

# HOUSE BILL No. 1976

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 15-3-3.7; IC 24-5-17.

**Synopsis:** Pesticide use by schools and day care centers. Requires the governing body of a day care center, preschool, or school to designate a contact person. Requires the contact person to provide certain information about pesticide use to each student, a parent or guardian of each student, and each staff member. Requires the contact person to keep a pesticide notification list and to notify each person on the list not less than 48 hours before a planned use of pesticides and not more than 24 hours after an emergency use of pesticides. Requires the department of education to notify schools of the need for notice concerning pesticide applications. Includes pest eradication as a service that may be regulated for the use of environmental marketing claims.  
(Continued next page)

**Effective:** Upon passage; July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Environmental Affairs.

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Digest Continued

Instructs the department of environmental management to study integrated pest management and make recommendations to the general assembly and the governor and establishes the integrated pest management program advisory council to advise the department of environmental management on the department's study and recommendations.

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Introduced

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## HOUSE BILL No. 1976

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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 15-3-3.7 IS ADDED TO THE INDIANA CODE  
2 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1999]:

4 **Chapter 3.7. Notice of Pesticide Application**

5 **Sec. 1. This chapter shall be administered by the state chemist.**

6 **Sec. 2. This chapter applies to the following:**

7 (1) A day care center.

8 (2) A preschool.

9 (3) A school.

10 **Sec. 3. As used in this chapter, "contact person" means an**  
11 **individual designated by the governing body of a day care center,**  
12 **preschool, or school to carry out the actions described in section**  
13 **16(b) of this chapter.**

14 **Sec. 4. As used in this chapter, "crack and crevice treatment"**  
15 **means the application in a building of small amounts of a pesticide**



1 into openings, such as those commonly found at expansion joints,  
2 between levels of construction, and between equipment and floors.

3 **Sec. 5.** As used in this chapter, "day care center" means a day  
4 care center licensed under IC 12-17.2.

5 **Sec. 6.** As used in this chapter, "emergency" means a sudden  
6 need to mitigate or eliminate a pest that threatens the health or  
7 safety of a student or staff member of a facility.

8 **Sec. 7.** As used in this chapter, "facility" means a day care  
9 center, preschool, or school.

10 **Sec. 8.** As used in this chapter, "governing body" means the  
11 following:

12 (1) The governing body of a school corporation (as defined in  
13 IC 20-10.1-1-5).

14 (2) The governing body of a nonpublic school.

15 (3) The licensee of a day care center licensed under  
16 IC 12-17.2.

17 (4) The organization that operates a preschool child care  
18 program (as defined in IC 12-17-13-3).

19 **Sec. 9.** As used in this chapter, "material safety data sheet" has  
20 the meaning set forth in IC 13-11-2-128.

21 **Sec. 10.** (a) As used in this chapter, "pesticide" means any  
22 substance or mixture of substances intended for use as follows:

23 (1) To prevent, destroy, repel, or mitigate any pest infestation.

24 (2) To act as a plant growth regulator, defoliant, or desiccant.

25 (3) To act as a spray adjuvant, such as a wetting agent or an  
26 adhesive.

27 (b) The term does not include an antimicrobial agent used for  
28 cleaning purposes, such as a disinfectant, sanitizer, or deodorizer.

29 **Sec. 11.** As used in this chapter, "preschool" means a preschool  
30 child care program (as defined in IC 12-17-13-3).

31 **Sec. 12.** As used in this chapter, "school" includes the following:

32 (1) A public school (as defined in IC 20-10.1-1-2).

33 (2) A nonpublic school (as defined in IC 20-10.1-1-3).

34 **Sec. 13.** (a) As used in this chapter, "space spraying" means the  
35 application of a pesticide by discharge into the air throughout an  
36 area.

37 (b) The term does not include crack and crevice treatment.

38 **Sec. 14.** (a) As used in this chapter, "staff member" means an  
39 employee of a facility. The term includes administrators, teachers,  
40 and other support personnel.

41 (b) The term does not include the following:

42 (1) A certified applicator (as defined in IC 15-3-3.6-2(5)).

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- 1           (2) A registered technician (as defined in IC 15-3-3.6-2(36)).  
 2           (3) A person assisting a person described in subdivision (1) or  
 3           (2) with the application of a pesticide.

4           **Sec. 15.** As used in this chapter, "universal notification" means  
 5 a written notice provided by the contact person of a facility to:

- 6           (1) each student;  
 7           (2) a parent or guardian of each student; and  
 8           (3) each staff member;

9 of the facility.

10           **Sec. 16. (a)** The governing body of each facility shall designate  
 11 a contact person for each facility. A contact person may serve as  
 12 the contact person for more than one (1) facility.

13           **(b)** The contact person shall do the following:

14           (1) Maintain the material safety data sheets and labels for all  
 15 pesticides that the facility:

- 16           (A) uses; or  
 17           (B) anticipates using if needed.

18           (2) Maintain records of pesticide application in the buildings  
 19 or on the grounds for the facility for at least three (3) years.

20           (3) Implement universal notification procedures as required  
 21 under this chapter.

22           (4) Develop and maintain the pesticide notification list as  
 23 required under section 18 of this chapter.

24           **Sec. 17. (a)** The contact person shall include the notice required  
 25 under subsection (b) in the school calendar or other universal  
 26 notification as follows:

27           (1) At the beginning of each school year, for a facility that is  
 28 closed for at least one (1) month a year.

29           (2) One (1) time each year for a facility that is open twelve  
 30 (12) months a year.

31           **(b)** The notice must include the following:

32           (1) A statement that lists all pesticides or bait stations that the  
 33 facility:

- 34           (A) uses; or  
 35           (B) anticipates using if needed;

36 in the building or on the grounds.

37           (2) The name, address, and telephone number of the contact  
 38 person.

39           (3) A statement that:

- 40           (A) the contact person maintains the product label or  
 41 material safety data sheet of each pesticide or bait station  
 42 that the facility uses or anticipates using if needed in

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- 1 buildings and on the grounds;  
 2 (B) the label or data sheet is available for review by a:  
 3 (i) student;  
 4 (ii) parent or guardian of a student; or  
 5 (iii) staff member;  
 6 of the facility; and  
 7 (C) the contact person is available to a:  
 8 (i) student;  
 9 (ii) parent or guardian of a student; or  
 10 (iii) staff member;  
 11 of the facility for information and comment.  
 12 (4) A statement that every student, a parent or guardian of  
 13 every student, and every staff member will be included on the  
 14 pesticide notification list.
- 15 **Sec. 18. (a) The contact person shall develop a pesticide**  
 16 **notification list for the facility.**  
 17 (b) The pesticide notification list must contain the name and  
 18 address of every student enrolled in the facility, a parent or  
 19 guardian of every student enrolled in the facility, and every staff  
 20 member employed by the facility as of:  
 21 (1) the beginning of the school year, for a facility that is closed  
 22 for at least one (1) month a year; or  
 23 (2) September 1, for a facility that is open twelve (12) months  
 24 a year.  
 25 (c) The contact person shall keep the pesticide notification list  
 26 for each facility current by adding and removing names as needed.  
 27 (d) The contact person shall make the pesticide notification list  
 28 available to the state chemist upon the state chemist's request.
- 29 **Sec. 19. (a) This section applies to a:**  
 30 (1) staff member who is employed by the facility; or  
 31 (2) student and parent or guardian of a student who is  
 32 enrolled at the facility;  
 33 after the date on which the universal notification was made under  
 34 section 17 of this chapter.  
 35 (b) The contact person shall provide the written information  
 36 required under section 17 of this chapter to a person described in  
 37 subsection (a) as soon as possible after the person is employed by  
 38 or enrolled at the facility.
- 39 **Sec. 20. Except as provided in sections 21 and 22 of this chapter,**  
 40 **not less than forty-eight (48) hours before a pesticide is applied in**  
 41 **a facility, the contact person shall provide the following**  
 42 **information in writing to each person on the pesticide notification**

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- 1 list:
- 2 (1) A description of the pest problem.
- 3 (2) The common name of the pesticide to be applied.
- 4 (3) The planned date and time of application.
- 5 (4) A description of the location of the application.
- 6 (5) If the pesticide is not addressed in the notice sent under
- 7 section 17 of this chapter, a brief description of the pesticide
- 8 to be applied.
- 9 (6) A brief description of potential adverse effects based upon
- 10 the material safety data sheet of the pesticide to be applied,
- 11 including potential adverse effects of inert ingredients.
- 12 (7) The following language: "THE OFFICE OF PESTICIDE
- 13 PROGRAMS OF THE UNITED STATES
- 14 ENVIRONMENTAL PROTECTION AGENCY HAS
- 15 STATED: WHERE POSSIBLE, PERSONS WHO
- 16 POTENTIALLY ARE MORE SENSITIVE, SUCH AS
- 17 PREGNANT WOMEN AND INFANTS LESS THAN TWO
- 18 (2) YEARS OLD, SHOULD AVOID ANY UNNECESSARY
- 19 PESTICIDE EXPOSURE."
- 20 (8) The name and telephone number of the contact person.
- 21 Sec. 21. (a) Except as provided in section 22 of this chapter, the
- 22 contact person shall inform each person on the pesticide
- 23 notification list in writing not less than one (1) week before space
- 24 spraying is used in the facility's building.
- 25 (b) The notice required under subsection (a) must be on a
- 26 separate sheet of paper that is at least eight and one-half (8 1/2)
- 27 inches by eleven (11) inches in size and must include the following:
- 28 (1) A description of the pest problem.
- 29 (2) The common name of the pesticide.
- 30 (3) The planned date and time of space spraying.
- 31 (4) A description of the location of the application.
- 32 (5) If the pesticide is not addressed in the notice sent under
- 33 section 17 of this chapter, a brief description of the pesticide
- 34 to be applied.
- 35 (6) A brief description of potential adverse effects based upon
- 36 the material safety data sheet of the pesticide to be applied,
- 37 including potential adverse effects of inert ingredients.
- 38 (7) The following language: "THE OFFICE OF PESTICIDE
- 39 PROGRAMS OF THE UNITED STATES
- 40 ENVIRONMENTAL PROTECTION AGENCY HAS
- 41 STATED: WHERE POSSIBLE, PERSONS WHO
- 42 POTENTIALLY ARE MORE SENSITIVE, SUCH AS



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**PREGNANT WOMEN AND INFANTS LESS THAN TWO (2) YEARS OLD, SHOULD AVOID ANY UNNECESSARY PESTICIDE EXPOSURE."**

**(8) The name and telephone number of the contact person.**

**Sec. 22. (a) A pesticide may be applied in a facility without prior notice if an emergency pest situation exists.**

**(b) The contact person shall notify each person on the pesticide notification list in writing that a pesticide was applied for emergency pest control:**

**(1) not later than twenty-four (24) hours following an emergency pesticide application; or**

**(2) on the first day that the facility is open following the emergency pesticide application.**

**(c) The contact person may provide notice required under subsection (b) to a parent or guardian of a student on the pesticide notification list by sending a written notice home with the student.**

**(d) The notice required under subsection (b) must include the following:**

**(1) The reason for the emergency application.**

**(2) The common name of the pesticide.**

**(3) The date and time of the application.**

**(4) A description of the location of the application.**

**(5) If the pesticide is not addressed in the notice sent under section 17 of this chapter, a brief description of the pesticide that was applied.**

**(6) A brief description of potential adverse effects based upon the material safety data sheet of the pesticide that was applied, including potential adverse effects of inert ingredients.**

**(7) The following language: "THE OFFICE OF PESTICIDE PROGRAMS OF THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY HAS STATED: WHERE POSSIBLE, PERSONS WHO POTENTIALLY ARE MORE SENSITIVE, SUCH AS PREGNANT WOMEN AND INFANTS LESS THAN TWO (2) YEARS OLD, SHOULD AVOID ANY UNNECESSARY PESTICIDE EXPOSURE."**

**(8) The name and telephone number of the contact person.**

**Sec. 23. A governing body shall develop an appropriate means of providing notice before using a bait station in a facility. The notice may include a sign posted on the door of the room in which the bait station is placed.**

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1 SECTION 2. IC 24-5-17-2 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. (a) This chapter  
 3 applies to **the following:**

4 **(1)** A person who represents in advertising or on the label or  
 5 package of a consumer good that the consumer good the person  
 6 manufactures or distributes, or its package, is not harmful to or is  
 7 beneficial to the natural environment by terms such as the  
 8 following:

9 ~~(1)~~ **(A)** Environmental choice.

10 ~~(2)~~ **(B)** Ecologically, earth, or environmentally friendly.

11 ~~(3)~~ **(C)** Ecologically or environmentally sound.

12 ~~(4)~~ **(D)** Ecologically or environmentally safe.

13 ~~(5)~~ **(E)** Environmentally "lite".

14 ~~(6)~~ **(F)** Green product.

15 ~~(7)~~ **(G)** Any term or terms similar to the other terms listed in  
 16 this chapter.

17 **(2) A person who represents in advertising or any other**  
 18 **communication that the service the person provides is not**  
 19 **harmful to or is beneficial to the natural environment or the**  
 20 **public health.**

21 (b) It is a violation of this chapter for any person to represent that  
 22 any consumer good which the person manufactures or distributes or its  
 23 package is "ozone friendly", "biodegradable", "compostable",  
 24 "photodegradable", "recyclable", or "recycled" unless that consumer  
 25 good or its package meets the definitions contained in this chapter or  
 26 meets definitions established in trade regulations or guides adopted by  
 27 the Federal Trade Commission or in enforceable regulations adopted  
 28 by another federal agency expressly for the purpose of establishing  
 29 standards for environmental advertising or representations.

30 SECTION 3. IC 24-5-17-10.5 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 1999]: **Sec. 10.5. As used in this chapter,**  
 33 **"service" refers to pest eradication services provided to one (1) or**  
 34 **more of the following:**

35 **(1) A public school (as defined in IC 20-10.1-1-2).**

36 **(2) A nonpublic school (as defined in IC 20-10.1-1-3).**

37 **(3) A day care center licensed under IC 12-17.2.**

38 **(4) A preschool child care program (as defined in**  
 39 **IC 12-17-13-3).**

40 SECTION 4. IC 24-5-17-12 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 12. A person shall  
 42 maintain in written form in the person's records the following



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1 information and documentation supporting the validity of the  
2 representation:

3 (1) The reasons why the person believes the representation to be  
4 true.

5 (2) Any significant adverse environmental impacts directly  
6 associated with:

7 (A) the production, distribution, use, or disposal of the  
8 consumer good; **or**

9 **(B) the use of the service.**

10 (3) Any measures that the person has taken to reduce the  
11 environmental impacts directly associated with:

12 (A) the production, distribution, and disposal of the consumer  
13 good; **or**

14 **(B) providing the service.**

15 (4) Any violations of federal, state, or local permits directly  
16 associated with:

17 (A) the production or distribution of the consumer good; **or**

18 **(B) providing the service.**

19 (5) Whether the consumer good is recycled, recyclable,  
20 biodegradable, photodegradable, compostable, or ozone friendly.

21 SECTION 5. [EFFECTIVE UPON PASSAGE] (a) **As used in this**  
22 **SECTION, "governing body" means the following:**

23 (1) **The governing body of a school corporation (as defined in**  
24 **IC 20-10.1-1-5).**

25 (2) **The governing body of a nonpublic school.**

26 (3) **The licensee of a day care center licensed under**  
27 **IC 12-17.2.**

28 (4) **The organization that operates a preschool child care**  
29 **program (as defined in IC 12-17-13-3).**

30 (b) **Notwithstanding IC 15-3-3.7, as added by this act, a**  
31 **governing body is not required to follow the procedures established**  
32 **in IC 15-3-3.7, as added by this act, until July 1, 2000.**

33 (c) **This SECTION expires June 30, 2000.**

34 SECTION 6. [EFFECTIVE UPON PASSAGE] (a) **As used in this**  
35 **SECTION, "governing body" means the following:**

36 (1) **The governing body of a school corporation (as defined in**  
37 **IC 20-10.1-1-5).**

38 (2) **The governing body of a nonpublic school.**

39 (b) **As used in this SECTION, "school" includes the following:**

40 (1) **A public school (as defined in IC 20-10.1-1-2).**

41 (2) **A nonpublic school (as defined in IC 20-10.1-1-3).**

42 (c) **Not later than July 1, 1999, the department of education**

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1 must provide notice to the governing body of each school in the  
 2 state that informs the governing body of its responsibilities under  
 3 IC 15-3-3.7, as added by this act.

4 (d) This SECTION expires July 1, 1999.

5 SECTION 7. [EFFECTIVE JULY 1, 1999] (a) As used in this  
 6 SECTION, "advisory council" refers to the integrated pest  
 7 management program advisory council established under  
 8 subsection (f).

9 (b) As used in this SECTION, "day care center" means a day  
 10 care center licensed under IC 12-17.2.

11 (c) As used in this SECTION, "preschool" means a preschool  
 12 child care program (as defined in IC 12-17-13-3).

13 (d) As used in this SECTION "school" includes the following:

14 (1) A public school (as defined in IC 20-10.1-1-2).

15 (2) A nonpublic school (as defined in IC 20-10.1-1-3).

16 (e) Subject to the availability of funds, the department of  
 17 environmental management established under IC 13-13-1-1 shall  
 18 conduct a study and make recommendations to the general  
 19 assembly and the governor concerning the following:

20 (1) The creation and implementation of an integrated pest  
 21 management program at a school, a day care center, and a  
 22 preschool.

23 (2) A definition of integrated pest management as the term  
 24 applies to a school, a day care center, and a preschool.

25 (3) The cost of implementing a program under subdivision (1).

26 (4) The benefits of implementing integrated pest management  
 27 at a school, a day care center, and a preschool.

28 (5) A mechanism for providing public comment and input to  
 29 a school, a day care center, or a preschool regarding the  
 30 integrated pest management program.

31 (f) The integrated pest management program advisory council  
 32 is established for the purpose of advising the department of  
 33 environmental management in developing the study and  
 34 recommendations described in subsection (e).

35 (g) The advisory council consists of the following twelve (12)  
 36 members:

37 (1) The state chemist who shall serve as chairperson.

38 (2) The state health commissioner or the commissioner's  
 39 designee.

40 (3) Ten (10) members appointed by the governor.

41 (h) Members of the advisory council appointed by the governor  
 42 shall include the following:

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- 1           **(1) Two (2) people who are employees of different state**
- 2           **universities, including one (1) person who has expertise in**
- 3           **integrated pest management and one (1) person who has**
- 4           **expertise in entomology.**
- 5           **(2) One (1) person who is employed as a school teacher.**
- 6           **(3) One (1) person who is a member of an organization or**
- 7           **association of parents and teachers and who is not a school**
- 8           **employee or official.**
- 9           **(4) One (1) person who is employed by a school corporation.**
- 10          **(5) One (1) person who is a member of a statewide**
- 11          **environmental organization.**
- 12          **(6) One (1) person who is a member of a statewide consumer**
- 13          **organization.**
- 14          **(7) One (1) person who is a member of a local board of health.**
- 15          **(8) One (1) person who is an owner or employee of a day care**
- 16          **center or a member of an association of day care centers.**
- 17          **(9) One (1) health care provider licensed under IC 25-22.5 or**
- 18          **IC 25-23 who specializes in toxicology or epidemiology.**
- 19          **The governor shall make the appointments required under this**
- 20          **subsection before October 1, 1999.**
- 21               **(i) The advisory council shall meet at the call of the chairperson.**
- 22               **(j) A member of the advisory council who is appointed under**
- 23          **subsection (h) and who is not a state employee is entitled to the**
- 24          **same per diem and mileage allowances provided by law for state**
- 25          **employees.**
- 26               **(k) The affirmative votes of a majority of the voting members**
- 27          **appointed to the advisory council are required for the advisory**
- 28          **council to take action on a measure.**
- 29               **(l) This SECTION expires July 1, 2001.**
- 30               **SECTION 8. An emergency is declared for this act.**

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