

# SENATE MOTION

**MR. PRESIDENT:**

**I move** that Senate Bill 369 be amended to read as follows:

- 1 Page 3, line 27, delete "(a) The board may, by rules".
- 2 Page 3, delete lines 28 through 29.
- 3 Page 3, line 30, delete "(b)" and insert "(a)".
- 4 Page 3, line 36, after "Administration." insert "The penalty
- 5 imposed shall not exceed \$1,000 for a first offense or \$2,000 for a
- 6 subsequent offense."
- 7 Page 3, line 37, delete "(c)" and insert "(b)".
- 8 Page 3, line 37, delete "under IC 15-2.1-19".
- 9 Page 3, line 38, delete "a drug residue violation." and insert
- 10 "violations of laws that prohibit drug residues in milk and milk
- 11 products as follows:"
- 12 Page 3, between lines 38 and 39, begin a new paragraph and
- 13 insert:
- 14 "1 (a) The following definitions apply throughout this section:
- 15 (1) "DP" or "daily production" means the amount of milk,
- 16 measured by hundred weight, produced by the positive
- 17 producer in one day, measured on the day in which the drug
- 18 residue violation occurred.
- 19 (2) "PR" or "producer reimbursement" means an amount
- 20 assessed against the positive producer to reimburse others
- 21 for milk contaminated by the positive producer's
- 22 contaminated milk, not including the value of the positive
- 23 producer's contaminated milk for which he or she was not
- 24 paid.
- 25 (3) "Revocation period" means the period after a Grade A
- 26 producer's permit is revoked under this statute that he or she
- 27 may not apply for a Grade A permit.
- 28 (b) Milk shall be screened for drug residue violations as
- 29 follows:
- 30 (1) Except as provided in subdivision (2), milk shall be
- 31 screened for drug residues pursuant to Appendix N of the
- 32 Pasturized Milk Ordinance (345 IAC 8-3-1).

1 (2) Milk from manufacturing grade dairy farms shall be  
2 tested for drug residues pursuant to 345 IAC 8-2-3.

3 (3) All milk that tests positive for drug residues must be  
4 disposed of in a manner that removes it from the human and  
5 animal food chain or that acceptably reconditions the milk under  
6 United States Health and Human Services-Food and Drug  
7 Administration compliance policy guidelines. In all cases of drug  
8 residue violations, a producer may not resume shipping milk until  
9 a drug test conducted by a certified laboratory shows the  
10 producer's milk is negative for drug residues and the test results  
11 are reported to the office of the state veterinarian.

12 (4) All positive drug residue test results must be called into the  
13 office of the state veterinarian immediately, and a written report  
14 of the test results must be faxed or delivered to the office of the  
15 state veterinarian within twenty-four (24) hours of the test. The  
16 producer whose milk tested positive must be notified of the positive  
17 drug residue test immediately. The company that conducted the  
18 test is responsible for the reporting requirements in this subsection.

19 (5) A producer whose milk tests positive for drug residues  
20 shall pay a fine and participate in drug residue education activities  
21 as follows:

22 (i) The following is imposed on a producer for the first  
23 positive test for drug residues within a twelve (12) month  
24 period:

25 (A) The positive producer must pay a fine to the Board  
26 of Animal Health equal to the result of the following  
27 equation:

28 (DP)(2 days)(\$3.00)-(PR)

29 However, if the result is less than \$5.00 then the fine is  
30 \$5.00.

31 (B) The positive producer must, in conjunction with his  
32 or her veterinarian and an official of the board,  
33 complete the "Milk and Dairy Beef Residue Prevention  
34 Protocol" and provide proof of completion to the Board  
35 of Animal Health-Office of the State Veterinarian within  
36 30 days of the drug residue violation. Failure to  
37 complete the Protocol and submit proof of completion  
38 within 30 days will result in action to suspend the  
39 producer's permit.

40 (ii) The following is imposed for a second positive test for  
41 drug residues within a twelve (12) month period:

42 (A) The positive producer must pay a fine to the Board  
43 of Animal Health equal to the result of the following  
44 equation:

45 (DP)(4 days)(\$3.00)

46 However, if the result is less than \$5.00 then the fine is  
47 \$5.00.

48 (B) The positive producer must, in conjunction with his  
49 or her veterinarian and an official of the board,  
50 complete the "Milk and Dairy Beef Residue Prevention  
51 Protocol" and provide proof of completion to the Board  
52 of Animal Health-Office of the State Veterinarian within

- 1           **30 days of the drug residue violation. Failure to**  
 2           **complete the Protocol and provide proof of completion**  
 3           **will result in action to suspend the producer's permit.**  
 4           **(C) The producer must attend a producer education**  
 5           **program or meeting designated by the state**  
 6           **veterinarian. The producer is responsible for paying**  
 7           **registration and material fees and other costs associated**  
 8           **with attending the education program or meeting. The**  
 9           **producer must provide proof of attendance to the state**  
 10           **veterinarian within ten days of completion of the**  
 11           **program or meeting.**
- 12           **(iii) The third positive test result for drug residues within a**  
 13           **twelve (12) month period shall result in the following:**
- 14           **(A) The board revoking a producer's Grade A permit if**  
 15           **the producer has one;**
- 16           **(B) The sanctions for a second offense set forth in**  
 17           **section (b) are imposed;**
- 18           **(C) The producer must submit to the state veterinarian**  
 19           **a set of written procedures that he or she will follow to**  
 20           **prevent future drug residue violations. The procedures**  
 21           **must be submitted with the proof of completion required**  
 22           **in subdivision (2)(B) and must be specific, practical, and**  
 23           **reasonably likely to lessen the possibility of a drug**  
 24           **residue violation when followed by the producer.**
- 25           **(D) After a producer's Grade A permit is revoked for a**  
 26           **third offense violation under this statute, he or she shall**  
 27           **not receive a new Grade A permit for a revocation**  
 28           **period of thirty (30) days from the date of the**  
 29           **revocation. After the revocation period, the state**  
 30           **veterinarian must issue a conditional Grade A permit to**  
 31           **a producer that has applied for a permit if the following**  
 32           **requirements are met;**
- 33           **(i) The producer has met all of the requirements of**  
 34           **this statute at the time of application, and**
- 35           **(ii) The producer meets all other requirements of**  
 36           **the board for obtaining a Grade A permit.**
- 37           **The permit will be issued on the condition that all of**  
 38           **the requirements of this statute must be completed**  
 39           **within the time frames set forth in this statute. A**  
 40           **permit issued under this subdivision automatically**  
 41           **becomes unconditional after the producer fully**  
 42           **complies with all of the provisions of this statute.**
- 43           **(iv) For each drug residue violation in a twelve (12) month**  
 44           **period in excess of three (3) the producer is subject to the**  
 45           **penalties for a third offense in subdivision (iii) are imposed,**  
 46           **but for Grade A producers the revocation period will begin**  
 47           **on the date his or her permit is revoked and run for a period**  
 48           **equal to the length of the revocation period imposed after the**  
 49           **producer's last drug residue violation times two. For**  
 50           **example, the revocation period for a fourth offense in a**

1           twelve (12) month period is sixty (60) days and for a fifth  
2           offense the revocation period is one hundred twenty (120)  
3           days.

4           (f) The state veterinarian may, by special permit, allow a  
5           producer that objects to the imposition of a fine to dump two (2)  
6           days of milk production on a first offense and four (4) days of milk  
7           production on the second or third offense instead of paying a  
8           monetary fine where payment of a fine would impose undue  
9           hardship on a producer. The state veterinarian may set the  
10          conditions under which the milk is to be dumped and may require  
11          documentation from the producer showing the circumstances  
12          under which the milk was dumped."

13          Page 3, line 39, delete "(d)" and insert "(c)".

(Reference is to SB 369 as printed January 23, 1998.)

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Senator JACKMAN