
HOUSE BILL No. 1059

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-3-3.

Synopsis: Commercial fertilizer law. Makes changes to the commercial fertilizer law, including changing the definition of "blending" for fertilizers and adding a definition of "ammonium nitrate". Authorizes a \$50 fee for certification and education programs. Establishes civil penalties for violating the commercial fertilizer law, and makes it a Class A misdemeanor to knowingly or intentionally violate the commercial fertilizer law. Changes the membership of the fertilizer advisory board. Makes other technical changes.

Effective: July 1, 2008.

Battles

January 8, 2008, read first time and referred to Committee on Agriculture and Rural Development.

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Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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HOUSE BILL No. 1059



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 15-3-3-3 IS AMENDED TO READ AS FOLLOWS
- 2 [EFFECTIVE JULY 1, 2008]: Sec. 3. The following definitions apply
- 3 throughout this chapter:
- 4 (1) "Fertilizer material" means any substance containing nitrogen,
- 5 phosphate, potash, or any recognized plant nutrient that is used
- 6 for its plant nutrient content and that is designed to have value in
- 7 promoting plant growth. The term includes unmanipulated animal
- 8 and vegetable manures.
- 9 (2) "Mixed fertilizer" means any combination or mixture of
- 10 fertilizer materials designed for use or claimed to have value in
- 11 promoting plant growth.
- 12 (3) "Commercial fertilizer" includes mixed fertilizer or fertilizer
- 13 materials, except nonprocessed manure, marl, lime, wood ashes,
- 14 and plaster.
- 15 (4) "Brand" means a term, design, or trademark used in
- 16 connection with one (1) or several grades of fertilizer.
- 17 (5) "Grade" means the minimum percentage of total nitrogen,



- 1 available phosphate (P_2O_5), and soluble potash (K_2O) stated in the
 2 order given in this definition.
- 3 (6) "Official sample" means any sample of commercial fertilizer
 4 taken by the state chemist or the state chemist's agent.
- 5 (7) "Ton" means a net weight of two thousand (2,000) pounds
 6 avoirdupois.
- 7 (8) "Percent" or "percentage" means the percentage by weight.
- 8 (9) "Person" includes an individual, partnership, association, firm,
 9 limited liability company, and corporation.
- 10 (10) "Distributor" means a person who offers for sale, sells,
 11 barter, or otherwise supplies commercial fertilizers.
- 12 (11) "Sell" or "sale" includes exchange.
- 13 (12) "Specialty fertilizer" means a fertilizer distributed for
 14 nonfarm use.
- 15 (13) "Bulk fertilizer" means a fertilizer distributed in
 16 nonpackaged form.
- 17 (14) "Registrant" means a person who registers fertilizer under
 18 this chapter.
- 19 (15) "Storage" means storage of bulk fertilizer by a person who
 20 manufactures or distributes bulk fertilizer or stores bulk fertilizer
 21 for personal use.
- 22 (16) "Board" means the Indiana fertilizer advisory board.
- 23 (17) "Blender" means a person ~~who is~~ **or system** engaged in the
 24 business of blending fertilizer materials.
- 25 (18) "Blending" means the physical mixing or combining of: ~~two~~
 26 ~~(2) or more fertilizer materials, including the mixing, through the~~
 27 ~~simultaneous application of two (2) or more fertilizer materials,~~
 28 **(A) one (1) or more fertilizer materials and one (1) or more**
 29 **filler materials;**
 30 **(B) two (2) or more fertilizer materials; or**
 31 **(C) two (2) or more fertilizer materials and filler**
 32 **materials;**
 33 **including mixing through the simultaneous or sequential**
 34 **application of any of the combinations in clause (A), (B), or**
 35 **(C) to produce a uniform mixture.**
- 36 (19) "Custom blend" means a fertilizer blended according to
 37 specifications provided to a blender in a soil test nutrient
 38 recommendation or to meet specific **requests of a consumer**
 39 **requirements (who is the end user)** before blending.
- 40 (20) "Use" means the ~~process of placing~~ **placement or usage of**
 41 **commercial fertilizer to promote plant growth on a targeted**
 42 **growing area.**

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(21) "Ammonium nitrate" means the ammonium salt of nitric acid, which must contain not less than thirty-three percent (33%) nitrogen, fifty percent (50%) of which is in the ammonium form and fifty percent (50%) of which is in the nitrate form.

SECTION 2. IC 15-3-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) Before distribution in Indiana, each brand and grade of commercial fertilizer shall be registered in the name of the person whose name appears on the label. The application for registration shall be submitted to the state chemist on a form furnished by the state chemist and shall be accompanied by a fee of twenty dollars (\$20) for each grade of each brand. Fertilizers sold in packages of twelve (12) pounds or less shall be registered for a fee of fifty dollars (\$50) for each grade of each brand. Upon approval by the state chemist, a copy of the registration shall be furnished to the applicant. All registrations expire on June 30 each year.

(b) In addition to the appropriate filing fee set forth in subsection (a), a late filing fee equal to one hundred percent (100%) of the appropriate filing fee shall be assessed:

- (1) for an application to renew the registration of a commercial fertilizer under this section that is received after July 31; or
- (2) on a product that must be registered under this section before distribution in Indiana but is found to be in distribution before registration.

(c) The application shall include the following information:

- (1) The name and address of the registrant.
- (2) The brand and grade.
- (3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

| | |
|--|---------|
| Total Nitrogen (N) | percent |
| Available Phosphate (P ₂ O ₅) | percent |
| Soluble Potash (K ₂ O) | percent |

When applied to mixed fertilizers, grade shall be given in whole numbers only. However, the state chemist may permit fractional numbers to be used for specialty fertilizers or when additional plant food elements or other additives are added. Unacidulated mineral phosphatic materials and basic slag shall be guaranteed as to both total and available phosphate and the degree of fineness. In the case of bone, tankage, and other natural organic phosphate materials, only the total phosphate need be guaranteed. Additional plant food elements or other additives, determinable by chemical methods, may be guaranteed only by permission of the state chemist who shall grant such permission

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1 only if the state chemist determines that the granting of such
 2 permission would not constitute a misrepresentation and is correct with
 3 the advice of the dean of agriculture of Purdue University or the dean's
 4 designee. When any such additional plant foods are claimed, ~~they~~ **the**
 5 **plant foods** shall be included in the guarantee in the form of the
 6 element and shall be subject to inspection and analysis in accordance
 7 with the methods that may be prescribed by the state chemist.

8 (d) A distributor is not required to register a brand of commercial
 9 fertilizer that is registered under this chapter by another person if the
 10 label used by the distributor does not differ in any respect from that
 11 used by the registrant.

12 (e) A distributor who acts as a blender is not required under
 13 subsection (a) to register a custom blend that the distributor produces
 14 if the fertilizer materials blended together to produce the custom blend
 15 are registered under subsection (a). However, a distributor who acts as
 16 a blender shall provide the state chemist with the following information
 17 about each custom blend that the distributor produces:

- 18 (1) The name and address of the distributor.
- 19 (2) The brand and grade of the custom blend.
- 20 (3) The guaranteed analysis of the custom blend showing the
 21 minimum percentage of plant food claimed in the following order
 22 and form:
 - 23 (A) The percent of total nitrogen (N).
 - 24 (B) The percent of available phosphate (P_2O_5).
 - 25 (C) The percent of soluble potash (K_2O).

26 SECTION 3. IC 15-3-3-12 IS AMENDED TO READ AS
 27 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. The state chemist
 28 may:

- 29 (1) adopt rules under IC 4-22-2 relating to the use of fertilizer
 30 material and the distribution and storage of bulk commercial
 31 fertilizers to implement this chapter, including rules that set forth
 32 standards for the storage of bulk fertilizers for the purpose of
 33 protecting the waters of the state; **and**
- 34 (2) **establish fees for services, not to exceed fifty dollars (\$50)**
 35 **each year, to implement a certification and education**
 36 **program for specified categories of fertilizer material**
 37 **applicators as the program relates to the application and**
 38 **transportation of fertilizer material. The state chemist shall**
 39 **determine the content of the education programs. Fees**
 40 **collected under this section shall be paid and reported in the**
 41 **same manner as fees are paid and reported under**
 42 **IC 15-3-3-6(b).**

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1 SECTION 4. IC 15-3-3-15.5 IS ADDED TO THE INDIANA CODE
 2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 3 1, 2008]: **Sec. 15.5. (a) If a person violates this chapter or a rule
 4 adopted under this chapter, the state chemist may:**

5 **(1) warn, cite, or impose a civil penalty under IC 4-21.5-3-6;**
 6 **or**

7 **(2) deny, suspend, revoke, or amend the person's registration
 8 under this chapter.**

9 **(b) The state chemist may impose civil penalties under a
 10 schedule of civil penalties adopted by the board in a rule adopted
 11 under IC 4-22-2.**

12 **(c) A person who knowingly or intentionally violates this
 13 chapter commits a Class A misdemeanor.**

14 SECTION 5. IC 15-3-3-17 IS AMENDED TO READ AS
 15 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 17. (a) The Indiana
 16 fertilizer advisory board is established to study the regulation of
 17 fertilizer and to advise the state chemist on the administration of this
 18 chapter.

19 (b) The board consists of the following members:

20 (1) Two (2) representatives of the retail fertilizer industry.

21 (2) One (1) representative of fertilizer manufacturing,
 22 distributing, or manufacturing and distributing.

23 (3) Two (2) representatives of producers of agricultural crops.

24 (4) One (1) representative of the lawn care industry.

25 (5) One (1) representative of the Purdue School of Agriculture.

26 (6) One (1) representative of a public conservation organization.

27 **(7) One (1) representative of the livestock industry.**

28 ~~(8)~~ **(8)** The president of the Indiana Plant Food and Agricultural
 29 Chemicals Association, who shall serve as a nonvoting member.

30 ~~(9)~~ **(9)** One (1) representative of the department of environmental
 31 management, who shall serve as a nonvoting member.

32 ~~(10)~~ **(10)** The fertilizer administrator for the office of the state
 33 chemist, who shall serve as a nonvoting member.

34 ~~(11)~~ **(11)** The engineer specialist for the office of the state
 35 chemist, who shall serve as a nonvoting member.

36 **(12) One (1) representative of the department of agriculture,
 37 who shall serve as a nonvoting member.**

38 (c) The voting members of the board shall be appointed by the state
 39 chemist for terms of four (4) years.

40 (d) Voting members of the board may be appointed for successive
 41 terms at the discretion of the state chemist.

42 (e) The state chemist may remove a voting member of the board for

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1 cause before the expiration of the member's term.

2 (f) Vacancies created by the death, resignation, or removal for cause

3 of a member of the board must be filled in the manner prescribed for

4 appointment to that board position. Vacancies must be filled within

5 thirty (30) days of the death, resignation, or removal for cause.

6 (g) The board shall elect one (1) of its voting members chairperson

7 to serve for a term of two (2) years, unless the chairperson's

8 appointment expires before the expiration of the term, in which case

9 the term is for the duration of the chairperson's appointment.

10 (h) The board may meet at times specified by the chairperson or by

11 a majority of the board, but shall not meet less than annually.

12 (i) Five (5) voting members of the board constitutes a quorum.

13 Official actions require a majority of the voting members. The

14 chairperson may actively participate in all decisions of the board.

15 (j) Each member of the board who is not a state employee is entitled

16 to receive both of the following:

17 (1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

18 (2) Reimbursement for travel expenses and other expenses

19 actually incurred in connection with the member's duties, as

20 provided in the state travel policies and procedures established by

21 the Indiana department of administration and approved by the

22 budget agency.

23 Each member of the board who is a state employee is entitled to

24 reimbursement for travel expenses as provided under IC 4-13-1-4 and

25 other expenses actually incurred in connection with the member's

26 duties, as provided in the state travel policies and procedures

27 established by the Indiana department of administration and approved

28 by the budget agency.

29 (k) The board shall invite nonvoting members to serve at the

30 pleasure of the board.

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