

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 6914

BILL NUMBER: HB 1129

NOTE PREPARED: Jan 3, 2012

BILL AMENDED:

SUBJECT: State Chemist Issues.

FIRST AUTHOR: Rep. Lehe

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: GENERAL
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides civil penalty authority to the State Chemist under the agriculture ammonia law and subpoena authority to the State Chemist under the agricultural ammonia law and the commercial fertilizers laws. It provides that the State Chemist may impose a civil penalty only according to a schedule recommended by the Fertilizer Advisory Board.

This bill amends the pesticide laws and the pesticide use and application laws as follows:

- (1) Expands the definition of "produce".
- (2) Makes changes to the qualifications of certain members on the Pesticide Review Board.
- (3) Makes changes to the duties and rule-making authority of the Pesticide Review Board.
- (4) Exempts employees of not-for-profit organizations from the annual pesticide applicator license fee.
- (5) Repeals registration requirements and fees for pesticide consultants.
- (6) Amends provisions of state pesticide law to apply to all pesticide products, including both chemicals and devices. (Current law only applies to chemicals.)
- (7) Makes changes to comply with federal pesticide laws.

This bill amends the commercial feed laws as follows:

- (1) Adds and amends numerous definitions.
- (2) Adds a late fee for distributing feed before applying for a license.
- (3) Allows the State Chemist to revoke, suspend, or place conditions on a commercial feed license that is not in compliance.
- (4) Makes changes to required labeling information.
- (5) Provides conditions that make commercial feed adulterated.
- (6) Adds authority to adopt rules concerning specialty pet foods.

- (7) Increases the penalty for certain violations from a Class A infraction to a Class C misdemeanor.
- (8) Adds as Class C misdemeanors:
 - (A) distribution of raw milk that is not labeled "Not for Human Consumption"; and
 - (B) distributing animal feed and implying that it is fit for human consumption.
- (9) Makes conforming changes.

The bill also makes technical changes.

Effective Date: July 1, 2012.

Explanation of State Expenditures:

Explanation of State Revenues: *Civil Penalties:* The bill provides that the State Chemist may impose civil penalties under a schedule adopted by the Fertilizer Advisory 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.

Pesticide Applicator License Fees: It is unknown how many employees of not-for-profit organizations apply for the pesticide applicator license fee, but there are likely not very many. Thus, exempting the employees from the pesticide applicator license fees would likely have a minimal impact. A total of about \$760,000 was collected during FY 2011 for pesticide application license fees. These fees fund the operations of the State Chemist's office.

Pesticide Consultant Registration and Fees: This bill repeals registration requirements and fees for pesticide consultants. According to the State Chemist's office, on average there are about 350 registered consultants annually. They are charged a fee of \$45, which generates about \$15,750 annually. These funds go directly into an account used to fund operational activities such as issuing annual credentials, performing requisite accounting functions, doing compliance outreach, and performing compliance inspections and investigations. The cost of performing those activities exceeds the level of income generated.

Late Fees for Distributing Feed before Applying for a License: According to the State Chemist's office, there were about 45 to 50 companies that had products in the marketplace without being licensed first during 2011. If they were charged a \$50 fee, then about \$2,250 to \$2,500 would have been assessed in late filing fees.

Penalty Increases: This bill increases the penalty for several violations from Class C infractions to Class C misdemeanors. This bill potentially increases revenue to the Common School Fund, but could reduce revenue that is deposited in the state General Fund. However, any change in revenue is likely to be small. Currently, the maximum judgment for a Class C infraction is \$500, which is deposited into the state General Fund, while the maximum fine for a Class C misdemeanor is \$500, which is deposited into the Common School Fund. The state General Fund may receive additional court fee revenue. However, the amount is likely to be small.

The penalties are increased for the following violations:

- (1) The manufacture or distribution of a commercial feed that is adulterated or misbranded.
- (2) The adulteration or misbranding of a commercial feed.
- (3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated.

- (4) The removal or disposal of a commercial feed in violation of an order under IC 15-19-7-38 or IC 15-19-7-39.
- (5) The failure to obtain a commercial feed license.
- (6) The failure to pay inspection fees or file reports.

New Penalties: The bill provides that the following are Class C misdemeanors:

- (1) The distribution of raw milk for use as a commercial feed for any species if the raw milk is not prominently labeled, in at least a half inch font, "Not for Human Consumption".
- (2) Distribution of any animal feed that is implied by the person to be suitable for human food unless the feed meets all federal, state, and local health laws and labeling requirements for human consumption.

Explanation of Local Expenditures: *Penalty Increases and New Penalties:* Local expenditures could increase if offenders are incarcerated in local jails instead of being only fined. However, any cost increase is likely to be small. A Class C misdemeanor is punishable by up to 60 days in jail.

Explanation of Local Revenues: *Penalty Increases and New 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; Fertilizer Advisory Board; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

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