

The Corydon Group

FIRST IN GOVERNMENTAL AFFAIRS

Week 1: January 6, 2012

The 2012 session began Wednesday of this week, and the ten-week short session will certainly not be without surprises. Legislators assembled at the Statehouse three days this week to begin committee hearings on the nearly 600 bills which have already been filed.

Controversy arose from the very beginning with an announcement by the State Fire Marshal's Office and the Indiana State Police detailing a new Statehouse and Government Center security policy. The policy limited public attendance in the Statehouse to roughly 1,300 people per day. Controversial changes to security procedure at the Statehouse included the designation of certain elevators as 'legislator and staff use only,' the prohibition of excessively large protest signs, and the banning of foul language, among others. Labor protestors and Democratic legislators raised strong opposition to the policy, and the Governor subsequently rescinded the changes and returned procedures to the status quo by the afternoon of the first day of session.

The leaders of both Chambers are anticipating a 'fast-tracked' process for certain high-priority bills and those which have the potential to affect planning for the 2012 Super Bowl in February. Three bills have been rumored to be fast-tracked, including the right-to-work (RTW) bills from each Chamber, the statewide smoking ban bill, and the human trafficking proposal. The RTW bills from each Chamber are already scheduled for a joint hearing on Friday, January 6th, with each labor committee of the House and Senate meeting together to hear testimony. The smoking ban is anticipated to receive a hearing early next week.

House of Representatives

Speaker of the House Brian Bosma made three attempts to establish a quorum on the first day of session, but Democrats remained in caucus throughout the afternoon, ignoring the posted time for the House to reconvene. A similar situation occurred on Thursday, and House members have been unable to do any official business. As opposed to their tactics from last year, the Democrats have opted to stay in the Statehouse, remaining in caucus meetings in order to prevent the establishment of a quorum. The lack of a quorum will effectively prevent the initial reading of bills, a requirement which must be met in order for the filed bills to begin the committee hearing process. Speaker Bosma has responded to this action by allowing committee Chairs to schedule informal hearings and potentially hold 'straw poll-style' votes on bills. The result will be a strategy game around the House rules. It is likely that the House Republicans and Democrats will have to reach an agreement on the speed with which the RTW bills will be

advanced, as Speaker Bosma has clearly stated that the bill will not be off the table this session. Minority Leader Pat Bauer has refrained from indicating any plans to conduct an out-of-state boycott again this year. He has announced plans to conduct statewide RTW forums to gain greater public input on the issue, and his caucus has asked the Speaker and Republican members to slow the bill until such actions take place.

House committees informally met this week to hear testimony on bills, but no official action can be taken until the House establishes a quorum and reads the bill lists. The House Ways and Means Committee met to hear testimony from numerous supporters of HB 1073, *Public mass transportation*, which would authorize certain central Indiana counties to begin a mass transit planning process requiring a voter referendum and council approval. Additionally, the House Government & Regulatory Reform Committee heard testimony on two House bills. HB 1005, *Nepotism and conflict of interest*, is one of them, a local government bill to watch this year. The contents of the bill nearly passed in the 2011 legislative session with a bill which made it all the way to conference committee before dying.

Senate

Members of the Senate convened on Wednesday, unlike the House, and leaders began the session by praising the Governor's reversal of the strict security policies. Advocating public access over the concern for potential risks to public safety, President Pro Tempore David Long and Minority Leader Vi Simpson agreed on the need for the Peoples' House to remain open. They disagreed, however, on the degree to which the General Assembly has thoroughly debated RTW legislation and whether or not it should be fast-tracked through the legislative process.

Senate committees which conducted business included the Senate Committee on Corrections, Criminal, & Civil Matters. Committee members unanimously passed SB 4, *Human trafficking*, a bill authored by Senator Randy Head which addresses concerns raised for the Super Bowl host city. The Senate Appropriations Committee also met to listen to presentations from the Commission for Higher Education, the Indiana Public Retirement System, and the Family & Social Services Administration.

GIA Update

For complete information on any bill in your track list, click here- <http://www.in.gov/apps/lisa/session/billwatch/billinfo>

Certainly the focus for us will be HB 1032 (Restrictions on fertilizer containing phosphorus). I know Caryl has communicated with you in the past that Chairman Eberhart may give the bill a hearing but he will not take a vote on the issue. He is still joining us for dinner on Wednesday, so we'll have a chance to further discuss this with him.

There are two other bills on your track list that I would like for your take on- HB 1096 (Plumbing matters) and HB 1129 (State chemist issues). Please review these and let me know if you have any concerns.

The other bills on your track list are largely general employer/business bills. We still expect an additional 200+ bills to be filed in the coming week.



Bill Track - Bill History Report

GIA

Run Time: Sunday, Jan-08-2012, 02:00 PM

P **HB1032 Restrictions on fertilizer containing phosphorus.** ([Dodge](#))

Position: Oppose

Digest

Establishes restrictions on the application of fertilizer material that contains phosphorus. Provides exceptions for fertilizer material that: (1) contains less than 0.67% of phosphorus by weight; or (2) is used for agriculture purposes. Requires distributors and licensed commercial lawn care applicators to prepare and provide consumer educational information concerning restrictions on the use of fertilizer material containing phosphorus and best practices for lawn care.

Date	Action
01/04/2012	H: Author Added Richard "Dick" Dodge
01/04/2012	H: 1st Reading Assigned Natural Resources

HB1044 Tobacco use by job applicants. ([Kubacki](#))

Digest

Permits an employer to consider tobacco use by job applicants in the hiring process.

Date	Action
01/04/2012	H: Author Added Rebecca Kubacki
01/04/2012	H: Co Author Added Wes Culver
01/04/2012	H: 1st Reading Assigned Employment, Labor and Pensions

HB1096 Plumbing matters. ([Niezgodski](#))

Digest

Requires the water pollution control board to adopt rules establishing procedures for keeping testing and maintenance records of backflow prevention devices in a customer water system. Requires continuing professional education for an Indiana registered cross-connection control device inspector. Requires continuing professional education for journeyman plumbers. Establishes the cross-connection control device inspector continuing education fund. Provides that the water pollution control board may establish registration fees in an amount that is reasonably necessary to generate revenue sufficient to offset costs. Requires the water pollution control board to establish rules to require a cross-connection control device

inspector to indicate in its report whether a commercial or residential water distribution system contains moisture sensing technology. Allows an individual to renew a cross-connection control device inspector's or journeyman plumber's license by verifying compliance with certain professional education requirements.

Date	Action
01/04/2012	H: Author Added David L. Niezgodski
01/04/2012	H: Co Author Added Steven R. Stemler
01/04/2012	H: 1st Reading Assigned Employment, Labor and Pensions

HB1129 State chemist issues. ([Lehe](#))

Digest

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) 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) 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. Makes technical changes.

Date	Action
01/06/2012	H: Author Added Don Lehe
01/06/2012	H: 1st Reading Assigned Agriculture and Rural Development
01/06/2012	H: Author Don Lehe

SB0023 Confined feeding operations near state parks. ([Nugent](#))

Digest

Provides that after June 30, 2012, a person may not: (1) apply manure; or (2) start construction of a confined feeding operation; within two miles of the boundary of a state park or reservoir operated, maintained, or managed by the department of natural resources. Provides that the construction limitation does not apply to the expansion of a confined feeding operation or the expansion of an agricultural operation that will become a confined feeding operation as a result of the expansion.

Date	Action
01/04/2012	S: Author Added Johnny Nugent
01/04/2012	S: 1st Reading Assigned Energy and Environmental Affairs

SB0091 Tobacco use by job applicants. ([Gard](#))

Digest

Permits an employer to consider tobacco use by job applicants in the hiring process.

<u>Date</u>	<u>Action</u>
01/04/2012	S: Author Added Beverly J. Gard
01/04/2012	S: 1st Reading Assigned Pensions and Labor

SB0113 *Golf carts in unincorporated areas.* ([Holdman](#))

Digest

Revises provisions governing the use of golf carts on certain roadways. Provides that an ordinance authorizing the use of golf carts in a county must: (1) have the approval of the sheriff of the county; (2) require that an individual who operates a golf cart in the county hold a driver's license; (3) provide that a fine assessed for a violation of the ordinance be deposited in the general fund of the county; and (4) provide that a golf cart may cross a highway only at an intersection at which there is a stop sign or a traffic control signal for the oncoming traffic. Specifies that a violation of an ordinance governing the use of a golf cart on a state highway in a county is considered an ordinance violation (instead of a Class C infraction).

<u>Date</u>	<u>Action</u>
01/04/2012	S: Author Added Travis Holdman
01/04/2012	S: 1st Reading Assigned Homeland Security, Transportation and Veterans Affairs

SB0139 *Public contract for services.* ([Kenley](#))

Digest

Requires that a public contract for services between a state agency or political subdivision and a contractor must contain certain requirements concerning the use of the federal electronic employment eligibility verification system (E-Verify) and knowing employment of unauthorized aliens only if one of the following applies: (1) The estimated amount to be paid in a calendar year to the contractor under the contract is more than \$50,000. (2) The estimated amount to be paid in a calendar year to the contractor under the contract is \$50,000 or less, but the contract in combination with other public contracts for services entered into by the contractor with the same state agency or political subdivision results in an estimated total payment in a calendar year by the state agency or political subdivision to the contractor of more than \$50,000. (Current law requires that all public contracts for services between a state agency or political subdivision and a contractor contain certain requirements concerning the use of E-Verify and knowing employment of unauthorized aliens.)

<u>Date</u>	<u>Action</u>
01/04/2012	S: Author Added Howard "Luke" Kenley
01/04/2012	S: 1st Reading Assigned Pensions and Labor

SB0205 *Employment status of employment applicants.* ([Simpson](#), [Breaux](#), [Arnold](#))

Digest

Provides: (1) that an employer may not publish an advertisement for an employment vacancy that states that qualification for the employment position includes current employment by the applicant; and (2) for civil penalty enforcement by the department of labor. Provides that: (1) an employer may not discriminate against an applicant or a prospective applicant (applicant) for employment based on the currently unemployed status of the applicant; and (2) an aggrieved applicant may bring a civil action against the employer for enforcement.

Date	Action	
01/04/2012	S: Author	Added Vi Simpson
01/04/2012	S: Author	Added Jean Breaux
01/04/2012	S: Author	Added Jim Arnold
01/04/2012	S: Co Author	Added Richard D. Young, Jr.
01/04/2012	S: Co Author	Added Lonnie Randolph
01/04/2012	S: Co Author	Added Timothy D. Skinner
01/04/2012	S: Co Author	Added Karen Tallian
01/04/2012	S: Co Author	Added Earline S. Rogers
01/04/2012	S: Co Author	Added Tim Lanane
01/04/2012	S: Co Author	Added John Broden
01/04/2012	S: Co Author	Added Greg Taylor
01/04/2012	S: Co Author	Added Frank Mrvan, Jr.
01/04/2012	S: Co Author	Added Lindel O. Hume
01/04/2012	S: 1st Reading	Assigned Pensions and Labor

SB0261 Use of credit reports for employment purposes. ([Simpson](#), [Arnold](#), [Taylor](#))

Digest

Prohibits an employer from using a credit report in the process of hiring a prospective employee or in determining whether to continue the employment of an employee. Provides that an employee or prospective employee may bring a civil action against an employer for violating this prohibition. Provides for an award of actual damages, court costs, and attorney's fees to an aggrieved individual, along with an injunction against the employer's further use of credit reports in violation of the prohibition.

Date	Action	
01/04/2012	S: Author	Added Vi Simpson
01/04/2012	S: Author	Added Jim Arnold
01/04/2012	S: Author	Added Greg Taylor
01/04/2012	S: Co Author	Added Richard D. Young, Jr.
01/04/2012	S: Co Author	Added Lonnie Randolph
01/04/2012	S: Co Author	Added Timothy D. Skinner
01/04/2012	S: Co Author	Added Karen Tallian
01/04/2012	S: Co Author	Added Earline S. Rogers
01/04/2012	S: Co Author	Added Tim Lanane
01/04/2012	S: Co Author	Added John Broden
01/04/2012	S: Co Author	Added Jean Breaux
01/04/2012	S: Co Author	Added Frank Mrvan, Jr.
01/04/2012	S: Co Author	Added Lindel O. Hume
01/04/2012	S: 1st Reading	Assigned Pensions and Labor

SB0318 Tax credit for hiring returning veterans. ([Glick](#))

Digest

Provides a tax credit against state tax liability each taxable year to an employer who hires an eligible returning veteran. Specifies that the amount of the credit is \$1,000 for each eligible returning veteran the employer hires during the taxable year, adjusted for the fraction of the taxable year the eligible returning veteran is employed.

Date	Action	
01/05/2012	S: Author	Added Susan Glick
01/05/2012	S: 1st Reading	Assigned Tax and Fiscal Policy

HOUSE BILL No. 1096

DIGEST OF INTRODUCED BILL

Citations Affected: IC 13-11-2; IC 13-18-3; IC 25-28.5-1-21.1.

Synopsis: Plumbing matters. Requires the water pollution control board to adopt rules establishing procedures for keeping testing and maintenance records of backflow prevention devices in a customer water system. Requires continuing professional education for an Indiana registered cross-connection control device inspector. Requires continuing professional education for journeyman plumbers. Establishes the cross-connection control device inspector continuing education fund. Provides that the water pollution control board may establish registration fees in an amount that is reasonably necessary to generate revenue sufficient to offset costs. Requires the water pollution control board to establish rules to require a cross-connection control device inspector to indicate in its report whether a commercial or residential water distribution system contains moisture sensing technology. Allows an individual to renew a cross-connection control device inspector's or journeyman plumber's license by verifying compliance with certain professional education requirements.

Effective: July 1, 2012.

Niezgodski, Stemler

January 4, 2012, read first time and referred to Committee on Employment, Labor and Pensions.

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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. 1096



A BILL FOR AN ACT to amend the Indiana Code concerning environmental law.

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

1 SECTION 1. IC 13-11-2-16.9 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2012]: **Sec. 16.9. "Backflow", for purposes**
4 **of IC 13-18-3, means the flow of contaminants into the public water**
5 **supply distribution system from a source other than the public**
6 **water supply.**

7 SECTION 2. IC 13-11-2-48.5 IS ADDED TO THE INDIANA
8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
9 [EFFECTIVE JULY 1, 2012]: **Sec. 48.5. "Cross-connection", for**
10 **purposes of IC 13-18-3, means any physical arrangement,**
11 **including devices not in working order, whereby a water supply**
12 **distribution system is directly connected, either continuously or**
13 **intermittently, with any:**

- 14 (1) secondary source of supply;
- 15 (2) sewer;
- 16 (3) drain;
- 17 (4) conduit;



- 1 (5) pool;
 2 (6) piping;
 3 (7) storage reservoir;
 4 (8) plumbing fixture; or
 5 (9) other device;
 6 that contains, or may contain, and is capable of imparting to the
 7 water supply contaminants, contaminated water, sewage, or other
 8 waste or liquid of unknown or unsafe quality.
- 9 SECTION 3. IC 13-11-2-48.7 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2012]: **Sec. 48.7. "Cross-connection control
 12 device inspector continuing education fund"**, for purposes of
 13 **IC 13-18-3, refers to the fund established in IC 13-18-3-18.**
- 14 SECTION 4. IC 13-18-3-16 IS ADDED TO THE INDIANA CODE
 15 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 16 1, 2012]: **Sec. 16. (a) This section applies to premises, other than a
 17 private residential dwelling with fewer than four (4) dwelling units,
 18 owned by a person who receives water from a public supply.**
 19 **(b) For the purposes of this chapter, "customer water system"**
 20 **means all piping, fixtures, appurtenances, and secondary sources**
 21 **of supply used to convey water on the premises of a person who**
 22 **receives water from a public supply.**
 23 **(c) The water pollution control board shall adopt rules under**
 24 **IC 4-22-2 to establish procedures for keeping testing and**
 25 **maintenance records of backflow prevention devices in a customer**
 26 **water system.**
- 27 SECTION 5. IC 13-18-3-17 IS ADDED TO THE INDIANA CODE
 28 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 29 1, 2012]: **Sec. 17. (a) The commissioner shall recognize, approve,
 30 and administer a continuing professional education program for**
 31 **persons who are registered cross-connection control device**
 32 **inspectors under 327 IAC 8-10-11 (as in effect January 1, 2012).**
 33 **(b) A person who is registered as a cross-connection control**
 34 **device inspector under 327 IAC 8-10-11 (as in effect January 1,**
 35 **2012) must complete at least two (2) hours of continuing**
 36 **professional education every two (2) years. The two (2) hours of**
 37 **education must be in the subjects of:**
 38 **(1) health protection issues or code requirements relating to**
 39 **the use of backflow prevention devices; or**
 40 **(2) installation, repair, maintenance, or inspection of backflow**
 41 **prevention devices.**
 42 **(c) Subjects of instruction under subsection (b) may include:**

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1 (1) cross-connection identification, degree of hazard,
2 prevention, control devices, and practices;

3 (2) cross-connection assembly field test procedures and gauge
4 accuracy verification; and

5 (3) cross-connection inspection, repair, and maintenance.

6 (d) A person may receive credit for participating in a continuing
7 professional education program or course under this section only
8 if the program or course:

9 (1) meets the requirements of subsections (b) and (c); and

10 (2) is approved by the commissioner.

11 (e) The water pollution control board shall adopt rules under
12 IC 4-22-2 to establish the criteria for the continuing professional
13 education. The rules may allow courses to have commercial
14 sponsors but may not allow courses to include promotion of
15 products or services of any particular firm or manufacturer.

16 (f) The water pollution control board may exempt by rule
17 certain persons from the requirements of this section if the water
18 pollution control board determines that the exemption is in the
19 public interest.

20 (g) The commissioner shall revoke the registration of a
21 registered cross-connection control device inspector issued under
22 327 IAC 8-10-11 (as in effect January 1, 2012) if the person does
23 not demonstrate compliance with this section by providing the
24 department documentation of the person's attendance at courses
25 required under this section, including the name, number, content,
26 and teacher of each course. Falsification or misstatement of
27 information required to be documented under this subsection is
28 grounds for revocation of the registration as a cross-connection
29 control device inspector.

30 SECTION 6. IC 13-18-3-18 IS ADDED TO THE INDIANA CODE
31 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
32 1, 2012]: Sec. 18. (a) The cross-connection control device inspector
33 continuing education fund is established to fund the administration
34 of cross-connection continuing professional education described in
35 section 17 of this chapter.

36 (b) The cross-connection control device inspector continuing
37 education fund is administered by the commissioner.

38 (c) Money in the cross-connection control device inspector
39 continuing education fund may be used to:

40 (1) administer the cross-connection control device inspector
41 continuing education program established by section 17 of
42 this chapter;

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1 (2) provide registration cards to Indiana registered
2 cross-connection control device inspectors; and

3 (3) maintain and update an Indiana registered
4 cross-connection control device inspector data base.

5 (d) The cross-connection control device inspector continuing
6 education fund consists of the following:

7 (1) Fees paid under this section.

8 (2) Appropriations made by the general assembly.

9 (3) Money transferred to the fund from other funds.

10 (4) Money from any other source authorized or appropriated
11 for the fund.

12 (e) Subject to subsection (f), a person registered as a
13 cross-connection control device inspector under 327 IAC 8-10-11
14 may not be included on the Indiana Registered Cross-Connection
15 Control Device Inspectors, All Inspectors list maintained by the
16 commissioner under 327 IAC 8-10-11 (as in effect January 1, 2012)
17 without paying a fee established by the water pollution control
18 board in an amount not to exceed:

19 (1) fifty dollars (\$50) for a person who was not included on the
20 list during the six (6) months preceding the person's
21 registration; and

22 (2) thirty dollars (\$30) for a person who was included on the
23 list during the six (6) months preceding the person's
24 registration.

25 (f) The amount of the fee may not be more than is reasonably
26 necessary to generate revenue sufficient to offset the costs incurred
27 by the department under subsection (c).

28 SECTION 7. IC 13-18-3-19 IS ADDED TO THE INDIANA CODE
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
30 1, 2012]: **Sec. 19.** The water pollution control board shall adopt
31 rules under IC 4-22-2 to require:

32 (1) an Indiana registered cross-connection control device
33 inspector to indicate in its inspection report whether a
34 commercial or residential water distribution system, other
35 than an agricultural water distribution system, contains
36 moisture sensing technology; and

37 (2) the commissioner to compile the information described in
38 subdivision (1).

39 SECTION 8. IC 25-28.5-1-21.1 IS ADDED TO THE INDIANA
40 CODE AS A NEW SECTION TO READ AS FOLLOWS
41 [EFFECTIVE JULY 1, 2012]: **Sec. 21.1. (a)** The commission shall
42 recognize, approve, and administer a continuing professional

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1 education program for persons who hold licenses as journeyman
2 plumbers under this article.

3 (b) A person who holds a journeyman plumber license under
4 this article must complete at least two (2) hours of continuing
5 professional education every two (2) years. The two (2) hours must
6 be in the subjects of health protection, energy conservation, job
7 safety, code requirements, and water conservation. For credit to be
8 given, a course must be approved by the commission and be
9 consistent with instruction areas related to plumbing, heating, air
10 conditioning, fire sprinkler contracting, or inspecting. Subjects of
11 the instruction may include:

12 (1) the technical and practical aspects of the analysis of plans
13 and specifications;

14 (2) estimating costs;

15 (3) fundamentals of installation and design, equipment, duct
16 and pipe sealing, and National Fire Prevention Association
17 (NFPA) code requirements;

18 (4) fire hazards; and

19 (5) other subjects related to plumbing or heating contracting,
20 including:

21 (A) engaging in business as a plumbing, heating, fuel
22 piping, or fire sprinkler contractor;

23 (B) fire sprinkler systems, plumbing, or heating;

24 (C) business ethics;

25 (D) taxation;

26 (E) payroll;

27 (F) cash management;

28 (G) bid and contract preparation; or

29 (H) customer relations.

30 (c) The commission shall adopt rules under IC 4-22-2 to
31 establish criteria for continuing professional education under this
32 section. The rules:

33 (1) may allow courses to have commercial sponsors;

34 (2) may not allow courses to include promotion of products or
35 services of any particular firm or manufacturer; and

36 (3) may allow courses to be conducted by correspondence or
37 home study.

38 (d) A person may receive credit for participating in a continuing
39 professional education program or course only if the program or
40 course is provided:

41 (1) by an individual, business, or association approved by the
42 commission; and

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1 **(2) according to criteria adopted by the commission.**
2 **(e) The commission may exempt by rule certain persons from**
3 **the requirements of this section if the commission determines that**
4 **the exemption is in the public interest.**
5 **(f) A license under this article may not be renewed unless the**
6 **applicant for renewal shows compliance with this section by**
7 **verifying compliance on the license renewal application or by**
8 **providing the commission documentation of the applicant's**
9 **attendance at courses required under this section, including the**
10 **name, number, content, and teacher of each course. Falsification**
11 **or misstatement of information required to be documented under**
12 **this subsection is grounds to deny renewal of a license and for**
13 **disciplinary action, including revocation or suspension of a license.**

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HOUSE BILL No. 1129

DIGEST OF INTRODUCED BILL

Citations Affected: IC 15-16; IC 15-19-7.

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) 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) 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)

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Effective: July 1, 2012.

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January 6, 2012, read first time and referred to Committee on Agriculture and Rural Development.



Digest Continued

distributing animal feed and implying that it is fit for human consumption. (9) Makes conforming changes. Makes technical changes.

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Introduced

Second Regular Session 117th General Assembly (2012)

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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, application, 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**



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)~~ **(A)** manufacture;

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

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

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

21 **(E) formulate; or**

22 (5) ~~(F)~~ **(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.~~
 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 or pesticide containers in a
 26 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.
- 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 a 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 ~~infraction~~
 25 **misdemeanor** if the 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, in**
 40 **at least one-half (1/2) inch font, "Not for Human**
 41 **Consumption".**
- 42 **(8) Distribution of any animal feed that is implied by the**

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1 **person to be suitable for human food unless the feed meets all**
2 **federal, state, and local health laws and labeling requirements**
3 **for human consumption.**

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