

14 (4) "Board" means the Indiana pesticide review board established
 15 by IC 15-3-3.5.

16 (5) "Certified applicator" means any individual who is certified
 17 under this chapter as qualified to use or supervise the use of
 18 pesticides and has been issued a certificate as evidence of the
 19 individual's qualifications.

20 (6) "Private applicator" means a certified applicator who uses or
 21 supervises the use of pesticides for purposes of producing any
 22 agricultural commodity on property owned, rented, or managed by
 23 the employer or the applicator, if applied without compensation
 24 on the property of another person.

25 (7) "Commercial applicator" means a certified applicator, whether
 26 or not a private applicator with respect to some uses, who uses or
 27 supervises the use of pesticides for any purpose or on any
 28 property other than as provided by subdivision (6).

29 (8) "Defoliant" means any substance or mixture of substances
 30 intended for causing the leaves or foliage to drop from a plant,
 31 with or without causing abscission.

32 (9) "Desiccant" means any substance or mixture of substances
 33 intended for artificially accelerating the drying of plant tissue.

34 (10) "Device" means any instrument or contrivance, other than a
 35 firearm, that is intended for trapping, destroying, repelling, or
 36 mitigating any pest or any other form of plant or animal life other
 37 than man, bacteria, virus, or other microorganism on or in living
 38 man or other living animals. This term does not include

- 1 equipment used for the application of pesticides when sold
2 separately from the pesticides.
- 3 (11) "Distribute" means to offer for sale, sell, exchange, barter, or
4 otherwise supply or offer to supply a pesticide.
- 5 (12) "Environment" includes water, air, land, and all plants and
6 man and other animals living in water, air, or on land and the
7 interrelationships that exist among these.
- 8 (13) "Equipment" means any type of ground, water, or aerial
9 apparatus or contrivance using motorized, mechanical, or
10 pressurized power, used to apply any pesticide.
- 11 (14) "Fungus" means any nonchlorophyll-bearing plant of a lower
12 order than mosses and liverworts, including rust, smut, mildew,
13 mold, yeast, and bacteria, except those on or in living man or
14 other animals, and those on or in processed food, beverages, or
15 pharmaceuticals.
- 16 (15) "Insect" means any small invertebrate animals generally
17 having the body more or less obviously segmented, for the most
18 part belonging to the class insecta, comprising six (6) legged,
19 usually winged forms, including beetles, bugs, bees, flies, and
20 other allied classes of arthropods whose members are wingless
21 and usually have more than six (6) legs, including spiders, mites,
22 ticks, centipedes, and wood lice.
- 23 (16) "Licensed pesticide business" means any licensed person that
24 owns, operates, or manages a business that is engaged in or
25 professes to be engaged in:
- 26 (A) using any pesticide, including restricted use pesticides; or
27 (B) making diagnostic inspections or reports to determine
28 infestations of wood destroying pests.
- 29 (17) "Licensed applicator for hire" means any licensed certified
30 commercial applicator who is employed by a licensed pesticide
31 business to use or to supervise the use of any pesticide on the
32 property of another and who has assumed direct responsibility for
33 the use or supervision of the use of pesticides by the business.
- 34 (18) "Licensed public applicator" means a licensed certified
35 commercial applicator who uses or supervises the use of a
36 restricted use pesticide as an employee of a state agency,
37 municipal corporation, or other governmental agency. The term
38 includes a commercial applicator using a pesticide in a potentially

- 1 hazardous situation or site as determined by the board.
- 2 (19) "Nematode" means invertebrate animals of the phylum
3 nemathelminthes and class nematoda. These are unsegmented
4 round worms with elongated, fusiform, or sac-like bodies covered
5 with cuticle, and inhabiting soil, water, plants, or plant parts.
6 Nematodes may also be called nemas or eelworms.
- 7 (20) "Permit" means a written certificate issued by the state
8 chemist or the state chemist's authorized agent to a private
9 applicator, authorizing the purchase, possession, or use of
10 restricted use pesticides.
- 11 (21) "Person" means any individual, partnership, association,
12 fiduciary, corporation, or any organized group of persons whether
13 incorporated or not.
- 14 (22) "Pest" means:
- 15 (A) any insect, rodent, nematode, fungus, or weed; or
16 (B) any other form of terrestrial or aquatic plant or animal life
17 or virus, bacteria, or other microorganism (except viruses,
18 bacteria, or other microorganisms on or in living man or other
19 living animals) that is declared to be a pest by the
20 administrator of the United States Environmental Protection
21 Agency or by the board.
- 22 (23) "Pesticide" means:
- 23 (A) any substance or mixture of substances intended for
24 preventing, destroying, repelling, or mitigating any pest; or
25 (B) any substance or mixture of substances intended for use as
26 a plant regulator, defoliant, or desiccant.
- 27 (24) "Plant regulator" means any substance or mixture of
28 substances intended, through physiological action, for
29 accelerating or retarding the rate of growth or rate of maturation
30 or for otherwise altering the behavior of plants or the produce of
31 plants. The term does not include substances to the extent that
32 they are intended as plant nutrients, trace elements, nutritional
33 chemicals, plant inoculants, or soil amendments.
- 34 (25) "Property" means all land and water areas, including
35 airspace, and all plants, animals, structures, buildings,
36 contrivances, **vehicles**, and machinery, appurtenant to or situated
37 on land and water areas, fixed or mobile, including any used for
38 transportation.

- 1 (26) "Restricted use pesticide" means:
 - 2 (A) any pesticide classified as restricted by the Administrator
 - 3 of the United States Environmental Protection Agency; or
 - 4 (B) a pesticide that the board has determined to be unduly
 - 5 hazardous to persons, animals, plants, wildlife, waters, or
 - 6 lands other than the pests the pesticide is intended to prevent,
 - 7 destroy, control, or mitigate.
- 8 (27) "Unreasonable adverse effects on the environment" means an
- 9 unreasonable risk to man or the environment, taking into account
- 10 the economic, social, and environmental costs and benefits of the
- 11 use of any pesticide.
- 12 (28) "Weed" means any plant which grows where it is not wanted.
- 13 (29) "Wildlife" means all living things that are not human,
- 14 domesticated, or pests. This term includes mammals, birds,
- 15 reptiles, and aquatic life.
- 16 (30) "Certificate of financial responsibility" means a notarized
- 17 statement from an officer of a bank or other financial institution
- 18 attesting to the fact that a licensee under this chapter has adequate
- 19 financial resources equal to the amount of liability insurance or
- 20 bonding required by rule under section 13 of this chapter to
- 21 protect persons who may suffer legal damages as a result of the
- 22 applicator's pesticide operations or the pest inspector's
- 23 inspections.
- 24 (31) "Registered pesticide dealer" means any person who
- 25 distributes any restricted use pesticide.
- 26 (32) "Licensed applicator not for hire" means a licensed certified
- 27 commercial applicator who is employed by a private employer to
- 28 use or supervise the use of a restricted use pesticide only on the
- 29 property of the employer. The term includes a commercial
- 30 applicator using a pesticide in a potentially hazardous situation or
- 31 site as determined by the board.
- 32 (33) "Pesticide consultant" means a person engaged in the retail
- 33 sale of pesticides who:
 - 34 (A) offers or supplies technical advice to;
 - 35 (B) aids; or
 - 36 (C) makes recommendations to;
 - 37 another person concerning the use of a pesticide as part of
 - 38 business.

- 1 (34) "Pesticide formulation" means a pesticide product comprised
 2 of all active ingredients and inert ingredients.
- 3 (35) "Pesticide product" means a pesticide or device offered for
 4 distribution or use, including any labeling.
- 5 (36) "Registered technician" means a person who:
 6 (A) is not licensed under this chapter;
 7 (B) has registered with the state chemist; and
 8 (C) is authorized to engage in pesticide use and related
 9 activities under the direct supervision of a licensed and
 10 certified applicator.
- 11 (37) "Use" means an act of handling, releasing, or exposing
 12 individuals or the environment to a pesticide. The term includes
 13 the following:
 14 (A) Application or supervision of an application of a pesticide,
 15 including mixing or loading the pesticide.
 16 (B) Storage of pesticides and pesticide containers by the
 17 intended applicator of the pesticides.
 18 (C) Transportation of pesticides and pesticide containers by
 19 the intended applicator of the pesticides.
 20 (D) Disposal of pesticides and pesticide containers by the
 21 intended applicator of the pesticides.
- 22 (38) "Licensed pest inspector" means an individual licensed under
 23 this chapter to make diagnostic inspections or reports to
 24 determine infestations of wood destroying pests on the property
 25 of another person and meets the requirements under section 13 of
 26 this chapter.
- 27 SECTION 18. IC 15-3-3.6-6, AS AMENDED BY P.L.40-2006,
 28 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2008]: Sec. 6. (a) **Subject to section 10 of this chapter**, a
 30 person may not engage in or profess to engage in the business of:
 31 (1) using a pesticide; or
 32 (2) making diagnostic inspections or reports to determine
 33 infestations of wood destroying pests;
 34 on the property of another for hire at any time without a pesticide
 35 business license issued by the state chemist. The state chemist shall
 36 require an annual license fee of forty-five dollars (\$45) for each
 37 pesticide business license **that is** issued.
 38 (b) A pesticide business license must be obtained for each business

1 location from which pesticide use or application is conducted.

2 (c) The application for a license ~~shall be made~~ **must be** on a form
3 provided by the state chemist. Each application ~~shall~~ **must** contain
4 information necessary for the administration of this chapter.

5 (d) The state chemist may not issue a pesticide business license until
6 the applicant or a pesticide applicator in the applicant's hire who uses
7 or supervises the use of a pesticide on the property of another is
8 certified by passing an examination to demonstrate to the state chemist
9 the applicant's or applicator's knowledge of the:

10 (1) use of pesticides under the category for which the applicant or
11 applicator has applied; and ~~the applicant's or applicator's~~
12 ~~knowledge of the~~

13 (2) nature and effect of pesticides the applicant or applicator may
14 apply under the categories.

15 At least one (1) licensed applicator for hire must be associated with
16 each location from which pesticides are used for hire.

17 (e) The state chemist may renew any **pesticide** business license.

18 (f) **Subject to subsections (a), (b), (c), and (d) and section 14 of**
19 **this chapter**, if:

20 (1) the state chemist finds the applicant qualified to engage in the
21 business of using pesticides **or making diagnostic inspections or**
22 **reports to determine infestations of wood destroying pests** on
23 the property of another;

24 (2) the applicant files evidence of financial responsibility required
25 under section 13 of this chapter; and

26 (3) the applicant applying for a license involving aerial
27 application of pesticides has met all of the requirements of:

28 (A) the Federal Aviation Administration;

29 (B) the Indiana department of transportation; and

30 (C) any other applicable federal or state statutes or regulations
31 to operate the equipment described in the application;

32 the state chemist ~~shall~~ **may** issue a pesticide business license limited
33 to the categories for which the applicant or a pesticide applicator in the
34 applicant's hire is qualified. The license ~~shall expire~~ **expires** January
35 1 of the year following issue unless it has been invalidated, revoked, or
36 suspended earlier by the state chemist. ~~Any~~ **A** surety bond or certificate
37 of liability insurance in force or certificate of financial responsibility
38 required under section 13 of this chapter must be maintained and in

1 effect on a continuing basis.

2 (g) The state chemist may limit a license or the operation of a
3 business to the use of certain pesticides, or to certain areas, or to certain
4 types of equipment if the applicant is only so qualified.

5 (h) If a license is not issued as applied for, the state chemist shall
6 inform the applicant in writing of the reasons the license was not
7 issued.

8 SECTION 19. IC 15-3-3.6-8.1, AS AMENDED BY P.L.40-2006,
9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2008]: Sec. 8.1. (a) A person applying for a license described
11 under section 7, 7.1, or 8 of this chapter must:

12 (1) submit an application to the state chemist on a form provided
13 by the state chemist;

14 (2) pass the appropriate examination provided under section 5 of
15 this chapter;

16 (3) except for a person applying for a licensed public applicator's
17 license, submit a fee of forty-five dollars (\$45) to the state
18 chemist; and

19 (4) if the person will engage in the aerial application of pesticides,
20 submit proof to the state chemist that the person has satisfied
21 aerial application requirements under applicable state and federal
22 laws.

23 (b) **Subject to section 14 of this chapter**, if a person meets the
24 requirements under subsection (a), the state chemist ~~shall~~ **may** issue
25 the appropriate license to the person.

26 (c) If the state chemist does not issue a license to a person ~~that~~ **who**
27 applied for a license described under subsection (a), the state chemist
28 shall inform the person in writing of the reason the license was not
29 issued.

30 (d) A person ~~that~~ **who** has been issued a license under subsection
31 (b):

32 (1) shall notify the state chemist in writing within ten (10) days
33 after a change in or termination of the person's employment as a
34 licensed applicator for hire, a licensed applicator not for hire, or
35 a licensed public applicator; and

36 (2) may apply to the state chemist to transfer or amend the
37 person's license by submitting an updated application form
38 described under subsection (a)(1).

1 (e) A license issued under subsection (b):

2 (1) expires January 1 of each year; and

3 (2) **subject to section 14 of this chapter**, may be renewed by the
4 person holding the license if the person:

5 (A) submits a renewal application on a form provided by the
6 state chemist; and

7 (B) except for a person renewing a licensed public applicator's
8 license, pays a forty-five dollar (\$45) renewal fee;

9 before January 1.

10 SECTION 20. IC 15-3-3.6-13, AS AMENDED BY P.L.40-2006,
11 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
12 JULY 1, 2008]: Sec. 13. (a) The state chemist may not issue a pesticide
13 business license or a pest inspector license until the applicant for the
14 license has furnished a surety bond, a certificate of liability insurance
15 in force, or a certificate of financial responsibility to protect persons
16 who may suffer legal damages as a result of the pesticide operations or
17 pest inspections of the applicant. If the surety bond, liability insurance,
18 or financial responsibility is not maintained at all times during the
19 licensing period, the pesticide business license, pest inspector license,
20 and any associated commercial applicator licenses **and technical**
21 **registrations** are invalid. The applicant may not engage in or profess
22 to be engaged in the business of using pesticides or pest inspection
23 until the financial responsibility is **brought into in** compliance and the
24 applicant's license is reinstated by the state chemist.

25 (b) ~~Nothing in~~ This chapter ~~relieves~~ **does not relieve** any person
26 from liability for any damage to the person or property of another
27 caused by the use of pesticides even though the use conforms to the
28 rules adopted under this chapter.

29 SECTION 21. IC 15-3-3.6-14, AS AMENDED BY P.L.40-2006,
30 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 2008]: Sec. 14. Subject to section 14.5 of this chapter, the
32 state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil
33 penalty on a person for a violation under this chapter. The state chemist
34 may also deny, suspend, revoke, or modify any provision of any
35 license, permit, registration, or certification issued under this chapter
36 if the state chemist finds that the applicant or the holder of a license,
37 permit, registration, or certification has committed any of the following
38 acts, each of which is a violation of this chapter:

- 1 (1) Made false or fraudulent claims **either verbally or** through
 2 any media misrepresenting the effect of pesticides or methods to
 3 be ~~utilized~~ **used**.
- 4 (2) Recommended, used, or supervised the use of any registered
 5 pesticide in a manner inconsistent with its labeling approved by
 6 the United States Environmental Protection Agency or Indiana
 7 state registration for that pesticide, or in violation of the United
 8 States Environmental Protection Agency or Indiana state
 9 restrictions on the use of that pesticide.
- 10 (3) Used known ineffective or improper pesticides **or known**
 11 **ineffective amounts of pesticides**.
- 12 (4) Operated faulty or unsafe equipment.
- 13 (5) Operated in a careless or negligent manner.
- 14 (6) Neglected or, after notice, refused to comply with this chapter,
 15 the rules adopted under this chapter, or of any lawful order of the
 16 state chemist **or the board**.
- 17 (7) Refused or neglected to:
- 18 (A) keep and maintain the records required by this chapter; or
 19 ~~to~~
 20 (B) make reports and supply information when required **or**
 21 **requested by the state chemist in the course of an**
 22 **investigation or inspection**.
- 23 (8) Made false or fraudulent records, invoices, or reports.
- 24 (9) Engaged in or professed to be engaged in the business of:
- 25 (A) using a pesticide; or
 26 (B) making a diagnostic inspection to determine infestations
 27 of a wood destroying pest;
 28 for hire on the property of another without having a pesticide
 29 business license.
- 30 (10) Used a restricted use pesticide without having an applicator
 31 who is licensed or permitted under this chapter in direct
 32 supervision.
- 33 (11) Used fraud or misrepresentation in making an application
 34 for, or renewal of, a license, permit, registration, or certification.
- 35 (12) Refused or neglected to comply with any limitations or
 36 restrictions on or in a duly issued license, permit, registration, or
 37 certification.
- 38 (13) Aided or abetted a person to evade the provisions of this

1 chapter, conspired with a person to evade the provisions of this
 2 chapter, or allowed a license, permit, registration, or certification
 3 to be used by another person.

4 (14) Made false or misleading statements during or after an
 5 inspection concerning any infestation or infection of pests.

6 (15) Impersonated any federal, state, county, or city inspector,
 7 investigator, or official.

8 (16) Knowingly purchased or used a pesticide that was not
 9 registered under IC 15-3-3.5.

10 (17) Failed to continuously maintain financial responsibility
 11 required under section 13 of this chapter **or to provide proof of**
 12 **financial responsibility to the state chemist when requested.**

13 **(18) Intentionally altered a duly issued license, permit,**
 14 **registration, or certification.**

15 **(19) Recklessly, knowingly, or intentionally impeded or**
 16 **prevented the state chemist or the state chemist's agent from**
 17 **performing a duty of the state chemist.**

18 SECTION 22. IC 15-3-3.6-16 IS AMENDED TO READ AS
 19 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 16. (a) A person who
 20 **recklessly, knowingly, or intentionally:**

21 (1) violates this chapter; or

22 (2) impedes ~~hinders~~, or prevents the state chemist or the state
 23 chemist's ~~authorized agent in performance~~ **from performing a**
 24 **duty** of the state ~~chemist's duty~~ **chemist;**

25 commits a Class C misdemeanor.

26 (b) A person who **recklessly**, knowingly or intentionally:

27 (1) violates section 14(9) of this chapter after the state chemist
 28 has issued written notification to that person regarding a previous
 29 violation of section 14(9) of this chapter; **or**

30 **(2) physically assaults the state chemist or the state chemist's**
 31 **agent while performing a duty of the state chemist;**

32 commits a Class A misdemeanor.

33 (c) The state chemist may bring an action to enjoin the violation or
 34 threatened violation of this chapter or ~~any~~ **a rule made** under this
 35 chapter. A court may not allow the recovery of damages for **an**
 36 administrative action taken **under this subsection** if the court finds
 37 that there was probable cause for the action.

38 SECTION 23. IC 15-3-3.6-18, AS AMENDED BY P.L.40-2006,

1 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 2008]: Sec. 18. (a) The state chemist may enter upon any
3 public or private property at reasonable times, in order to do the
4 following:

- 5 (1) Observe the use and application of a pesticide.
- 6 (2) Inspect ~~any~~ equipment subject to this chapter.
- 7 (3) Inspect and sample property actually or reported to be exposed
8 to pesticides.
- 9 (4) Inspect storage or disposal areas.
- 10 (5) Inspect or investigate complaints of injury to humans or
11 property.
- 12 (6) Sample pesticides being used or to be used.
- 13 (7) Inspect and obtain copies of pesticide sale, distribution,
14 purchase, use, storage, and disposal records.

15 (b) ~~If the state chemist is denied access to any property for the~~
16 ~~purposes set forth in this chapter,~~ The state chemist may, upon showing
17 a need, apply to any court ~~of competent with~~ jurisdiction for a search
18 warrant authorizing access to the property. ~~for said purposes.~~ The court
19 may, ~~upon such after receiving the~~ application and ~~after~~ finding a
20 need, issue the search warrant for the purposes requested.

21 (c) ~~Each~~ A prosecuting attorney to whom ~~any a~~ violation of this
22 chapter is reported may institute and prosecute the violation in a court
23 ~~of competent with~~ jurisdiction of that county without delay. The state
24 chemist may apply for and the court grant a temporary or permanent
25 injunction restraining any person from violating or continuing to
26 violate this chapter or any rule adopted under this chapter
27 notwithstanding the existence of other remedies at law. The injunction
28 may be issued without bond.

29 SECTION 24. IC 15-3-3.6-19 IS AMENDED TO READ AS
30 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19. (a) Commercial
31 applicators and licensed pest inspectors shall maintain records ~~with~~
32 ~~respect to applications concerning:~~

- 33 (1) ~~the application~~ of restricted use pesticides; ~~and~~
- 34 (2) diagnostic inspections to determine infestations of wood
35 destroying pests; ~~and~~
- 36 (3) ~~any relevant information that the state chemist may deem~~
37 ~~determines by rule is necessary to further for~~ the purposes of
38 this chapter. ~~may be specified by rule.~~

1 **(b)** The state chemist may require certified applicators to maintain
2 records related to applications of state restricted pesticide uses. ~~These~~

3 **(c)** Records ~~shall~~ **required under this section must** be kept for a
4 period of two (2) years from the date of the **inspection or the**
5 application of the pesticide, ~~to which the records refer, and or for the~~
6 **time specified by rule.**

7 **(d)** The state chemist shall be provided access to the records by the
8 commercial applicator **or licensed pest inspector.**

9 SECTION 25. IC 15-3-3.6-20 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 20. **(a)** The state
11 chemist may ~~by regulation~~ **adopt rules to** require the reporting of
12 significant pesticide accidents or incidents.

13 **(b)** Any person:

14 **(1)** claiming damages from a pesticide accident ~~shall~~ **or incident;**
15 **and**

16 **(2) requesting an investigation of those damages by the state**
17 **chemist;**

18 **must** file a claim on a form provided by a **report with the** state
19 chemist. ~~This report must be filed within sixty (60) days after the date~~
20 ~~that damages occurred.~~ If a growing crop is alleged to have been
21 damaged, the report must be filed before twenty-five percent (25%) of
22 the crop has been harvested. ~~The state chemist shall, within seven (7)~~
23 ~~days after the receipt of such statement, notify the licensee and the~~
24 ~~owner or lessee of the property or other persons who may be charged~~
25 ~~with the responsibility for the damages claimed, and furnish copies of~~
26 ~~such statements as may be requested.~~

27 SECTION 26. IC 15-3-3.6-21 IS AMENDED TO READ AS
28 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 21. The state chemist
29 may cooperate with, and enter into agreements with, any other agency
30 of ~~this~~ **the** state, any federal agency, or any other state agency or
31 nongovernmental organization for the purpose of carrying out this
32 chapter to:

33 (1) secure uniformity of rules;

34 (2) cooperate in the enforcement of the federal pesticide control
35 laws through the use of state or federal personnel and facilities
36 and to implement cooperative enforcement programs;

37 (3) develop and administer state plans for certification of
38 applicators consistent with federal standards;

- 1 (4) contract or cooperate with agencies or organizations for the
 2 purpose of training applicators;
 3 (5) contract for monitoring pesticides; ~~for the national plan;~~
 4 (6) prepare and submit state plans to meet federal certification
 5 standards;
 6 (7) ~~regulate certified applicators;~~ **administer and enforce**
 7 **requirements under this chapter;** and
 8 (8) make reports to the United States Environmental Protection
 9 Agency as the agency ~~may require:~~ **requires.**

10 SECTION 27. IC 15-3-3.6-22 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 22. The state chemist
 12 may waive all or part of the requirements provided for in sections 3, 5,
 13 6, 7, 7.1, 8, 8.1, 8.3, 9, **10.1**, and 12 of this chapter on a reciprocal basis
 14 with any other state agency or federal agency that has substantially the
 15 same standards.

16 SECTION 28. IC 15-3-3.6-24 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 24. **(a)** A person may
 18 not transport, store, or dispose of any pesticide or pesticide containers
 19 in a manner ~~as to that may~~ cause injury to humans, beneficial
 20 vegetation, crops, livestock, wildlife, beneficial insects or to pollute
 21 any waterway in a way harmful to any wildlife in a waterway.

22 **(b)** The board may adopt rules governing the storage and disposal
 23 of pesticides or pesticide containers. In determining these standards,
 24 the board shall take into consideration any regulations issued by the
 25 United States Environmental Protection Agency.

26 SECTION 29. IC 15-5-13-6 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. A commercial feed,
 28 except a custom-mixed feed, ~~shall~~ **must** be accompanied by a label
 29 bearing the following information:

- 30 (1) The net weight.
 31 (2) The product name and the brand name, if any, under which the
 32 commercial feed is distributed.
 33 (3) The guaranteed analysis stated in ~~such the terms as that the~~
 34 **director, state chemist**, by ~~regulation rule~~, determines ~~is are~~
 35 required to advise the user of the composition of the feed or to
 36 support claims made in the labeling. In all cases the substances or
 37 elements must be determinable by laboratory methods such as the
 38 methods published by ~~the (Association of Official Analytical~~

- 1 ~~Chemists:~~ **AOAC International.**
- 2 (4) The common or usual name of each ingredient used in the
- 3 manufacture of the commercial feed. ~~Provided; That However,~~
- 4 the ~~director; state chemist,~~ by ~~regulation rule,~~ may:
- 5 (i) ~~(A)~~ permit the use of a collective term for a group of
- 6 ingredients ~~which that~~ perform a similar function; or
- 7 (ii) ~~(B)~~ exempt ~~such a commercial feeds; feed~~ or any group
- 8 ~~thereof; of commercial feeds~~ from ~~this the~~ requirement of ~~for~~
- 9 an ingredient statement if ~~he the state chemist~~ finds that such
- 10 a statement is not required in the interest of consumers.
- 11 (5) The name and principal mailing address of the manufacturer
- 12 or the person responsible for distributing the commercial feed.
- 13 (6) Adequate directions for use for: ~~all~~
- 14 (A) commercial feeds containing drugs; and ~~such~~
- 15 (B) other feeds ~~as that the director may require state chemist~~
- 16 ~~requires~~ by ~~regulation rule~~ as necessary for their safe and
- 17 effective use.
- 18 (7) ~~Such~~ Precautionary statements ~~as that the director state~~
- 19 ~~chemist~~ by ~~regulation rule~~ determines are necessary for the safe
- 20 and effective use of the commercial feed.
- 21 SECTION 30. IC 15-5-13-7 IS AMENDED TO READ AS
- 22 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. Custom-mixed feed
- 23 ~~shall must~~ be accompanied by a label, invoice, delivery slip, or other
- 24 shipping document bearing the following information:
- 25 (1) Name and address of the manufacturer.
- 26 (2) Name and address of the purchaser.
- 27 (3) Date of delivery.
- 28 (4) The product name and brand name, if any, and the net weight
- 29 of each ~~registered~~ commercial feed used in the mixture, and the
- 30 common or usual name and net weight of each other ingredient
- 31 used, and the specific content, stated in terms as required in
- 32 section 6 of this chapter, of any nutrients and nonnutritive
- 33 additives added at the request of the purchaser.
- 34 (5) Adequate directions for use for: ~~all~~
- 35 (A) custom-mixed feeds containing drugs; and ~~for such~~
- 36 (B) other feeds ~~as that the director may require state chemist~~
- 37 ~~requires~~ by ~~regulation rule~~ as necessary for their safe and
- 38 effective use.

- 1 (6) ~~Such~~ Precautionary statements ~~as that~~ the ~~director state~~
- 2 **chemist** by ~~regulation rule~~ determines are necessary for the safe
- 3 and effective use of the custom-mixed feed."
- 4 Renumber all SECTIONS consecutively.
(Reference is to HB 1059 as introduced.)

and when so amended that said bill do pass.

Representative Pflum