



Reprinted  
January 27, 2012

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## HOUSE BILL No. 1129

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DIGEST OF HB 1129 (Updated January 26, 2012 3:11 pm - DI 77)

**Citations Affected:** IC 15-16; IC 15-19.

**Synopsis:** State chemist issues. 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. Provides that the state chemist may impose a civil penalty only according to a schedule recommended by the fertilizer advisory board. 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)  
(Continued next page)

**Effective:** July 1, 2012.

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January 9, 2012, read first time and referred to Committee on Agriculture and Rural Development.  
January 23, 2012, amended, reported — Do Pass.  
January 26, 2012, read second time, amended, ordered engrossed.

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HB 1129—LS 6914/DI 77+



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Digest Continued

Makes changes to comply with federal pesticide laws. 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) Adds as Class A infractions: (A) distribution of raw milk that is not labeled "Not for Human Consumption"; and (B) distributing animal feed and stating, promoting, or advertising that it is fit for human consumption. (8) Makes conforming changes. Makes technical changes.

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Reprinted  
January 27, 2012

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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## HOUSE BILL No. 1129

A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 15-16-1-3.5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2012]: **Sec. 3.5. As used in this chapter, "board" refers to the**  
4 **Indiana fertilizer advisory board established by IC 15-16-2-25.**  
5 SECTION 2. IC 15-16-1-14, AS AMENDED BY P.L.81-2009,  
6 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2012]: **Sec. 14. (a) If a person violates this chapter or a rule**  
8 **adopted under this chapter, the state chemist may:**  
9 (1) **warn, issue a citation to, or impose a civil penalty on the**  
10 **person; or**  
11 (2) **deny, suspend, revoke, or amend the person's license,**  
12 **certificate, registration, permit, or application under this**  
13 **chapter.**  
14 (b) **The state chemist may adopt by rule, under IC 4-22-2, a**  
15 **schedule of civil penalties that may be imposed under subsection**

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1 **(a). The state chemist may impose a civil penalty only according to**  
 2 **a schedule of civil penalties recommended by the board.**

3 (a) (c) A person who knowingly or intentionally violates this chapter  
 4 commits a Class C misdemeanor.

5 (b) The prosecuting attorney of any judicial circuit in which a  
 6 violation has occurred and to whom the state chemist has reported a  
 7 violation shall institute the appropriate proceedings and prosecute the  
 8 proceedings in a court.

9 (c) Before the state chemist reports a violation for prosecution as  
 10 described in subsection (b); the state chemist shall give the person  
 11 charged with a violation an opportunity to respond to the charges. The  
 12 state chemist need not report for prosecution minor violations of this  
 13 chapter if the state chemist believes that the public interest is best  
 14 served by another action.

15 SECTION 3. IC 15-16-1-16 IS ADDED TO THE INDIANA CODE  
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 17 1, 2012]: **Sec. 16. The state chemist may request a court to issue**  
 18 **subpoenas to compel:**

19 (1) the attendance of witnesses; or  
 20 (2) the production of books, documents, and records;  
 21 as part of an authorized investigation or a hearing located in  
 22 Indiana affecting the authority or privilege granted by a license,  
 23 certificate, application, registration, or permit issued under this  
 24 chapter.

25 SECTION 4. IC 15-16-2-38, AS AMENDED BY P.L.81-2009,  
 26 SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2012]: Sec. 38. (a) The state chemist shall:

28 (1) sample, inspect, make analysis of, and test commercial  
 29 fertilizers distributed within Indiana; and  
 30 (2) inspect the storage of bulk fertilizers in Indiana at a time and  
 31 place and to such an extent as necessary to determine whether the  
 32 bulk fertilizers and their storage are in compliance with this  
 33 chapter.

34 (b) The state chemist may enter upon any public or private premises  
 35 during regular business hours in order to have access to:

36 (1) fertilizer materials; and  
 37 (2) plans and records relating to the transportation, storage, sale,  
 38 and use of fertilizer materials;

39 subject to this chapter and the rules adopted under this chapter.

40 (c) The state chemist shall adopt methods of sampling and analysis  
 41 for commercial fertilizers from sources that may include AOAC  
 42 International. In cases of dispute, AOAC International's methods

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1 prevail if AOAC International's methods are available.

2 (d) The state chemist shall determine for administrative purposes  
3 whether a commercial fertilizer is deficient in plant foods using only  
4 the official sample obtained and analyzed as provided in subsection (c).

5 (e) **The state chemist may request a court to issue subpoenas to**  
6 **compel:**

7 (1) **the attendance of witnesses; or**

8 (2) **the production of books, documents, and records;**

9 **as part of an authorized investigation or a hearing located in**  
10 **Indiana affecting the authority or privilege granted by a license,**  
11 **certificate, application, registration, or permit issued under this**  
12 **chapter.**

13 SECTION 5. IC 15-16-4-35, AS ADDED BY P.L.2-2008,  
14 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
15 JULY 1, 2012]: Sec. 35. As used in this chapter, "produce" means:

16 (1) to:

17 (1) **(A) manufacture;**

18 (2) **(B) prepare;**

19 (3) **(C) compound;**

20 (4) **(D) process; or**

21 (5) **(E) formulate; or**

22 (6) **(F) change;**

23 **the container of a pesticide product or an active ingredient that is**  
24 **used in producing a pesticide product; or**

25 (2) to:

26 (A) **package;**

27 (B) **repackage;**

28 (C) **label;**

29 (D) **relabel; or**

30 (E) **otherwise change;**

31 **the container of a pesticide product.**

32 The term does not include the dilution of formulated pesticides by an  
33 individual for the individual's use done according to the directions on  
34 the pesticide label.

35 SECTION 6. IC 15-16-4-42, AS ADDED BY P.L.120-2008,  
36 SECTION 63, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2012]: Sec. 42. (a) The Indiana pesticide review board is  
38 established. The board consists of the following members:

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

40 (2) One (1) representative of the department of natural resources.

41 (3) One (1) representative of the department of environmental  
42 management.



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- 1 (4) One (1) representative of the Purdue University office of  
2 agricultural research programs.
- 3 (5) One (1) representative of the Purdue University cooperative  
4 extension service.
- 5 (6) Two (2) ecologists: ~~with earned doctorate degrees:~~  
6 (A) one (1) a terrestrial ecologist; and  
7 (B) one (1) an aquatic ecologist.  
8 Not more than one (1) ecologist may be a plant ecologist.
- 9 (7) One (1) public representative.
- 10 (8) One (1) representative of the pesticide **producing or**  
11 **manufacturing** industry.
- 12 (9) Two (2) representatives of producers of agricultural crops or  
13 products on which pesticides are applied or that may be affected  
14 by the application of pesticides:  
15 (A) one (1) of whom represents producers of agronomic crops;  
16 and  
17 (B) one (1) of whom represents producers of ~~nonagronomic~~  
18 **specialty** crops.
- 19 (10) One (1) public representative from ~~a conservation~~  
20 ~~organizations:~~ **organization.**
- 21 (11) Three (3) qualified scientists, one (1) each in the fields of  
22 entomology, plant pathology, and weed science. One (1) scientist  
23 must be the representative of either the Purdue University office  
24 of agricultural research programs or the Purdue University  
25 cooperative extension service.
- 26 (12) Three (3) certified and licensed commercial applicators of  
27 pesticides who must represent three (3) different certificate or  
28 license categories established under IC 15-16-5-45.
- 29 (13) The state chemist, who is an ex officio member and shall  
30 serve as a nonvoting member.
- 31 (14) The pesticide administrator for the office of the state  
32 chemist, who shall serve as a nonvoting member.
- 33 (15) The pesticide training coordinator, who shall serve as a  
34 nonvoting member.
- 35 (b) The voting members shall be appointed by the governor for  
36 terms of four (4) years and, subject to subsection (d), continue until the  
37 member's successor is approved and qualified. Appointments shall be  
38 made so that not more than five (5) terms expire annually.
- 39 (c) Voting members may be appointed for successive terms at the  
40 discretion of the governor.
- 41 (d) The governor may remove a voting member of the board prior  
42 to the expiration of the member's term for cause.

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1 SECTION 7. IC 15-16-4-48, AS ADDED BY P.L.2-2008,  
 2 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 3 JULY 1, 2012]: Sec. 48. The board ~~shall~~ **may**:

- 4 (1) collect;  
 5 (2) analyze; and  
 6 (3) interpret;

7 information on matters relating to the **registration and** use of  
 8 pesticides.

9 SECTION 8. IC 15-16-4-50, AS ADDED BY P.L.2-2008,  
 10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 11 JULY 1, 2012]: Sec. 50. (a) The board may adopt rules under IC 4-22-2  
 12 to do the following:

- 13 (1) Establish a list of restricted use pesticides and pesticides for  
 14 use by prescription only for all of Indiana or designated areas  
 15 within Indiana, if the board finds that the characteristics of a  
 16 pesticide require that rules restricting the:

- 17 (A) sale;  
 18 (B) distribution; or  
 19 (C) use;

20 of the pesticide by any person are necessary to prevent undue  
 21 hazards to persons, animals, wildlife, lands, or waters, other than  
 22 the pests that they are intended to prevent, destroy, control, or  
 23 mitigate.

- 24 (2) Provide for the **safe**:

- 25 (A) ~~safe~~ handling;  
 26 (B) transportation;  
 27 (C) storage;  
 28 (D) display;  
 29 (E) distribution; ~~and~~  
 30 (F) disposal; ~~and~~  
 31 **(G) production;**

32 of ~~pesticides~~ **pesticide products** and pesticide containers.

- 33 (3) Restrict or prohibit the use of certain types of containers or  
 34 packages for specific pesticides. The restrictions may apply to the:

- 35 (A) type of construction;  
 36 (B) strength; or  
 37 (C) size;

38 to alleviate danger of spillage, breakage, or misuse.

39 (b) The board may adopt by reference the restricted use  
 40 classification of a pesticide that is maintained by the United States  
 41 Environmental Protection Agency.

- 42 (c) The board may **adopt rules to** do the following:

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- 1 (1) ~~Include in a rule adopted under subsection (a)(1)~~ **Determine**  
 2 the time and conditions of the:  
 3 (A) sale;  
 4 (B) distribution; or  
 5 (C) use;  
 6 of pesticides designated as restricted use pesticides and pesticides  
 7 for use by prescription only. **pesticide products.**  
 8 (2) ~~Require in a rule under subsection (a)(1)~~ that any or all  
 9 **materials pesticide products** be purchased, possessed, or used  
 10 only under:  
 11 (A) permit;  
 12 (B) certificate;  
 13 (C) license; or  
 14 (D) registration;  
 15 of the state chemist or under certain conditions or in certain  
 16 quantities or concentrations.  
 17 ~~(d) The state chemist may~~ **(3)** Require all persons issued:  
 18 ~~(1) (A) permits;~~  
 19 ~~(2) (B) certificates;~~  
 20 ~~(3) (C) licenses; or~~  
 21 ~~(4) (D) registrations;~~  
 22 under ~~subsection (e)~~ **this subsection** to maintain records as to the  
 23 use of the ~~restricted use pesticides and pesticides for use by~~  
 24 ~~prescription only.~~ **pesticide products.**  
 25 SECTION 9. IC 15-16-4-55, AS ADDED BY P.L.120-2008,  
 26 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2012]: Sec. 55. The state chemist or the state chemist's agent  
 28 may do the following:  
 29 (1) Enter any public or private premises, including any vehicle of  
 30 transport during regular business hours:  
 31 (A) to:  
 32 (i) have access to; and  
 33 (ii) obtain samples of;  
 34 pesticide products; and  
 35 (B) to:  
 36 (i) examine; and  
 37 (ii) copy;  
 38 records relating to the production, use, transportation, and sale  
 39 of pesticide products, subject to this chapter, ~~and~~ the rules  
 40 adopted under this chapter, **and the Federal Insecticide,**  
 41 **Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).**  
 42 (2) Enter at a reasonable time in or upon any:

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- 1 (A) private; or  
 2 (B) public;  
 3 property for the purpose of inspection and investigating  
 4 conditions possibly resulting from the use or misuse of a pesticide  
 5 product.
- 6 SECTION 10. IC 15-16-4-57, AS ADDED BY P.L.120-2008,  
 7 SECTION 68, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 8 JULY 1, 2012]: Sec. 57. Except as provided in section 58 of this  
 9 chapter, a person may not produce, distribute, display, sell, or offer for  
 10 sale within Indiana or deliver for transportation or transport in  
 11 intrastate commerce or between points within Indiana through any  
 12 point outside Indiana any of the following:
- 13 (1) Any pesticide product that has not been registered under  
 14 section 61 of this chapter.
  - 15 (2) Any pesticide product if any of the claims made for it or any  
 16 of the directions for its use differ in substance from the  
 17 representations made in connection with its registration.
  - 18 (3) A pesticide product if the composition of the product differs  
 19 from the composition as represented in connection with its  
 20 registration. However, at the discretion of the state chemist, a  
 21 change in the labeling or formula of a pesticide may be made  
 22 within a registration period without requiring reregistration of the  
 23 product.
  - 24 (4) Any pesticide **product** (except a bulk pesticide or a pesticide  
 25 in a container designed and constructed to accommodate the  
 26 return and refill of the container) unless it is in the registrant's or  
 27 the manufacturer's unbroken immediate container, and there is  
 28 affixed to that container, and to any outside container or wrapper  
 29 of the retail package through which the required information on  
 30 the immediate container cannot be clearly read, a label bearing:
    - 31 (A) the name and address of the manufacturer, registrant, or  
 32 person for whom manufactured;
    - 33 (B) the name, brand, or trademark under which the pesticide  
 34 product is sold; and
    - 35 (C) the net weight or measure of the content, subject, however,  
 36 to reasonable variations as the state chemist may permit.
  - 37 (5) Any pesticide product that is adulterated or misbranded.
  - 38 (6) Any pesticide **product** in containers violating rules adopted  
 39 under section 50(a)(3) of this chapter. Pesticides found in  
 40 containers that are unsafe due to damage may be seized and  
 41 impounded.
  - 42 (7) A highly volatile herbicide except on written permission by

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1 the state chemist.

2 (8) Any bulk pesticide unless it is accompanied in all transfers of  
3 custody or ownership by or held in storage vessels to which is  
4 affixed a label bearing the information specified in subdivision  
5 (4).

6 **(9) Any pesticide that violates the Federal Insecticide,  
7 Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) or  
8 regulations adopted under the Act.**

9 SECTION 11. IC 15-16-4-59, AS ADDED BY P.L.2-2008,  
10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2012]: Sec. 59. A person may not:

12 (1) detach, alter, deface, or destroy, in whole or in part, any label  
13 or labeling provided for in this chapter or rules adopted under this  
14 chapter;

15 (2) add any substance to, or take any substance from, a pesticide  
16 in a manner that may defeat the purpose of this chapter;

17 (3) use for the person's own advantage or reveal, other than to:

18 (A) the state chemist;

19 (B) proper officials;

20 (C) employees of the state;

21 (D) the courts of this state in response to a subpoena;

22 (E) physicians; or

23 (F) pharmacists and other qualified persons for use in  
24 emergencies in the preparation of antidotes;

25 any information relative to formulas of products acquired by  
26 authority of section 61 or 64 of this chapter;

27 (4) use or cause to be used any pesticide contrary to section 50 of  
28 this chapter; ~~or~~

29 (5) use a highly volatile herbicide except on written permission by  
30 the state chemist; ~~or~~

31 **(6) neglect, or after notice, refuse to comply with this chapter,  
32 the rules adopted under this chapter, or a lawful order of the  
33 state chemist or board.**

34 SECTION 12. IC 15-16-4-62, AS ADDED BY P.L.2-2008,  
35 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
36 JULY 1, 2012]: Sec. 62. (a) Each registrant shall pay an annual,  
37 nonrefundable fee of one hundred seventy dollars (\$170) for each  
38 application for each pesticide product ~~registered:~~ **submitted for  
39 registration.**

40 (b) Each registration expires January 1 of each year.

41 (c) All fees collected by the state chemist under this chapter shall be  
42 paid to the treasurer of Purdue University, who shall deposit the fees in

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1 a special restricted account designated by the treasurer of the board of  
2 trustees of Purdue University.

3 (d) From the account described in subsection (c), the treasurer shall  
4 pay all expenses incurred in administering this chapter, including  
5 expenses for the following:

6 (1) The employment of:

7 (A) inspectors;

8 (B) investigators;

9 (C) researchers;

10 (D) analysts;

11 (E) administrators; and

12 (F) clerical and service staff.

13 (2) Expenses in procuring samples and printing results of  
14 inspections.

15 (3) Purchasing:

16 (A) supplies;

17 (B) equipment; and

18 (C) services.

19 (4) Necessary remodeling.

20 (5) Other expenses of the office of the state chemist.

21 (6) The transfer of ten dollars (\$10) from each fee paid under  
22 subsection (a) on an annual basis to the office of Purdue pesticide  
23 programs to provide education about the safe and effective use of  
24 pesticides.

25 The treasurer is not required to use any other funds, except those  
26 collected as registration fees, to pay any expenses incurred in the  
27 administration of this chapter. The dean of agriculture shall make an  
28 annual financial report to the governor showing total receipts and  
29 expenditures of all fees received under this chapter.

30 (e) A registrant who registers or pays an annual fee after December  
31 31 of any year shall pay a late fee of one hundred seventy dollars  
32 (\$170) as well as the annual fee.

33 (f) Excess funds from the collection of fees under this chapter are  
34 subject to IC 15-16-2-36.

35 SECTION 13. IC 15-16-4-67, AS ADDED BY P.L.2-2008,  
36 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
37 JULY 1, 2012]: Sec. 67. A person may not **produce**, handle, transport,  
38 store, display, or distribute pesticide products in a manner as to  
39 endanger:

40 (1) humans;

41 (2) the environment;

42 (3) food;

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- 1 (4) feed; or
- 2 (5) any other products that may be:
- 3 (A) transported;
- 4 (B) stored;
- 5 (C) displayed; or
- 6 (D) distributed;
- 7 with pesticide products.
- 8 SECTION 14. IC 15-16-5-42, AS ADDED BY P.L.120-2008,
- 9 SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 10 JULY 1, 2012]: Sec. 42. The state chemist may waive all or part of the
- 11 requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, ~~53~~, 54,
- 12 56, and 57 of this chapter on a reciprocal basis with any other state
- 13 agency or federal agency that has substantially the same standards.
- 14 SECTION 15. IC 15-16-5-52, AS ADDED BY P.L.120-2008,
- 15 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 16 JULY 1, 2012]: Sec. 52. (a) A person applying for a license described
- 17 under section 49, 50, or 51 of this chapter must:
- 18 (1) submit an application to the state chemist on a form provided
- 19 by the state chemist;
- 20 (2) pass the appropriate examination provided under section 45 of
- 21 this chapter;
- 22 (3) except for a person **who is:**
- 23 (A) applying for a licensed public applicator's license; **or**
- 24 (B) **an employee of a nonprofit organization;**
- 25 submit a fee of forty-five dollars (\$45) to the state chemist; and
- 26 (4) if the person will engage in the aerial application of pesticides,
- 27 submit proof to the state chemist that the person has satisfied
- 28 aerial application requirements under applicable state and federal
- 29 laws.
- 30 (b) Subject to section 65 of this chapter, if a person meets the
- 31 requirements under subsection (a), the state chemist shall issue the
- 32 appropriate license to the person.
- 33 (c) If the state chemist does not issue a license to a person who
- 34 applied for a license described under subsection (a), the state chemist
- 35 shall inform the person in writing of the reason the license was not
- 36 issued.
- 37 (d) A person who has been issued a license under subsection (b):
- 38 (1) shall notify the state chemist in writing within ten (10) days
- 39 after a change in or termination of the person's employment as a
- 40 licensed applicator for hire, a licensed applicator not for hire, or
- 41 a licensed public applicator; and
- 42 (2) may apply to the state chemist to transfer or amend the

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- 1 person's license by submitting an updated application form
- 2 described under subsection (a)(1).
- 3 (e) A license issued under subsection (b):
- 4 (1) expires January 1 of each year; and
- 5 (2) subject to section 65 of this chapter, may be renewed by the
- 6 person holding the license if the person:
- 7 (A) submits a renewal application on a form provided by the
- 8 state chemist; and
- 9 (B) except for a person renewing a licensed public applicator's
- 10 license **or an employee of a nonprofit organization**, pays a
- 11 forty-five dollar (\$45) renewal fee;
- 12 before January 1.

13 SECTION 16. IC 15-16-5-53 IS REPEALED [EFFECTIVE JULY  
 14 1, 2012]. ~~Sec. 53: (a) A person may not act as a pesticide consultant~~

15 ~~unless the person has registered with the state chemist.~~

16 ~~(b) To register with the state chemist as a pesticide consultant, a~~  
 17 ~~person must:~~

- 18 ~~(1) submit an application on a form approved by the state chemist;~~
- 19 ~~and~~
- 20 ~~(2) pay an annual fee of forty-five dollars (\$45) to the state~~
- 21 ~~chemist.~~

22 SECTION 17. IC 15-16-5-64, AS ADDED BY P.L.120-2008,  
 23 SECTION 81, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2012]: Sec. 64. (a) A person may not **produce**, transport,  
 25 store, **handle**, or dispose of any pesticide **product** or pesticide **product**  
 26 containers in a manner that may:

- 27 (1) cause injury to:
- 28 (A) humans;
- 29 (B) beneficial vegetation;
- 30 (C) crops;
- 31 (D) livestock;
- 32 (E) wildlife; or
- 33 (F) beneficial insects; or
- 34 (2) pollute any waterway in a way harmful to any wildlife in a
- 35 waterway.

36 (b) The board may adopt rules governing the **production**,  
 37 **transportation**, storage, **handling**, and disposal of ~~pesticides~~ **pesticide**  
 38 **products** or pesticide containers. In determining these standards, the  
 39 board shall take into consideration any regulations issued by the United  
 40 States Environmental Protection Agency.

41 SECTION 18. IC 15-16-5-65, AS ADDED BY P.L.120-2008,  
 42 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2012]: Sec. 65. Subject to section 66 of this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on a person for a violation under this chapter. The state chemist may also deny, suspend, revoke, or modify any provision of any license, permit, registration, or certification issued under this chapter if the state chemist finds that the applicant or the holder of a license, permit, registration, or certification has committed any of the following acts, each of which is a violation of this chapter:

- (1) Made false or fraudulent claims either verbally or through any media misrepresenting the effect of ~~pesticides~~ **pesticide products** or methods to be used.
- (2) Recommended, used, or supervised the use of any registered pesticide **product** in a manner inconsistent with its labeling approved by the United States Environmental Protection Agency or Indiana state registration for that pesticide, or in violation of the United States Environmental Protection Agency or Indiana state restrictions on the use of that pesticide **product**.
- (3) Used known ineffective or improper ~~pesticides~~ **pesticide products** or known ineffective amounts of pesticides.
- (4) Operated faulty or unsafe equipment.
- (5) Operated in a careless or negligent manner.
- (6) Neglected or, after notice, refused to comply with this chapter, the rules adopted under this chapter, or of any lawful order of the state chemist or the board.
- (7) Refused or neglected to:
  - (A) keep and maintain the records required by this chapter; or
  - (B) make reports and supply information when required or requested by the state chemist in the course of an investigation or inspection.
- (8) Made false or fraudulent records, invoices, or reports.
- (9) Engaged in or professed to be engaged in the business of:
  - (A) using a pesticide **or any other product regulated under this chapter or by rules adopted under this chapter;** or
  - (B) making a diagnostic inspection to determine infestations of a wood destroying pest;
 

for hire on the property of another without having a ~~pesticide~~ business license **issued by the state chemist.**
- (10) Used a restricted use pesticide without having an applicator, who is licensed or permitted under this chapter, in direct supervision.
- (11) Used fraud or misrepresentation in making an application for, or renewal of, a license, permit, registration, or certification.

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- 1 (12) Refused or neglected to comply with any limitations or
- 2 restrictions on or in a duly issued license, permit, registration, or
- 3 certification.
- 4 (13) Aided or abetted a person to evade this chapter, conspired
- 5 with a person to evade this chapter, or allowed a license, permit,
- 6 registration, or certification to be used by another person.
- 7 (14) Made false or misleading statements during or after an
- 8 inspection concerning any infestation or infection of pests.
- 9 (15) Impersonated any federal, state, county, or city inspector,
- 10 investigator, or official.
- 11 (16) Knowingly purchased or used a pesticide **product** that was
- 12 not registered under IC 15-16-4.
- 13 (17) Failed to continuously maintain financial responsibility
- 14 required under section 58 of this chapter or to provide proof of
- 15 financial responsibility to the state chemist when requested.
- 16 (18) Intentionally altered a duly issued license, permit,
- 17 registration, or certification.
- 18 (19) Recklessly, knowingly, or intentionally impeded or prevented
- 19 the state chemist or the state chemist's agent from performing a
- 20 duty of the state chemist.
- 21 SECTION 19. IC 15-16-5-69, AS ADDED BY P.L.120-2008,
- 22 SECTION 83, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 23 JULY 1, 2012]: Sec. 69. (a) The state chemist may enter upon any
- 24 public or private property at reasonable times to do the following:
- 25 (1) Observe the use and application of a pesticide **product**.
- 26 (2) Inspect equipment subject to this chapter.
- 27 (3) Inspect and sample property actually or reported to be exposed
- 28 to ~~pesticides~~: **pesticide products**.
- 29 (4) Inspect storage or disposal areas.
- 30 (5) Inspect or investigate complaints of injury to humans or
- 31 property.
- 32 (6) Sample ~~pesticides~~ **pesticide products** being **produced,**
- 33 **distributed, transported, stored, disposed, or** used or to be
- 34 used.
- 35 (7) Inspect and obtain copies of pesticide **product production,**
- 36 sale, distribution, purchase, use, storage, and disposal records,
- 37 **including confidential business information. Confidential**
- 38 **business information obtained under this subdivision is**
- 39 **confidential for purposes of IC 5-14-3-4(a).**
- 40 (b) The state chemist may, upon showing a need, apply to any court
- 41 with jurisdiction for a search warrant authorizing access to the
- 42 property. The court may, after receiving the application and finding a

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1 need, issue the search warrant for the purposes requested.

2 (c) A prosecuting attorney to whom a violation of this chapter is  
3 reported may institute and prosecute the violation in a court with  
4 jurisdiction of that county without delay. The state chemist may apply  
5 for and the court may grant a temporary or permanent injunction  
6 restraining any person from violating or continuing to violate this  
7 chapter or any rule adopted under this chapter notwithstanding the  
8 existence of other remedies at law. The injunction may be issued  
9 without bond.

10 SECTION 20. IC 15-19-7-1, AS ADDED BY P.L.2-2008,  
11 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2012]: Sec. 1. As used in this chapter, "brand name" means a  
13 word, name, symbol, or device or any combination of words, names,  
14 symbols, **graphics**, or devices that identifies the commercial feed of a  
15 distributor and distinguishes it from that of other distributors.

16 SECTION 21. IC 15-19-7-2, AS ADDED BY P.L.2-2008,  
17 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
18 JULY 1, 2012]: Sec. 2. As used in this chapter, "commercial feed"  
19 means all materials, **or combinations of materials**, that are distributed  
20 **or intended for distribution** for use as feed or for mixing in feed,  
21 **except as exempted in this section**. The term does not include the  
22 following unless **labeled with nutritional claims** or adulterated within  
23 the meaning of section 29(1) of this chapter:

- 24 (1) Unmixed whole seeds.  
25 (2) Unmixed, physically altered whole seeds that have not been  
26 chemically altered.  
27 (3) Commodities, compounds, or substances excluded by rules  
28 adopted by the state chemist under IC 4-22-2 in accordance with  
29 section 34 of this chapter.

30 SECTION 22. IC 15-19-7-2.5 IS ADDED TO THE INDIANA  
31 CODE AS A **NEW SECTION** TO READ AS FOLLOWS  
32 [EFFECTIVE JULY 1, 2012]: **Sec. 2.5. As used in this chapter,**  
33 **"contract feeder" means a person who:**

- 34 **(1) is an independent contractor;**  
35 **(2) feeds commercial feed to animals under a contract where**  
36 **the commercial feed is supplied, furnished, or otherwise**  
37 **provided to the person; and**  
38 **(3) receives remuneration that is determined wholly or in part**  
39 **by feed consumption, mortality, profits, or amount or quality**  
40 **of product.**

41 SECTION 23. IC 15-19-7-3, AS ADDED BY P.L.2-2008,  
42 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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1 JULY 1, 2012]: Sec. 3. As used in this chapter, "~~custom mixed~~  
 2 **"customer formula feed"** means commercial feed that consists of a  
 3 mixture of commercial feeds or feed ingredients, each batch of which  
 4 is mixed to meet the request of the final purchaser that the mixture  
 5 contain a specific content of ingredients, nutrients, or nonnutritive  
 6 additives.

7 SECTION 24. IC 15-19-7-4, AS ADDED BY P.L.2-2008,  
 8 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9 JULY 1, 2012]: Sec. 4. As used in this chapter, "distribute" means to:

10 (1) offer for sale, sell, exchange, **or barter a commercial feed,** or  
 11 otherwise supply a commercial feed; **or**

12 (2) **supply, furnish, or otherwise provide commercial feed to**  
 13 **a contract feeder.**

14 SECTION 25. IC 15-19-7-11, AS ADDED BY P.L.2-2008,  
 15 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 16 JULY 1, 2012]: Sec. 11. As used in this chapter, "mineral feed" means  
 17 a commercial feed, the primary purpose of which is to supply mineral  
 18 elements ~~and or~~ inorganic nutrients.

19 SECTION 26. IC 15-19-7-15, AS ADDED BY P.L.2-2008,  
 20 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 21 JULY 1, 2012]: Sec. 15. As used in this chapter, **except as provided**  
 22 **in section 18 of this chapter,** "pet" means a ~~domesticated animal~~  
 23 **normally maintained in or near the household of its owner: dog or cat.**

24 SECTION 27. IC 15-19-7-17, AS ADDED BY P.L.2-2008,  
 25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 26 JULY 1, 2012]: Sec. 17. As used in this chapter, "product name" means  
 27 the name of the commercial feed that:

28 (1) identifies it as to kind, class, or specific use; **and**

29 (2) **distinguishes it from all other products bearing the same**  
 30 **brand name.**

31 SECTION 28. IC 15-19-7-17.5 IS ADDED TO THE INDIANA  
 32 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 33 [EFFECTIVE JULY 1, 2012]: **Sec. 17.5. As used in this chapter "raw**  
 34 **milk" means any milk or milk product, including butter, yogurt,**  
 35 **cottage cheese, and cheese, from any species other than humans,**  
 36 **that has not been pasteurized according to processes recognized by**  
 37 **the United States Food and Drug Administration. The term does**  
 38 **not include United States Department of Agriculture approved**  
 39 **veterinary biologics.**

40 SECTION 29. IC 15-19-7-18, AS ADDED BY P.L.2-2008,  
 41 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 42 JULY 1, 2012]: Sec. 18. As used in this chapter, "specialty pet" means

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1 a domesticated animal normally maintained in a cage or tank, including  
2 a gerbil, hamster, bird, fish, **snake**, and turtle.

3 SECTION 30. IC 15-19-7-22, AS ADDED BY P.L.2-2008,  
4 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
5 JULY 1, 2012]: Sec. 22. The state chemist may cooperate with and  
6 enter into agreements with governmental agencies of this state, other  
7 states, agencies of the federal government, and private associations in  
8 order to carry out **the purpose and provisions of** this chapter.

9 SECTION 31. IC 15-19-7-24, AS ADDED BY P.L.2-2008,  
10 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
11 JULY 1, 2012]: Sec. 24. (a) A person who manufactures a commercial  
12 feed or whose name appears on the label of a commercial feed may not  
13 distribute the commercial feed in Indiana without a commercial feed  
14 license issued by the state chemist on a form provided by the state  
15 chemist.

16 (b) An out-of-state distributor may not cause a commercial feed to  
17 be distributed in Indiana without a commercial feed license issued by  
18 the state chemist on a form provided by the state chemist.

19 (c) A commercial feed license is issued for a calendar year and  
20 expires December 31 of the year for which the license was issued.  
21 Commercial feed license fees are as follows:

22 (1) The filing fee for a new or renewal license is fifty dollars  
23 (\$50).

24 **(2) A late filing fee of fifty dollars (\$50) shall be added to the**  
25 **license fee if the applicant has distributed feed before filing**  
26 **the license application.**

27 ~~(2)~~ **(3)** A late filing fee of fifty dollars (\$50) shall be added to the  
28 filing fee for renewing a commercial feed license if the  
29 application for renewal is received after January 16.

30 (d) The form and content of commercial feed license applications  
31 shall be established by rules adopted by the state chemist under  
32 IC 4-22-2, in accordance with section 34 of this chapter.

33 SECTION 32. IC 15-19-7-25, AS ADDED BY P.L.2-2008,  
34 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
35 JULY 1, 2012]: Sec. 25. **(a)** The state chemist may refuse ~~an~~  
36 ~~application for a commercial feed license that does not comply with~~  
37 ~~this chapter and may cancel to issue a license to any manufacturer~~  
38 ~~or distributor who is not in compliance with this chapter.~~

39 **(b) The state chemist may revoke or suspend** a commercial feed  
40 license that is not in compliance with this chapter. ~~However, a~~  
41 ~~commercial feed~~

42 **(c) The state chemist may place conditions that limit production**



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1 **or distribution of a particular commercial feed on any person who**  
2 **is not in compliance with this chapter.**

3 **(d) A license may not be conditionalized, suspended, refused, or**  
4 **cancelled revoked unless the applicant or licensee has been given a**  
5 **opportunity to be heard before the state chemist. and to amend the**  
6 **applicant's or licensee's application in order to comply with this**  
7 **chapter.**

8 SECTION 33. IC 15-19-7-26, AS ADDED BY P.L.120-2008,  
9 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2012]: Sec. 26. A commercial feed, except a ~~custom mixed~~  
11 **customer formula** feed, must be accompanied by a label bearing the  
12 following information:

- 13 (1) ~~The net weight.~~ **quality statement.**
- 14 (2) The product name and the brand name, if any, under which the
- 15 commercial feed is distributed.
- 16 (3) The guaranteed analysis, **expressed on an "as-is" basis, and**
- 17 stated in the terms that the state chemist, by rule, determines are
- 18 required to advise the user of the composition of the feed or to
- 19 support claims made in the labeling. In all cases the substances or
- 20 elements must be determinable by laboratory methods such as the
- 21 methods published by AOAC International.
- 22 (4) The common or usual name of each ingredient used in the
- 23 manufacture of the commercial feed. However, the state chemist,
- 24 by rule, may:
  - 25 (A) permit the use of a collective term for a group of
  - 26 ingredients that perform a similar function; or
  - 27 (B) exempt a commercial feed or group of commercial feeds
  - 28 from the requirement for an ingredient statement if the state
  - 29 chemist finds that such a statement is not required in the
  - 30 interest of consumers.
- 31 (5) The name and principal mailing address of the manufacturer
- 32 or the person responsible for distributing the commercial feed.
- 33 (6) Adequate directions for use for:
  - 34 (A) commercial feeds containing drugs; and
  - 35 (B) other feeds that the state chemist requires by rule as
  - 36 necessary for their safe and effective use.
- 37 (7) Precautionary statements that the state chemist by rule
- 38 determines are necessary for the safe and effective use of the
- 39 commercial feed.

40 SECTION 34. IC 15-19-7-27, AS ADDED BY P.L.120-2008,  
41 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
42 JULY 1, 2012]: Sec. 27. ~~Custom mixed~~ **Customer formula** feed must

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1 be accompanied by a label, invoice, delivery slip, or other shipping  
2 document bearing the following information:

- 3 (1) Name and address of the manufacturer.  
4 (2) Name and address of the purchaser.  
5 (3) Date of delivery.  
6 (4) The product name and brand name, if any, and the ~~net weight~~  
7 **quality statement** of each commercial feed used in the mixture,  
8 and the common or usual name and net weight of each other  
9 ingredient used, and the specific content, stated in terms as  
10 required in section 26 of this chapter, of any nutrients and  
11 nonnutritive additives added at the request of the purchaser.  
12 (5) Adequate directions for use for:  
13 (A) ~~custom mixed~~ **customer formula** feeds containing drugs;  
14 and  
15 (B) other feeds that the state chemist requires by rule as  
16 necessary for their safe and effective use.  
17 (6) Precautionary statements that the state chemist by rule  
18 determines are necessary for the safe and effective use of the  
19 ~~custom mixed~~ **customer formula** feed.  
20 (7) **If a drug containing product is used:**  
21 (A) **a claim statement that includes the purpose of the**  
22 **medication; and**  
23 (B) **the established name of each active drug ingredient and**  
24 **the amount of each drug used in the final mixture,**  
25 **expressed according to the requirements under subdivision**  
26 **(4).**

27 SECTION 35. IC 15-19-7-28, AS ADDED BY P.L.2-2008,  
28 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
29 JULY 1, 2012]: Sec. 28. A commercial feed is considered misbranded  
30 if any of the following conditions exist:

- 31 (1) Its labeling is false or misleading in any particular.  
32 (2) It is distributed under the name of another commercial feed.  
33 (3) It is not labeled as required by section 26 or 27 of this chapter.  
34 (4) It ~~appears purports~~ to be or is represented as a commercial  
35 feed, or it ~~appears purports~~ to contain or is represented as  
36 containing a commercial feed ingredient, unless the commercial  
37 feed or feed ingredient conforms to the definition, if any,  
38 prescribed by rule by the state chemist.  
39 (5) Any word, statement, or other information required by or  
40 under authority of this chapter to appear on the label or labeling  
41 is not prominently placed on the label or labeling with sufficient  
42 conspicuousness (as compared with other words, statements,



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1 designs, or devices in the labeling) and in sufficient terms as to  
 2 render it likely to be read and understood by the ordinary  
 3 individual under customary conditions of purchase and use.

4 SECTION 36. IC 15-19-7-29, AS ADDED BY P.L.2-2008,  
 5 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2012]: Sec. 29. A commercial feed is considered adulterated  
 7 if it meets any of the following conditions:

8 (1) It **bears or** contains a poisonous or deleterious substance that  
 9 may render it injurious to health. However, if the substance is not  
 10 an added substance, the commercial feed is not considered to be  
 11 adulterated under this subdivision if the quantity of the substance  
 12 in the commercial feed does not ordinarily render it injurious to  
 13 health.

14 (2) It contains an added poisonous, added deleterious, or added  
 15 nonnutritive substance that is unsafe within the meaning of  
 16 Section 406 of the federal Food, Drug, and Cosmetic Act (21  
 17 U.S.C. 346) other than one that is:

18 (A) a pesticide chemical in or on a raw agricultural  
 19 commodity; or

20 (B) a food additive.

21 (3) It is, or it contains, a food additive that is unsafe within the  
 22 meaning of Section 409 of the federal Food, Drug, and Cosmetic  
 23 Act (21 U.S.C. 348).

24 (4) It is a raw agricultural commodity and it contains a pesticide  
 25 chemical that is unsafe within the meaning of Section 408(a) of  
 26 the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)).  
 27 However, if a pesticide chemical has been used in or on a raw  
 28 agricultural commodity in conformity with an exemption granted  
 29 or a tolerance prescribed under Section 408 of the federal Food,  
 30 Drug, and Cosmetic Act (21 U.S.C. 346a) and the raw agricultural  
 31 commodity has been subjected to processing, such as canning,  
 32 cooking, freezing, dehydrating, or milling, the residue of the  
 33 pesticide chemical remaining in or on the processed feed is not  
 34 considered unsafe if:

35 (A) the residue in or on the raw agricultural commodity has  
 36 been removed to the extent possible in good manufacturing  
 37 practice;

38 (B) the concentration of the residue in the processed feed is  
 39 not greater than the tolerance prescribed for the raw  
 40 agricultural commodity; and

41 (C) the feeding of the processed feed will not result, or is not  
 42 likely to result, in a pesticide residue in the edible product of

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- 1 the animal that is unsafe within the meaning of Section 408(a)
- 2 of the federal Food, Drug, and Cosmetic Act (21 U.S.C.
- 3 346a(a)).
- 4 (5) It is, or it contains, a color additive that is unsafe within the
- 5 meaning of Section ~~706~~ **721** of the federal Food, Drug, and
- 6 Cosmetic Act (21 U.S.C. 379e).
- 7 (6) It is, or it contains, an animal drug that is unsafe within the
- 8 meaning of Section 512 of the federal Food, Drug, and Cosmetic
- 9 Act (21 U.S.C. 360b).
- 10 (7) If any valuable constituent has been in whole or in part
- 11 omitted or ~~removed~~ **abstracted** from the commercial feed or any
- 12 less valuable substance has been substituted for a valuable
- 13 constituent.
- 14 (8) Its composition or quality falls below or differs from that
- 15 which it is purported or is represented to possess by its labeling.
- 16 (9) It contains a drug and the methods used in or the facilities or
- 17 controls used for its manufacture, processing, or packaging do not
- 18 conform to current good manufacturing practice rules adopted by
- 19 the state chemist to ensure that the drug:
- 20 (A) meets the requirement of this chapter as to safety; and
- 21 (B) has the identity and strength, and meets the quality and
- 22 purity characteristics that it is represented to possess.
- 23 In adopting these rules, the state chemist shall adopt the current
- 24 good manufacturing practice regulations for **Type A** medicated
- 25 ~~feed premixes articles~~ and for **Type B and Type C** medicated
- 26 feeds established under authority of the federal Food, Drug, and
- 27 Cosmetic Act (21 U.S.C. 301 et seq.), unless the state chemist
- 28 determines that they are not appropriate to the conditions that
- 29 exist in Indiana.
- 30 (10) It contains viable weed seeds in amounts exceeding the limits
- 31 the state chemist establishes by rule.
- 32 **(11) It consists in whole or in part of any filthy, putrid, or**
- 33 **decomposed substance, or it is otherwise unfit for feed.**
- 34 **(12) It has been prepared, packed, or held under unsanitary**
- 35 **conditions where it may become contaminated with filth, or**
- 36 **where it may have been become injurious to health.**
- 37 **(13) It is, in whole or in part, the product of a diseased animal**
- 38 **or of an animal that has died by means other than slaughter.**
- 39 **(14) It is unsafe within the meaning of Section 402(a)(1) or**
- 40 **402(a)(2) of the federal Food, Drug, and Cosmetic Act (21**
- 41 **U.S.C. 342(a)(1) and 21 U.S.C. 342(a)(2)).**
- 42 **(15) Its container is composed, in whole or in part, of any**

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1            **poisonous or deleterious substance that may render the**  
 2            **contents injurious to health.**  
 3            **(16) It has been intentionally subjected to radiation, unless the**  
 4            **use of radiation was in conformity with a regulation or**  
 5            **exemption in effect under Section 409 of the Federal Food,**  
 6            **Drug, and Cosmetic Act (21 U.S.C. 348).**

7            SECTION 37. IC 15-19-7-30, AS ADDED BY P.L.2-2008,  
 8            SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 9            JULY 1, 2012]: Sec. 30. (a) A distributor shall pay to the state chemist  
 10            an inspection fee at the rate of forty cents (\$0.40) per ton on all  
 11            commercial feeds ~~shipped~~ **distributed** into or within Indiana, subject  
 12            to the following:

- 13            (1) No fee shall be paid on a commercial feed if the payment has  
 14            been made by a previous distributor.
- 15            (2) No fee shall be paid on a ~~custom mixed~~ **customer formula**  
 16            feed if the inspection fee has been paid on all of the commercial  
 17            feeds that are ingredients of the ~~custom mixed~~ **customer formula**  
 18            feed.
- 19            (3) On commercial feeds that contain ingredients on which the  
 20            inspection fee has already been paid, credit shall be given for that  
 21            payment.
- 22            (4) The minimum inspection fee is five dollars (\$5) per quarter if  
 23            a quarterly feed tonnage report is required under section 31 of this  
 24            chapter.

25            (b) In the case of a pet food or a specialty pet food that is distributed  
 26            in Indiana in packages of ten (10) pounds or less, an annual inspection  
 27            fee of fifty dollars (\$50) shall be paid instead of the tonnage inspection  
 28            fee specified in subsection (a).

29            SECTION 38. IC 15-19-7-31, AS ADDED BY P.L.2-2008,  
 30            SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31            JULY 1, 2012]: Sec. 31. (a) Except as provided in subsection (b), a  
 32            distributor who is liable for the payment of the tonnage inspection fee  
 33            under section 30 of this chapter shall file quarterly tonnage reports  
 34            setting forth the number of net tons of commercial feeds distributed in  
 35            Indiana during the preceding calendar quarter. The distributor shall file  
 36            the reports not later than January 31, April 30, July 31, and October 31  
 37            of each year. Upon filing a report, the distributor shall pay the  
 38            inspection fee at the rate stated in section 30 of this chapter. Inspection  
 39            fees that are due and owing and have not been remitted to the state  
 40            chemist within fifteen (15) days after the due date shall be increased by  
 41            a penalty fee of ten percent (10%) of the amount due or fifty dollars  
 42            (\$50), whichever is greater. The assessment of this penalty fee does not

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1 prevent the state chemist from taking other actions under this chapter.

2 (b) A resident of Indiana who only manufactures and distributes  
3 ~~custom mixed commercial~~ **customer formula** feeds and has met the  
4 requirements of section 30 of this chapter is exempt from filing  
5 quarterly feed tonnage reports.

6 (c) A distributor who is subject to the inspection fees for small  
7 packaged pet and specialty pet foods distributed in containers of ten  
8 (10) pounds or less under section 30 of this chapter shall do the  
9 following:

10 (1) Before beginning distribution, file with the state chemist a  
11 listing of small packaged pet and specialty pet foods to be  
12 distributed in Indiana in containers of ten (10) pounds or less, on  
13 forms provided by the state chemist. The listing under this  
14 subdivision shall be renewed annually before January 1 of each  
15 year and is the basis for the payment of the annual inspection fee  
16 of fifty dollars (\$50) per product. New products added during the  
17 year must be submitted to the state chemist as a supplement to the  
18 annual listing before distribution.

19 (2) If the annual renewal of the listing is not received before  
20 January 16 or if an unlisted product is distributed, pay a late filing  
21 fee of ten dollars (\$10) per product in addition to the normal  
22 charge for the listing. The late filing fee under this subdivision is  
23 in addition to any other penalty under this chapter.

24 SECTION 39. IC 15-19-7-34, AS ADDED BY P.L.2-2008,  
25 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
26 JULY 1, 2012]: Sec. 34. (a) Subject to subsection (b), and in the  
27 manner provided by IC 4-22-2, the state chemist may adopt:

28 (1) rules for commercial feeds, ~~and~~ pet foods, **and specialty pet**  
29 **foods** as specifically authorized in this chapter; and

30 (2) other reasonable rules necessary for the efficient enforcement  
31 of this chapter.

32 (b) In the interest of uniformity, the state chemist shall adopt the  
33 following by rule unless the state chemist determines that the following  
34 are inconsistent with this chapter or are not appropriate to conditions  
35 that exist in Indiana:

36 (1) The official definitions of feed ingredients and official feed  
37 terms adopted by the Association of American Feed Control  
38 Officials and published in the official publication of that  
39 organization.

40 (2) Any regulation promulgated under the federal Food, Drug, and  
41 Cosmetic Act (21 U.S.C. 301 et seq.) if the state chemist would  
42 have the authority under this chapter to adopt such a rule.



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1 (c) The state chemist may adopt rules under IC 4-22-2 to exclude  
 2 from the definition of "commercial feed" commodities, such as hay,  
 3 straw, stover, silage, cobs, husks, hulls, and individual chemical  
 4 compounds or substances when the commodities, compounds, or  
 5 substances are not intermixed or mixed with other materials.

6 (d) The state chemist may adopt rules under IC 4-22-2 to require  
 7 copies of labels and labeling.

8 SECTION 40. IC 15-19-7-35, AS ADDED BY P.L.2-2008,  
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2012]: Sec. 35. (a) Upon presenting appropriate credentials  
 11 and a written notice to the owner, operator, or agent in charge, officers  
 12 or employees designated by the state chemist may:

13 (1) during normal business hours, enter:

14 (A) a factory, warehouse, or establishment in Indiana in which  
 15 commercial feeds are manufactured, processed, packed, or  
 16 held for distribution; and

17 (B) a vehicle being used to transport or hold commercial  
 18 feeds; and

19 (2) at reasonable times, within reasonable limits, and in a  
 20 reasonable manner, inspect such a factory, warehouse,  
 21 establishment, or vehicle and all pertinent equipment, finished  
 22 and unfinished materials, containers, and labeling;

23 to enforce this chapter and to determine compliance with this chapter,  
 24 including whether or not any operations are subject to this chapter. In  
 25 determining compliance with good manufacturing practice rules  
 26 adopted under section 29(9) of this chapter, the inspection may include  
 27 the verification of only the records and production and control  
 28 procedures necessary to determine compliance with those rules.

29 (b) A separate notice shall be given for each inspection, but a notice  
 30 is not required for each entry made during the period covered by the  
 31 inspection. Each inspection must begin and be completed with  
 32 reasonable promptness. The person in charge of the facility or vehicle  
 33 shall be notified upon completion of the inspection.

34 (c) An officer or employee who inspects a factory, warehouse, or  
 35 other establishment and obtains a sample in the course of the  
 36 inspection shall, upon completion of the inspection and before leaving  
 37 the premises, give to the owner, operator, or agent in charge a receipt  
 38 describing the samples obtained.

39 (d) The state chemist shall forward the results of analyses of official  
 40 samples to the person named on the label and to the person in whose  
 41 possession the sample was taken. If the inspection and analysis of an  
 42 official sample indicates a commercial feed has been adulterated or

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1 misbranded, and upon request within thirty (30) days following receipt  
 2 of the analysis, the state chemist shall furnish to the ~~registrant licensee~~  
 3 **or labeler** a portion of the sample concerned.

4 (e) The state chemist, in determining for administrative purposes  
 5 whether a commercial feed is deficient in any component, shall be  
 6 guided by the official sample obtained and analyzed as provided for in  
 7 subsection ~~(e)~~ **(d)** and section 36 of this chapter.

8 SECTION 41. IC 15-19-7-39, AS ADDED BY P.L.2-2008,  
 9 SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2012]: Sec. 39. A lot of commercial feed that is not in  
 11 compliance with this chapter or a rule adopted under this chapter is  
 12 subject to seizure on complaint of the state chemist to a court with  
 13 jurisdiction in the ~~county area~~ in which the commercial feed is located.  
 14 If the court finds the commercial feed is in violation of this chapter and  
 15 orders the condemnation of the commercial feed, the commercial feed  
 16 shall be disposed of in any manner consistent with the quality of the  
 17 commercial feed and the laws of Indiana. However, the disposition of  
 18 the commercial feed may not be ordered by the court without first  
 19 giving the claimant an opportunity to apply to the court for release of  
 20 the commercial feed or for permission to process or relabel the  
 21 commercial feed to bring it into compliance with this chapter.

22 SECTION 42. IC 15-19-7-40, AS AMENDED BY P.L.8-2011,  
 23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 JULY 1, 2012]: Sec. 40. A person commits a Class ~~C~~ **A** infraction if the  
 25 person knowingly engages in any of the following:

- 26 (1) The manufacture or distribution of a commercial feed that is  
 27 adulterated or misbranded.
- 28 (2) The adulteration or misbranding of a commercial feed.
- 29 (3) The distribution of agricultural commodities, such as whole  
 30 seed, hay, straw, stover, silage, cobs, husks, and hulls, that are  
 31 adulterated within the meaning of section 29(1) of this chapter.
- 32 (4) The removal or disposal of a commercial feed in violation of  
 33 an order under section 38 or 39 of this chapter.
- 34 (5) The failure to obtain a commercial feed license under section  
 35 24 of this chapter.
- 36 (6) The failure to pay inspection fees or file reports as required by  
 37 section 30, 31, or 34.5 of this chapter.
- 38 **(7) The distribution of raw milk for use as a commercial feed**  
 39 **for any species if the raw milk is not prominently labeled "Not**  
 40 **for Human Consumption".**
- 41 **(8) Distribution of any animal feed that is stated, promoted, or**  
 42 **advertised by the person to be suitable for human food unless**

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1           **the feed meets all federal, state, and local health laws and**  
2           **labeling requirements for human consumption.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Agriculture and Rural Development, to which was referred House Bill 1129, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 12, delete "application," and insert "**registration**,".

Page 6, line 23, strike "pesticides.".

Page 6, line 23, delete ".".

Page 6, line 24, after "only." insert "**pesticide products**,".

Page 11, line 25, after "any pesticide" insert "**product**,".

Page 11, line 25, before "containers" insert "**product**,".

Page 13, line 28, strike "pesticides." and insert "**pesticide products**,".

and when so amended that said bill do pass.

(Reference is to HB 1129 as introduced.)

LEHE, Chair

Committee Vote: yeas 9, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1129 be amended to read as follows:

Page 24, line 24, strike "C" and insert "A".

Page 24, line 24, reset in roman "infraction".

Page 24, line 25, delete "misdemeanor".

Page 24, line 39, delete "labeled, in" and insert "**labeled**".

Page 24, line 40, delete "at least one-half (1/2) inch font,".

Page 24, line 42, delete "implied" and insert "**stated, promoted, or advertised**".

(Reference is to HB 1129 as printed January 23, 2012.)

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