

# 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**

1 **Pasturized Milk Ordinance (345 IAC 8-3-1).**

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

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

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

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

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

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

29 **(DP)(2 days)(\$3.00)-(PR)**

30 **However, if the result is less than \$5.00 then the fine is**  
31 **\$5.00.**

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

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

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

46 **(DP)(4 days)(\$3.00)**

47 **However, if the result is less than \$5.00 then the fine is**  
48 **\$5.00.**

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

1 of Animal Health-Office of the State Veterinarian within  
 2 30 days of the drug residue violation. Failure to  
 3 complete the Protocol and provide proof of completion  
 4 will result in action to suspend the producer's permit.

5 (C) The producer must attend a producer education  
 6 program or meeting designated by the state  
 7 veterinarian. The producer is responsible for paying  
 8 registration and material fees and other costs associated  
 9 with attending the education program or meeting. The  
 10 producer must provide proof of attendance to the state  
 11 veterinarian within ten days of completion of the  
 12 program or meeting.

13 (iii) The third positive test result for drug residues within a  
 14 twelve (12) month period shall result in the following:

15 (A) The board revoking a producer's Grade A permit if  
 16 the producer has one;

17 (B) The sanctions for a second offense set forth in  
 18 section (b) are imposed;

19 (C) The producer must submit to the state veterinarian  
 20 a set of written procedures that he or she will follow to  
 21 prevent future drug residue violations. The procedures  
 22 must be submitted with the proof of completion required  
 23 in section (b) and must be specific, practical, and  
 24 reasonably likely to lessen the possibility of a drug  
 25 residue violation when followed by the producer.

26 (D) After a producer's Grade A permit is revoked for a  
 27 third offense violation under this statute, he or she shall  
 28 not receive a new Grade A permit for a revocation  
 29 period of thirty (30) days from the date of the  
 30 revocation. After the revocation period, the state  
 31 veterinarian must issue a conditional Grade A permit to  
 32 a producer that has applied for a permit if the following  
 33 requirements are met;

34 (i) The producer has met all of the requirements of  
 35 this statute at the time of application, and

36 (ii) The producer meets all other requirements of  
 37 the board for obtaining a Grade A permit.

38 The permit will be issued on the condition that all of  
 39 the requirements of this statute must be completed  
 40 within the time frames set forth in this statute. A  
 41 permit issued under this subdivision automatically  
 42 becomes unconditional after the producer fully  
 43 complies with all of the provisions of this statute.

44 (iv) For each drug residue violation in a twelve (12) month  
 45 period in excess of three (3) the producer is subject to the  
 46 penalties for a third offense in subdivision (iii) are imposed,  
 47 but for Grade A producers the revocation period will begin  
 48 on the date his or her permit is revoked and run for a period  
 49 equal to the length of the revocation period imposed after the  
 50 producer's last drug residue violation times two. For

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

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

14          **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