January 25, 2008

SENATE BILL No. 190

DIGEST OF SB 190 (Updated January 23, 2008 10:04 am - DI 116)

Citations Affected: Numerous provisions throughout the Indiana Code.

Synopsis: Title 15 recodification. Recodifies the law governing agriculture and animals. Changes references in provisions that cross-reference the law being recodified. Makes related changes. Repeals obsolete provisions. (The introduced version of this bill was prepared by the code revision commission.)

Effective: July 1, 2008.

Ford, Landske, Arnold, Broden

January 8, 2008, read first time and referred to Committee on Agriculture and Small Business.
January 24, 2008, reported favorably — Do Pass.

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January 25, 2008

Second Regular Session 115th General Assembly (2008)

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 2007 Regular Session of the General Assembly.

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SENATE BILL No. 190

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:

SECTION 1. IC 15-10 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 10. EFFECT OF RECODIFICATION OF TITLE 15

Chapter 1. Effect of Recodification by the Act of the 2008 Regular Session of the General Assembly

Sec. 1. As used in this chapter, "prior law" refers to the statutes concerning agriculture and animals that are repealed or amended in the recodification act of the 2008 regular session of the general assembly as the statutes existed before the effective date of the applicable or corresponding provision of the recodification act of the 2008 regular session of the general assembly. The term includes statutes that are recodified outside this title by the recodification act of the 2008 regular session of the general assembly, such as law related to veterinarians and destruction of animals.

Sec. 2. The purpose of the recodification act of the 2008 regular session of the general assembly is to recodify prior law in a style

that is clear, concise, and easy to interpret and apply. Except to the extent that:

(1) the recodification act of the 2008 regular session of the general assembly is amended to reflect the changes made in a provision of another bill that adds to, amends, or repeals a provision in the recodification act of the 2008 regular session of the general assembly; or

(2) the minutes of meetings of the code revision commission during 2007 expressly indicate a different purpose;

the substantive operation and effect of the prior law continue uninterrupted as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

Sec. 3. Subject to section 2 of this chapter, sections 4 through 9 of this chapter shall be applied to the statutory construction of the recodification act of the 2008 regular session of the general assembly.

Sec. 4. (a) The recodification act of the 2008 regular session of the general assembly does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made or authorized;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of any contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

(A) permits;

(B) licenses;

(C) certificates of registration;

(D) grants of authority; or

(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2008 regular session of the general assembly (July 1, 2008). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts,

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easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

(b) The recodification act of the 2008 regular session of the general assembly does not:

(1) extend or cause to expire a permit, license, certificate of registration, or other grant or limitation of authority; or

(2) in any way affect the validity, scope, or status of a license, permit, certificate of registration, or other grant or limitation of authority;

issued under the prior law.

(c) The recodification act of the 2008 regular session of the general assembly does not affect the revocation, limitation, or suspension of a permit, license, certificate of registration, or other grant or limitation of authority based in whole or in part on violations of the prior law or the rules adopted under the prior law.

Sec. 5. The recodification act of the 2008 regular session of the general assembly shall be construed as a recodification of prior law. Except as provided in section 2(1) and 2(2) of this chapter, if the literal meaning of the recodification act of the 2008 regular session of the general assembly (including a literal application of an erroneous change to an internal reference) would result in a substantive change in the prior law, the difference shall be construed as a typographical, spelling, or other clerical error that must be corrected by:

(1) inserting, deleting, or substituting words, punctuation, or other matters of style in the recodification act of the 2008 regular session of the general assembly; or

(2) using any other rule of statutory construction;

as necessary or appropriate to apply the recodification act of the 2008 regular session of the general assembly in a manner that does not result in a substantive change in the law. The principle of statutory construction that a court must apply the literal meaning of an act if the literal meaning of the act is unambiguous does not apply to the recodification act of the 2008 regular session of the general assembly to the extent that the recodification act of the 2008 regular session of the general assembly is not substantively identical to the prior law.

Sec. 6. Subject to section 9 of this chapter, a reference in a statute or rule to a statute that is repealed and replaced in the same

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or a different form in the recodification act of the 2008 regular session of the general assembly shall be treated after the effective date of the new provision as a reference to the new provision.

Sec. 7. A citation reference in the recodification act of the 2008 regular session of the general assembly to another provision of the recodification act of the 2008 regular session of the general assembly shall be treated as including a reference to the provision of prior law that is substantively equivalent to the provision of the recodification act of the 2008 regular session of the general assembly that is referred to by the citation reference.

Sec. 8. (a) As used in the recodification act of the 2008 regular session of the general assembly, a reference to rules adopted under any provision of this title or under any other provision of the recodification act of the 2008 regular session of the general assembly refers to either:

(1) rules adopted under the recodification act of the 2008 regular session of the general assembly; or

(2) rules adopted under the prior law until those rules have been amended, repealed, or superseded.

(b) Rules adopted under the prior law continue in effect after June 30, 2008, until the rules are amended, repealed, or suspended.

Sec. 9. (a) A reference in the recodification act of the 2008 regular session of the general assembly to a citation in the prior law before its repeal is added in certain sections of the recodification act of the 2008 regular session of the general assembly only as an aid to the reader.

(b) The inclusion or omission in the recodification act of the 2008 regular session of the general assembly of a reference to a citation in the prior law before its repeal does not affect:

(1) any rights or liabilities accrued;

(2) any penalties incurred;

(3) any violations committed;

(4) any proceedings begun;

(5) any bonds, notes, loans, or other forms of indebtedness issued, incurred, or made;

(6) any tax levies made;

(7) any funds established;

(8) any patents issued;

(9) the validity, continuation, or termination of contracts, easements, or leases executed;

(10) the validity, continuation, scope, termination, suspension, or revocation of:

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(A) permits;
(B) licenses;
(C) certificates of registration;
(D) grants of authority; or
(E) limitations of authority; or

(11) the validity of court decisions entered regarding the constitutionality of any provision of the prior law;

before the effective date of the recodification act of the 2008 regular session of the general assembly (July 1, 2008). Those rights, liabilities, penalties, violations, proceedings, bonds, notes, loans, other forms of indebtedness, tax levies, funds, patents, contracts, easements, leases, permits, licenses, certificates of registration, grants of authority, and limitations of authority continue and shall be imposed and enforced under prior law as if the recodification act of the 2008 regular session of the general assembly had not been enacted.

(c) The inclusion or omission in the recodification act of the 2008 regular session of the general assembly of a citation to a provision in the prior law does not affect the use of a prior conviction, violation, or noncompliance under the prior law as the basis for revocation of a license, permit, certificate of registration, or other grant of authority under the recodification act of the 2008 regular session of the general assembly, as necessary or appropriate to apply the recodification act of the 2008 regular session of the general assembly in a manner that does not result in a substantive change in the law.

SECTION 2. IC 15-11 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 11. DEPARTMENT OF AGRICULTURE

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Department" refers to the department of agriculture established by IC 15-11-2-1.

Sec. 3. "Director" refers to the director of the department of agriculture appointed under IC 15-11-3-1.

Sec. 4. "Division" refers to the division of soil conservation established by IC 15-11-4-1.

Sec. 5. "Secretary" refers to the lieutenant governor as secretary of agriculture and rural development as provided in IC 4-4-2.3.

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Chapter 2. Establishment of the Department

Sec. 1. The department of agriculture is established.

Sec. 2. The director is the chief executive and administrative officer of the department.

Sec. 3. The department shall do the following:

(1) Provide administrative and staff support for the following:

(A) The center for value added research under IC 15-11-9.

(B) The state fair board for purposes of carrying out the director of the department of agriculture's duties under IC 15-13-5.

(C) The Indiana corn marketing council for purposes of administering the duties of the director of the department of agriculture under IC 15-15-12.

(D) The Indiana organic peer review panel under IC 15-15-8.

(E) The Indiana dairy industry development board for purposes of administering the duties of the director of the department of agriculture under IC 15-18-5.

(F) The Indiana land resources council under IC 15-12-5.

(G) The Indiana grain buyers and warehouse licensing agency under IC 26-3-7.

(H) The Indiana grain indemnity corporation under IC 26-4-3.

(I) The division.

(J) The E85 fueling station grant program under IC 15-11-11.

(2) Administer the election of state fair board members under IC 15-13-5.

(3) Administer state programs and laws promoting agricultural trade.

(4) Administer state livestock or agriculture marketing grant programs.

(5) Administer economic development efforts for agriculture.

Sec. 4. The department shall work with:

(1) automobile manufacturers to improve awareness and labeling of E85 base fuel; and

(2) the appropriate companies to include E85 base fuel stations in updates of global positioning navigation software.

Sec. 5. The department may adopt rules under IC 4-22-2 to carry out the duties, purposes, and functions of the department.

Chapter 3. Director

Sec. 1. The governor shall appoint the director of the

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department.

Sec. 2. The director:

(1) serves at the governor's pleasure;

(2) is entitled to receive compensation in an amount set by the governor; and

(3) is responsible to the secretary.

Sec. 3. The director may appoint employees in the manner provided by IC 4-15-2 and fix their compensation, subject to the approval of the budget agency under IC 4-12-1-13.

Sec. 4. The director may delegate the director's authority to the appropriate department staff.

Sec. 5. The director shall establish a board to advise the department in the implementation of the department's duties.

Chapter 4. Division of Soil Conservation

Sec. 1. The division of soil conservation is established in the department.

Sec. 2. The director is the administrative head of the division.

Sec. 3. (a) The division shall do the following:

(1) Provide administrative and staff support for the soil conservation board.

(2) Administer all programs relating to land and soil conservation in Indiana.

(3) Manage Indiana's watersheds.

(4) Administer the clean water Indiana program.

(5) Perform other functions assigned by the secretary or the director.

(b) The duties of the division do not include administering the Lake Michigan Coastal program. The Lake Michigan Coastal program shall administer the state's compliance with and provide assistance under the federal Coastal Zone Management Act (16 U.S.C. 1451 et seq.).

(c) The duties of the division do not include those listed in IC 14-32-7-12(b)(7).

Chapter 5. Promotion of Livestock Shows

Sec. 1. As used in this chapter, "livestock" includes the following:

(1) Beef cattle, dairy cattle, and other animals of the bovine species.

(2) Swine and other animals of the porcine species.

(3) Sheep and other members of the ovine species.

(4) Horses, mules, burros, asses, and other animals of the equine species.

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(5) Goats and other members of the caprine species.
(6) Poultry and other birds of the avian species.
(7) Ostriches, rhea, emus, and other birds of the ratite species.
(8) Camels, llamas, and other members of the camelid species.
(9) Farm raised deer, elk, moose, and other members of the cervidae species.
(10) Bison.
(11) Aquatic animals that are the subject of aquaculture.
(12) Rabbits.

Sec. 2. As used in this chapter, "fund" refers to the livestock industry promotion and development fund established by section 4(a) of this chapter.

Sec. 3. The department shall aid, encourage, foster, and promote the development and improvement of the livestock industry throughout Indiana.

Sec. 4. (a) The livestock industry promotion and development fund is established as a dedicated fund to be administered by the department.

(b) Money in the fund must be spent by the department:
(1) exclusively for the purposes described in this chapter, including administrative expenses; and
(2) throughout Indiana.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, the money in the fund reverts to the state general fund.

(d) There is annually appropriated to the department the entire amount of money in the fund for the use of the department in carrying out the purposes of this chapter.

Sec. 5. The department may make grants from the fund to associations or organizations for the following purposes:
(1) To conduct or support livestock industry shows, sales, expositions, conventions, or similar events throughout Indiana consistent with the purposes of this chapter.
(2) To support expanding markets for Indiana livestock producers by encouraging the development of business and industry related to livestock production, processing, and distribution.

Sec. 6. (a) An association or organization may not qualify for or be eligible to receive any part of the fund awarded as grants unless there is provided and made available from sources other than the fund an amount for grants equal to or in excess of that allocated from the fund under this chapter.

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(b) Funds approved and designated by the department for purposes other than grant awards are exempt from the matching fund requirements for grant awards under subsection (a).

Sec. 7. An association or organization must be a nonprofit entity to be eligible for grants under this chapter.

Sec. 8. The department may adopt rules under IC 4-22-2 to carry out this chapter.

Chapter 6. Promotion of Foreign Markets for Agricultural Products

Sec. 1. The director is responsible for foreign market promotion for agricultural products.

Sec. 2. Within the limit of funds specifically appropriated for that purpose, the director may establish and maintain offices in foreign countries for the purpose of promoting international markets for Indiana agricultural products.

Sec. 3. Within the limit of funds specifically appropriated for that purpose, the director may operate livestock export inspection facilities meeting the requirements of the United States Department of Agriculture for livestock inspection before export shipments.

Sec. 4. The director may establish and collect fair and reasonable livestock inspection fees to cover the cost of administering livestock export facilities.

Sec. 5. Livestock export facilities must be located in areas that encourage the collection of livestock from Indiana and the Midwest for exportation.

Sec. 6. (a) The livestock export facility administration fund is established as a dedicated fund to be administered by the director.

(b) All fees collected under section 4 of this chapter shall be deposited in the fund. The money in the fund may be spent by the director exclusively for the purposes described in this chapter.

(c) Money in the fund at the end of a state fiscal year does not revert to the state general fund. However, if the fund is abolished, money in the fund reverts to the state general fund.

Chapter 7. Promotion of Aquaculture

Sec. 1. As used in this chapter, "aquaculture" means a form of agriculture that is the controlled cultivation and harvest of aquatic plants and animals.

Sec. 2. The director shall do the following:

(1) Organize and develop an information and market research center for aquaculture.

(2) Instigate the formation of a market and development plan

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for the aquaculture industry.

(3) Encourage the development and growth of aquaculture.

Sec. 3. A person engaged in the business of aquaculture is entitled to the same consideration for a grant or loan under the statutes or administrative rules of the state as a person engaged in other forms of farming.

Chapter 8. Inspection of Grain Moisture Testing Equipment

Sec. 1. The director or the director's designee shall, at least one (1) time each year, inspect and test all equipment used to test:

(1) the moisture; and

(2) the foreign material and dockage;

content of grain purchased, sold, or exchanged in Indiana.

Sec. 2. Each piece of equipment that is tested under this chapter and found to be accurate according to rules or standards prescribed by the National Institute of Standards and Technology, the United States Department of Agriculture, and the department must bear a seal issued by the office of the director that contains the following information:

(1) A statement that the equipment has been tested for accuracy.

(2) The date of inspection.

(3) The expiration date of the seal.

Sec. 3. (a) The director or the director's designee shall charge each inspection site a ten dollar ($10) fee for each moisture testing device inspected at the inspection site under this chapter.

(b) All fees collected under this section must be deposited in the grain buyers and warehouse licensing agency license fee fund established by IC 26-3-7-6.3.

Sec. 4. Money is appropriated to the department to carry out this chapter.

Sec. 5. The department may adopt rules under IC 4-22-2 to administer this chapter.

Sec. 6. The department may:

(1) employ persons;

(2) make expenditures;

(3) require reports and records;

(4) make investigations; and

(5) take other action;

that the department considers necessary or suitable for the proper administration of this chapter.

Sec. 7. A copy of this chapter and the rules adopted under this chapter must be posted in a conspicuous manner at every

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commercial grain buying site.

Sec. 8. A person who recklessly uses equipment:

(1) to ascertain the moisture and the foreign material and dockage content of grain in the process of commercial buying or selling of grain; and

(2) that does not bear the seal required by section 2 of this chapter;

commits a Class B misdemeanor.

Chapter 9. Center for Value Added Research

Sec. 1. The director shall establish a center for value added research to perform the following duties:

(1) Develop a strategic assessment of Indiana agricultural industries and establish targeted priorities for industry expansion.

(2) Develop recommendations for legislative and administrative programs that will enhance economic development in the targeted agricultural industries.

(3) Identify and prioritize research development and educational needs for expanding value added opportunities in Indiana.

(4) Establish cooperative industry research and development initiatives that lead to new agricultural industry opportunities in Indiana.

(5) Serve as a resource for industry in the planning, promotion, and development of value added agricultural products and agricultural industry opportunities in Indiana, including product feasibility, market feasibility, economic feasibility, product development, product testing, and test marketing.

(6) Serve as a resource for industry and the state in attracting value added agricultural industry to Indiana.

(7) Develop private sector research funding and technology transfer programs commensurate with the state's targeted agricultural industry economic development objectives.

(8) Provide a forum for continuing dialogue among industry, government, and researchers in addressing the needs and opportunities for expanding the value added agricultural industry.

Sec. 2. In carrying out its duties under this chapter, the center for value added research shall cooperate with and may use the resources of:

(1) Purdue University and other colleges and universities

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located in Indiana;

(2) any other state or federal department or agency;

(3) political subdivisions located in Indiana; and

(4) interest groups representing agriculture, business, and industry in Indiana.

Sec. 3. The director may do the following to carry out the duties described in section 1 of this chapter while acting for and on behalf of the center for value added research:

(1) Organize the center in the manner necessary to implement this chapter.

(2) Execute contractual agreements, including contracts for:

(A) the operation of the center;

(B) the performance of any of the duties described in section 1 of this chapter;

(C) the services of an executive director to serve as the chief operating officer of the center; and

(D) any other services necessary to carry out the duties described in section 1 of this chapter.

(3) Receive money from any source.

(4) Expend money for an activity appropriate to the purposes of this chapter.

(5) Execute agreements and cooperate with:

(A) any other state or federal department or agency;

(B) political subdivisions located in Indiana;

(C) any private person or corporation; or

(D) colleges and universities located in Indiana.

(6) Employ personnel as necessary for the efficient administration of this chapter, subject to the approval of the budget agency.

Sec. 4. (a) The value added research fund is established to provide money for:

(1) the center for value added research; and

(2) the director to carry out the duties specified under this chapter.

(b) The director shall administer the fund.

(c) The fund consists of money appropriated by the general assembly.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

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Chapter 10. Tobacco Farmers and Rural Community Impact Fund

Sec. 1. As used in this chapter, "advisory board" refers to the tobacco farmers and rural community impact fund advisory board established by section 5 of this chapter.

Sec. 2. As used in this chapter, "fund" refers to the tobacco farmers and rural community impact fund established by section 3 of this chapter.

Sec. 3. (a) The tobacco farmers and rural community impact fund is established. The fund shall be administered by the director. The fund consists of:

(1) amounts, if any, that another statute requires to be distributed to the fund from the Indiana tobacco master settlement agreement fund;

(2) appropriations to the fund from other sources;

(3) grants, gifts, and donations intended for deposit in the fund; and

(4) interest that accrues from money in the fund.

(b) The expenses of administering the fund shall be paid from money in the fund.

(c) Notwithstanding IC 5-13, the treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as money is invested by the public employees retirement fund under IC 5-10.3-5. The treasurer of state may contract with investment management professionals, investment advisers, and legal counsel to assist in the management of the fund and may pay the state expenses incurred under those contracts.

(d) Money in the fund at the end of the state fiscal year does not revert to the state general fund and remains available for expenditure.

Sec. 4. (a) Subject to subsection (b), money in the fund shall be used for the following purposes:

(1) Agricultural grant and loan programs to assist cooperative arrangements consisting of tobacco quota owners and tobacco growers working together to change from tobacco production to other agricultural enterprises and to assist individual tobacco quota owners and tobacco growers who are in the process of changing to other agricultural enterprises.

(2) Value added cooperatives, incubators, and other enterprises or facilities established to assist tobacco quota owners and tobacco growers to capture additional revenues

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from non-tobacco agricultural commodities.

(3) Agricultural mentoring programs, entrepreneurial leadership development, and tuition and scholarships to assist displaced tobacco growers in acquiring new training and employment skills.

(4) Academic research to identify new transitional crop enterprises to replace tobacco production.

(5) Market facility development for marketing current and new crop enterprises.

(6) Administrative and planning services for local communities and economic development entities that suffer a negative impact from the loss of tobacco production.

(7) Establishment and operation of a regional economic development consortium to address common problems faced by local communities that suffer a negative impact from the loss of tobacco production.

(b) Expenditures from the fund are subject to appropriation by the general assembly and approval by the director. The director may not approve an expenditure from the fund unless that expenditure has been recommended by the advisory board.

Sec. 5. (a) The tobacco farmers and rural community impact fund advisory board is established. The advisory board shall meet at least quarterly and at the call of the director to make recommendations concerning expenditures of money from the fund.

(b) The advisory board consists of the following:

(1) The director, who is an ex officio member and serves as chairperson of the advisory board.

(2) Two (2) members of the senate, who may not be members of the same political party, appointed by the president pro tempore of the senate.

(3) Two (2) members of the house of representatives, who may not be members of the same political party, appointed by the speaker of the house of representatives.

(4) The following appointees by the governor who represent the following organizations or interests:

(A) Two (2) tobacco growers.

(B) One (1) tobacco quota owner.

(C) Two (2) persons with knowledge and experience in state and regional economic development needs.

(D) One (1) person representing small towns or rural communities.

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(E) One (1) person representing the Southern Indiana Rural Development Project.

(F) One (1) person representing agricultural programs at universities located in Indiana.

The members of the advisory board listed in subdivisions (1) through (3) are nonvoting members. The members of the advisory board listed in subdivision (4) are voting members.

Sec. 6. (a) The term of office of a legislative member of the advisory board is four (4) years. However, a legislative member of the advisory board ceases to be a member of the advisory board if the member:

(1) is no longer a member of the legislative chamber from which the member was appointed; or

(2) is removed from the advisory board under subsection (b).

(b) A legislative member of the advisory board may be removed at any time by the appointing authority who appointed the legislative member.

(c) The term of office of a member of the advisory board appointed under section 5(b)(4) of this chapter is four (4) years. However, the member serves at the pleasure of the governor and may be removed for any reason.

(d) If a vacancy exists on the advisory board with respect to a legislative member or the members appointed under section 5(b)(4) of this chapter, the appointing authority who appointed the former member whose position has become vacant shall appoint an individual to fill the vacancy for the balance of the unexpired term.

Sec. 7. Five (5) voting members of the advisory board constitute a quorum for the transaction of business at a meeting of the advisory board. The affirmative vote of at least five (5) voting members of the advisory board is necessary for the advisory board to take action.

Sec. 8. (a) Each member of the advisory board who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is, however, entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the advisory board who is a state employee but who is not a member of the general assembly is entitled to reimbursement for traveling expenses as provided under

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IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) Each member of the advisory board who is a member of the general assembly is entitled to receive the same per diem, mileage, and travel allowances paid to legislative members of interim study committees established by the legislative council. Per diem, mileage, and travel allowances paid under this subsection shall be paid from appropriations made to the legislative council or the legislative services agency.

(d) Payments authorized for members of the advisory board under subsections (a) through (b) are payable from the tobacco farmers and rural community impact fund.

Chapter 11. E85 Fueling Station Grant Program

Sec. 1. As used in this chapter, "E85 base fuel" has the meaning set forth for "E85" in IC 6-6-1.1-103(s).

Sec. 2. As used in this chapter, "fueling station" refers to tangible property (other than a building and its structural components) consisting of:

(1) a tank;

(2) a pump; and

(3) other components;

that is used by a person engaged in the business of selling motor fuel at retail to enable motor fuel to be dispensed directly into the fuel tank of a customer's motor vehicle.

Sec. 3. As used in this chapter, "location" refers to one (1) or more parcels of land that:

(1) have a common access to a public highway; and

(2) are or would appear to the reasonable person making an observation from a public highway to be part of the same business.

Sec. 4. As used in this chapter, "motor vehicle" means any vehicle that:

(1) is manufactured primarily for use on public streets, roads, and highways (not including a vehicle operated exclusively on a rail or rails); and

(2) has at least four (4) wheels.

Sec. 5. As used in this chapter, "qualified investment" refers to an ordinary and usual expense that is incurred after June 30, 2007, to do either of the following:

(1) Purchase any part of a renewable fuel compatible fueling

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station for the purpose of:

(A) installing the new renewable fuel compatible fuel station at a location on which a fueling station is not located; or

(B) converting an existing fueling station that is not a renewable fuel compatible fueling station into a fueling station that is a renewable fuel compatible fueling station.

(2) Refit any part of a fueling station that is not renewable fuel compatible as a renewable fuel compatible fueling station, including the costs of cleaning storage tanks and piping to remove petroleum sludge and other contaminants.

Sec. 6. As used in this chapter, "renewable fuel compatible" means:

(1) capable of storing and delivering E85 base fuel without contaminants resulting from deterioration from constant contact with alcohol fuels; and

(2) in conformity with applicable governmental standards, if any, and other nationally recognized standards applying to storage and handling of E85 base fuel, as determined under the standards prescribed by the department.

Sec. 7. (a) The department may award a grant under this chapter to a person that:

(1) makes a qualified investment; and

(2) places the qualified investment in service;

in Indiana for the dispensing of E85 base fuel into the fuel tanks of motor vehicles.

(b) A recipient of a grant awarded under this chapter must comply with any guidelines developed by the department's office of energy and defense development.

Sec. 8. (a) Subject to subsection (b), the department's office of energy and defense development shall determine the amount of each grant awarded under this chapter.

(b) The amount of a grant awarded under this chapter may not exceed the lesser of the following:

(1) The amount of the person's qualified investment.

(2) Five thousand dollars ($5,000) for all qualified investments made by the person at a single location.

Sec. 9. The department shall do the following:

(1) Prepare and supervise the issuance of public information concerning the grant program established under this chapter.

(2) Prescribe the form for and regulate the submission of applications for grants under this chapter.

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(3) Determine an applicant's eligibility for a grant under this chapter.

Sec. 10. The total amount of grants awarded under this chapter for all state fiscal years may not exceed one million dollars ($1,000,000).

Sec. 11. (a) The E85 fueling station grant fund is established to provide grants under this chapter.

(b) The fund consists of appropriations from the general assembly.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund but remains in the fund to be used exclusively for purposes of this chapter.

(e) Money in the fund is continuously appropriated for the purposes of this chapter.

Sec. 12. A grant awarded under this chapter is not subject to taxation under IC 6-3-1 through IC 6-3-7.

Sec. 13. A grant awarded under this chapter does not reduce the basis of the qualified property for purposes of determining any gain or loss on the property when the grant recipient disposes of the property.

SECTION 3. IC 15-12 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 12. AGRICULTURAL ASSISTANCE ORGANIZATIONS AND PROGRAMS

Chapter 1. Agricultural Cooperatives

Sec. 1. (a) The following are the purposes of this chapter:

(1) To promote, foster, and encourage the intelligent and orderly production and marketing of agricultural products through cooperation.

(2) To eliminate speculation and waste.

(3) To make the distribution of agricultural products between producer and consumer as direct as can be efficiently done.

(4) To stabilize the marketing of agricultural products.

(5) To provide for the organization and incorporation of agricultural cooperative associations and societies.

(b) The general assembly recognizes the following:

(1) That agriculture is characterized by individual production in contrast to the group or factory system that characterizes

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other forms of industrial production.

(2) That the ordinary form of corporate organization permits industrial groups to combine for the purpose of group production and the ensuing group marketing.

(3) That the public has an interest in permitting farmers to bring their industry to the high degree of efficiency and merchandising skill evidenced in the manufacturing industries.

(4) That the public interest demands that the farmer be encouraged to attain a superior and more direct system of marketing as an alternative to the blind, unscientific, and speculative selling of crops.

Sec. 2. The definitions in IC 23-1 apply to this chapter to the extent they do not conflict with the definitions in this chapter.

Sec. 3. As used in this chapter, "agricultural products" includes horticultural, viticultural, forestry, dairy, livestock, grain, poultry, bee, and any other farm product.

Sec. 4. As used in this chapter, "association" means any corporation organized under or governed by this chapter.

Sec. 5. As used in this chapter, "member" means the following:

(1) With respect to a nonstock membership association, the term means those persons admitted in accordance with the bylaws of the association.

(2) With respect to an association having capital stock, the term means the holders of voting stock of the association.

Sec. 6. As used in this chapter, "person" includes the following:

(1) Individuals.

(2) Firms.

(3) Partnerships.

(4) Business trusts.

(5) Limited liability companies.

(6) Corporations.

(7) Executors.

(8) Administrators.

(9) Receivers.

(10) Bodies politic or political subdivisions.

Sec. 7. An association organized under or governed by this chapter is a nonprofit corporation within the meaning of this chapter and for purposes of interpreting Indiana law concerning associations organized under or governed by this chapter.

Sec. 8. The following may form an association under this chapter:

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(1) Five (5) or more persons engaged in the production of agricultural products.

(2) Two (2) or more associations that:

(A) are:

(i) organized under or governed by this chapter; or

(ii) organized under any other Indiana law or under the laws of any other state or territory of the United States or of the District of Columbia; and

(B) are operated on a cooperative basis for the mutual benefit of the associations' members, members and patrons, or patrons as producers or associations of producers.

Sec. 9. An association may be organized to engage in any activity in connection with the following:

(1) Producing, marketing, or selling the agricultural products of the association's members and others.

(2) Harvesting, preserving, drying, processing, canning, packing, grading, storing, handling, shipping, or use of agricultural products of the association's members and others.

(3) Manufacturing or marketing the byproducts of agricultural products of the association's members and others.

(4) Manufacturing, selling, or supplying machinery, equipment, or supplies to the association's members and others.

(5) Financing activities described in subdivisions (1) through (4).

(6) Performing or furnishing services of an economic or educational nature, on a cooperative basis for persons engaged in agriculture or in any one (1) or more of the activities specified in this section.

Sec. 10. Each association incorporated under this chapter has the following powers:

(1) To engage in any activity in connection with the following:

(A) Producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, handling, or use of any agricultural products produced or delivered to the association by the association's members or others.

(B) Manufacturing or marketing the byproducts of agricultural products produced or delivered to the

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association by the association's members or others.

(C) Manufacturing, producing, processing, procuring, purchasing, or supplying supplies, machinery, or equipment to the association's members or others.

(D) Financing any activities described in clauses (A) through (C).

(E) Performing or furnishing economic, educational, or other services.

(F) Any one (1) or more of the activities specified in this section.

(2) To transact business with and perform services for nonmembers in an amount not greater in value than the total amount of business transacted with and services performed for members in the same fiscal year.

(3) To borrow money without limitation as to the amount of corporate indebtedness or liability.

(4) To act as the agent or representative of any member or members or others in any of the activities described in subdivisions (1) through (3).

(5) To make advances to members and other persons.

(6) To:

(A) purchase or acquire;

(B) hold, own, and exercise all rights of ownership in;

(C) sell, transfer, or pledge; or

(D) guarantee the payment of dividends or interest on or the retirement or redemption of;

shares of the capital stock or bonds of any corporation or association engaged in any related activity or in the warehousing, handling, or marketing of any of the products handled by the association.

(7) To establish and accumulate reserves and surplus.

(8) To:

(A) buy; or

(B) acquire, hold, and exercise all privileges of ownership over;

real and personal property as may be necessary, convenient, or incidental to the conduct and operation of the business and activities of the association.

(9) To:

(A) establish, secure, own, and develop; and

(B) dispose of;

patents, trademarks, and copyrights.

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(10) To:

(A) do anything:

(i) necessary or proper for the accomplishment of any one (1) of the purposes or the performance of any one (1) or more of the activities listed in this section; or

(ii) conducive to or expedient for the interest or benefit of the association; and

(B) contract accordingly.

(11) To exercise and possess the following:

(A) All powers, rights, and privileges necessary for or incidental to:

(i) the purposes for which the association is organized; or

(ii) the activities in which the association is engaged.

(B) Any other rights, powers, and privileges granted by Indiana law or to for-profit or nonprofit corporations, except as are inconsistent with the express provisions of this chapter.

(12) To recover, after two (2) years, any unclaimed stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities:

(A) for which the owner cannot be found; and

(B) that are the result of distributable savings of the association returned to the members on a pro rata basis.

Sec. 11. (a) An association may under the terms and conditions prescribed in the bylaws adopted by the association admit as members or issue common and voting stock to any of the following:

(1) The individuals or political subdivisions of Indiana that meet the requirements of subsection (b).

(2) The associations that meet the requirements of subsection (c).

(b) To meet the requirements of this subsection, individuals or political subdivisions must be engaged in the production of agricultural products. For purposes of this section, a lessor or landlord of land used for the production of agricultural products or any individual devoting a substantial part of the individual's time to assisting others to produce agricultural products, whether employed by a farmer, an agricultural cooperative corporation, or an association, is considered to be engaged in the production of agricultural products. Except as otherwise provided in this section, the holders of common stock of an association limited by its articles of incorporation to one (1) or more particular agricultural services must be producers of agricultural products that use the articles or

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services to which the activities of the association are limited.

(c) An association:

(1) organized under or governed by this chapter or organized under or governed by the agricultural law of another state of the United States; or

(2) that complies with 7 U.S.C. 291 and 7 U.S.C. 292, whether incorporated in or outside the United States, and with acts amendatory or supplementary to 7 U.S.C. 291 and 7 U.S.C. 292;

may become a member or stockholder of any association or associations organized under this chapter. Any corporation, however organized, that is lawfully engaged in the production of agricultural products, either as owner, lessor, or lessee of land used for the production of agricultural products, may become a stockholder or member in any association that is organized under this chapter and for which more than one-half (1/2) of the value of the association's business consists of the patronage of individuals who are direct producers of agricultural products.

(d) A member of an association organized under this chapter that is not an individual may be represented by any individual authorized to do so in writing by the member.

Sec. 12. (a) The incorporators of an association to be formed under this chapter shall execute and file articles of incorporation setting forth the following:

(1) The name of the proposed association.

(2) The purpose or purposes for which it is formed.

(3) The period during which it is to continue to exist, if the period is to be limited.

(4) The post office address of its principal office and the name and post office address of its resident agents.

(5) If organized without capital stock, whether the property rights and interest of the members are equal or unequal. If property rights and interest of the members are unequal, the articles of incorporation must set forth the provisions under and by which the property rights and interests of the respective members are to be determined and fixed.

(6) The following information, if the association is organized with capital stock:

(A) The total number of shares that the association may issue.

(B) Whether all or part of the shares have a par value.

(C) If all or part of the shares have a par value, the

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number and par value of the shares.

(D) Whether all or part of the shares are without a par value.

(E) If all or part of the shares are without a par value, the number of shares without a par value.

(F) If the shares are to be divided into classes or kinds:

(i) the number and par value, if any, of the shares of each class; and

(ii) subject to the limitations provided in this chapter with respect to issuance of voting stock, either a statement of the relative rights, preferences, limitations, and restrictions of each class, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and restrictions of each class by resolution or resolutions adopted before the issuance of any shares of the specific class.

(G) If the shares of any class are to be issuable in series:

(i) descriptions of the several series; and

(ii) subject to the limitation provided in this chapter with respect to the issuance of voting stock, a statement of the relative rights, preferences, limitations, and restrictions of each series, or a provision expressly vesting authority in the board of directors to determine the relative rights, preferences, limitations, and restrictions of each series by resolution or resolutions adopted before the issuance of any of the shares of the specific series.

(7) The number of directors constituting the initial board of directors of the association.

(8) The names and post office addresses of the first board of directors.

(9) The names and post office addresses of the incorporators.

(10) Any other provisions, consistent with Indiana laws, for the regulation of the business and conduct of the affairs of the association and for creating, defining, limiting, or regulating the powers of the following:

(A) The association.

(B) The directors.

(C) The members.

(D) The shareholders of any class or classes of shareholders.

(b) The articles of incorporation must be:

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(1) prepared and signed in duplicate by the incorporators;
(2) acknowledged by at least one (1) of the incorporators before a notary public; and
(3) presented in duplicate to the secretary of state at the secretary of state's office and accompanied by the fees prescribed by this chapter.

Sec. 13. (a) Upon presentation of articles of incorporation that comply with the requirements of this chapter, if the secretary of state finds that the articles of incorporation conform to law, the secretary of state shall do the following:
(1) Endorse the secretary of state's approval upon the duplicate copies of the articles.
(2) When all fees have been paid as required by law:
(A) file one (1) copy of the articles in the secretary of state's office; and
(B) issue a certificate of incorporation to the incorporators.
(3) Return the certificate of incorporation, together with the remaining copy of the articles of incorporation bearing the endorsement of the secretary of state's approval, to the incorporators or their representative.

(b) Upon the issuance of the certificate of incorporation by the secretary of state under subsection (a):
(1) the corporate existence of the association begins;
(2) all subscriptions to membership, subscriptions for shares of the association, or subscriptions to membership and for shares of the association are considered to be accepted by the association; and
(3) the subscribers are considered to be members, shareholders, or members and shareholders of the association.

(c) The certificate of incorporation issued by the secretary of state under this section is conclusive evidence of the fact that the association has been incorporated and of the corporation's right to transact business and to incur indebtedness.

Sec. 14. (a) Subject to subsections (b) and (c), an association may amend the association's articles of incorporation, merge or consolidate with one (1) or more other associations or corporations, effect special corporate transactions as described in IC 23-1, or dissolve by following the procedures specified in IC 23-1.

(b) An amendment to the articles of incorporation of an association organized under or governed by this chapter or an agreement of merger or consolidation to which an association

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organized under or governed by this chapter is a party may be adopted:

(1) by the affirmative votes of the majority of the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that purpose, if the voting rights of the members are equal; or

(2) by the affirmative votes of the majority of the votes cast by the members entitled to vote with respect to the amendment or agreement and voting at the meeting called for that purpose, if the voting rights of the members are not equal.

(c) A special corporate transaction or dissolution of an association organized under or governed by this chapter may be authorized:

(1) by the affirmative votes of three-fourths (3/4) of the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are equal; or

(2) by the affirmative votes of three-fourths (3/4) of the votes cast by the members entitled to vote with respect to the transaction or dissolution and voting at the meeting called for that purpose, if the voting rights of the members are not equal.

Sec. 15. (a) Each association organized under or governed by this chapter shall, not more than thirty (30) days after the association's incorporation or after the association's acceptance of the requirements of this chapter, adopt a code of bylaws.

(b) The power to adopt, make, alter, amend, or repeal the bylaws is vested in the board of directors, unless specifically provided in the articles of incorporation.

(c) The bylaws may contain any provisions for the regulation and management of the business and affairs of the association that are not inconsistent with the articles of incorporation and the laws of this state, including provisions concerning the following:

(1) The time and place of holding and the manner of calling and conducting meetings of members and directors.

(2) The number of members that constitute a quorum at a meeting of the members.

(3) The number of directors that constitute a quorum at a meeting of the directors.

(4) The right of members to vote by proxy, by mail, or by delegates elected by members in their respective districts, or by any one (1) or more such methods.

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(5) The number of directors, their qualifications, the date, time, place, and manner of their election, and the length of their terms of office.

(6) The powers, duties, tenure, and qualifications of officers of the association and the date, time, place, and manner of electing the officers.

(7) The creation and appointment of executive and other committees, and the number of members of the committees and their powers.

(8) The:

(A) amount of entrance, organization, and membership fees, if any;

(B) manner and method of collection of the fees; and

(C) purposes for which the fees may be used.

(9) The:

(A) amount, if any, that each member is required to pay annually or from time to time to carry on the business of the association;

(B) charge, if any, to be paid by each member for services rendered by the association to the member; and

(C) time of payment and manner of collection of the amounts.

(10) The requirements made or imposed on members to enter into contracts with the association for the marketing of the members' products or for the purchasing of the members' supplies, machinery, or equipment, or both.

(11) The following:

(A) Qualifications for membership in the association and the conditions precedent to membership.

(B) The method, time, and manner in which a member can withdraw from membership.

(C) The conditions upon which and the time when the membership of any member ceases.

(D) The automatic suspension of the voting rights of a member when the member ceases to be eligible for membership in the association.

(E) The method, manner, and effect of the expulsion of a member.

(F) The manner of determining the value of a member's interest or shares:

(i) when the member is expelled; or

(ii) upon the member's death or withdrawal from

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membership.

(G) The manner in which the interest or shares of a member can be transferred or assigned.

(H) The time and manner in which a member's interest or shares may be redeemed by the association.

(12) Penalties for violation of the bylaws.

Sec. 16. (a) Each association shall provide in the association's bylaws for one (1) or more regular meetings annually.

(b) The board of directors of an association may call a special meeting at any time.

(c) Ten percent (10%) of the members or stockholders of an association may file a petition stating the specific business to be brought before the association and demand a special meeting at any time. If the requirements of this subsection are satisfied, the directors of the association shall call the special meeting.

(d) Notice of all meetings, together with a statement of the purposes of the meeting, shall be mailed to each member at least ten (10) days before the meeting. However, the association's bylaws may instead provide that the notice may be given by publication in a newspaper of general circulation, published at the principal place of business of the association.

Sec. 17. (a) The business and affairs of an association shall be managed by a board of directors of at least five (5) directors. Subject to this limitation, unless specifically provided in the articles of incorporation, the number of directors shall be fixed by the bylaws, except as to the number constituting the initial board of directors. The number constituting the initial board of directors shall be fixed by the articles of incorporation.

(b) The number of directors may be increased or decreased from time to time by amendment of the bylaws, but a decrease in the number of directors may not shorten the term of an incumbent director. In the absence of articles of incorporation or bylaws that fix the number of directors, the number of directors must be the same as stated in the articles of incorporation for the initial board of directors.

Sec. 18. Except as otherwise provided in this chapter, the directors:

(1) shall be elected by the members at the annual meeting of the members; and

(2) may, if provided in the bylaws, be elected for terms of office that expire at different times.

A term of office may not continue for longer than three (3) years.

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In the absence of a provision in the bylaws for terms of office, each director, except the first board of directors, shall be elected for a term of one (1) year and hold office until the director's successor is elected and qualified. The first board of directors, as named in the articles of incorporation, shall hold office until the first annual meeting of the members.

Sec. 19. The territory served by an association may be divided into districts and the directors elected according to districts. In this case, the bylaws must specify:

(1) the number of directors to be elected in each district; and

(2) the manner and method of reapportioning the directors and of redistricting the territory served by the association.

The bylaws may provide that primary elections shall be held in each district to elect the directors apportioned to the district and that the result of the primary elections may be ratified by the members at the next annual or special meeting of the members of the association or may be considered as final.

Sec. 20. One (1) or more directors may be appointed by any public official or commission or by the other directors elected by the members or their delegates. Directors appointed as provided in this section:

(1) shall represent primarily the interest of the general public in the association, but have the same powers and rights as other directors; and

(2) may not total more than one-fifth (1/5) of the entire number of directors.

Sec. 21. (a) An association may provide a fair remuneration for:

(1) the time actually spent by the association's officers and directors in the association's service; and

(2) the service of the members of the association's executive committee and other committees.

(b) A director may not during the term of the director's office be a party to a contract for profit with the association differing in any way from the business relations accorded other members or patrons of the association.

Sec. 22. If the association's bylaws provide for an executive committee, all of the functions and powers of the board of directors may be delegated to the committee, subject to the general direction and control of the board.

Sec. 23. When a vacancy on the board of directors occurs, other than by expiration of term of office, the remaining members of the board may fill the vacancy by a majority vote of the remaining

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members, unless the bylaws provide for the election of directors by districts. If the bylaws provide for the election of directors by districts, the board of directors may call a special meeting of the members in that district to fill the vacancy or may fill the vacancy as in the case of any other vacancy. A director who is elected or appointed by the board of directors to fill a vacancy on the board shall serve until the next annual or special meeting of the members.

Sec. 24. (a) Each director must during the director's term of office be a citizen of the United States. Each director, other than a public director, must be engaged in or have a direct interest in the production of agricultural products.

(b) An association may provide in the association's bylaws that a person is not eligible for election as a director unless the person is a member or patron of the association.

(c) An association may provide in the association's bylaws that a person is not eligible for election as a director unless the person has paid any indebtedness owed by the person to the association.

Sec. 25. (a) The board of directors shall require a report to be presented to the board, at intervals determined by the board but not less often than semiannually, showing:

(1) the amount of indebtedness owed to the association by each director, officer, and employee at the close of the period; and

(2) the amount of stock, membership capital, or credits for the purchase of stock or membership capital shown on the books of the association as belonging to each director, officer, and employee.

The board of directors shall take action with respect to any individual indebtedness to the association that is larger than permitted by the bylaws as is best for the association in the sound discretion of the board.

(b) The board of directors shall require a record of attendance to be kept and the secretary of the board to make a report at the annual meeting of members detailing the directors' attendance up to and including the last directors' meeting before the annual meeting, indicating:

(1) the number of regular and special meetings of the board; and

(2) the number of regular and of special meetings attended by each member of the board designated by name.

Sec. 26. (a) An association may provide in the association's bylaws limits within which the association may extend credit,

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either directly or indirectly, to any director, officer, or employee of the association.

(b) A person who is a director, officer, or employee of the association may not be extended credit on terms that are more favorable than the terms available to any other customer or member of the association.

(c) The provisions of this chapter:

(1) concerning the extension of credit to any director, officer, or employee;

(2) requiring the inclusion of information concerning the extension of credit to any director, officer, or employee in the association's annual reports to the secretary of state; and

(3) providing penalties for failure to comply with those provisions;

apply only to associations in which more than twenty-five percent (25%) of the gross income arises directly from the purchasing of supplies for their members and others. An association with a lesser percentage of gross income arising from purchasing of supplies may adopt similar provisions in the association's articles of incorporation as originally filed or later amended. If adopted, the provisions apply in every respect to the association and to the association's directors, officers, and employees.

Sec. 27. (a) The officers of an association must consist of a president, one (1) or more vice presidents, a secretary, a treasurer, and other officers that may be prescribed by the bylaws. Each officer shall be elected or appointed by the board of directors at the time, in the manner, and for the terms as the bylaws provide, subject to the following conditions:

(1) The president and one (1) vice president must be members of the board of directors.

(2) A vice president who is not a director may not succeed to or fill the office of president.

(b) Except for the offices of the president and secretary, any two (2) or more offices may be held by the same individual.

(c) The treasurer may be a bank or depository. If the treasurer is a bank or depository:

(1) the treasurer is considered to be a function of the board of directors but not an officer of the board of directors; and

(2) the secretary shall perform the usual accounting duties of the treasurer.

However, the funds of the association must be deposited only as and where authorized by the board of directors.

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(d) The bylaws may provide for the election of the president and one (1) vice president by the members or their delegates at the annual meeting of the members.

Sec. 28 (a) A certificate of membership or a share or shares of voting stock may not be issued by an association until the membership fee or consideration for the share of stock has been paid in full. A promissory note may be accepted in full or partial payment for a share of stock or membership fee. However, the stock or membership certificate shall be held as security for the payment of the note. The acceptance of a note in full or partial payment of a share of stock or membership fee does not affect the member's right to vote if the member is not in default under the terms of the note.

(b) A member is not liable for the debts of the association to an amount exceeding the sum remaining unpaid on the member's membership fee or on the member's subscription or agreement to purchase a share or shares of stock, including any unpaid balance on any note given in payment.

(c) An association may provide in the association's articles of incorporation or bylaws that a member may not own more than a fixed amount or percentage of the association's membership capital or a fixed percentage or number of shares of the association's outstanding voting stock.

Sec. 29. (a) An association may provide in the association's articles of incorporation or bylaws that a member is not entitled to more than one (1) vote regardless of the amount of capital invested in or number of shares of voting stock owned by the member.

(b) The voting stock of or membership in an association may not be transferred to persons or associations that are not qualified to be members of an association organized under or governed by this chapter, and this restriction must be printed on every membership certificate and certificate of voting stock.

Sec. 30. (a) The net earnings or savings of an association from the association's marketing activities, purchasing activities, or marketing and purchasing activities that exceed the amounts needed to restore a deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, must be distributed, unless otherwise provided by the bylaws, to the patrons of the association on a patronage basis. If provided in the bylaws, the distribution of the net earnings or savings from the marketing activities, purchasing activities, or marketing and purchasing activities that exceed the amounts needed to restore a

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deficit, to pay dividends on outstanding stock, or to establish or provide for additions to reserves or surplus, or both, may be made at different rates for members and nonmembers, or may be restricted only to members, or only to members and those patrons with whom the association has contracted to pay patronage refunds, but all the distributions must be made on a patronage basis.

(b) If the reserves or surplus of an association are distributed at any time, the reserves or surplus must be distributed on a patronage basis as provided by the bylaws of the association.

Sec. 31. (a) An association organized with capital stock may, at any time, unless otherwise provided in the association's articles of incorporation or bylaws, and except when the debts of the association exceed fifty percent (50%) of the assets:

(1) redeem, purchase, or acquire the association's outstanding common stock at the book value, as conclusively determined by the association's board of directors, but not to exceed par; and

(2) pay for the stock in cash within one (1) year.

(b) An association organized with capital stock may, at any time, unless otherwise provided in its articles of incorporation or bylaws, redeem, purchase, or acquire the association's outstanding preferred stock. However, an association may not redeem or purchase the association's outstanding preferred stock:

(1) when the association is insolvent; or

(2) when the redemption or purchase would render the association insolvent or would reduce the net assets of the association below the total amount payable to the holders of stock having prior or equal rights to the assets of the association upon involuntary dissolution.

Sec. 32. (a) If the board of directors of an association, under authority expressly vested in the board by the articles of incorporation, adopts a resolution that determines and states the relative rights, preferences, limitations, or restrictions of any class or classes of shares, or of any series of any class or classes, the association may not issue any of such shares unless the association first presents in duplicate in the office of the secretary of state, accompanied by the fees prescribed by this chapter, a certificate signed by the secretary or assistant secretary, and verified under oath by the president or a vice president of the association, setting forth the resolution so adopted and the time and manner of its adoption.

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(b) Upon presentation of a certificate under subsection (a), the secretary of state, if the secretary of state finds that the certificate conforms to law and to the articles of incorporation of the association:

(1) shall endorse the secretary of state's approval on each copy of the certificate; and

(2) when all fees have been paid as required by law, shall:

(A) file one (1) copy of the certificate in the secretary of state's office;

(B) issue the secretary of state's certificate of approval and filing; and

(C) forward to the association the secretary of state's certificate, together with the other copy of the certificate of the officers of the association bearing the endorsement of the secretary of state's approval.

After the secretary of state takes the actions under subdivisions (1) and (2), the association may issue the shares.

Sec. 33. (a) A member of an association may bring charges against an officer or a director by filing the charges in writing with the secretary of the association, together with a petition that is signed by five percent (5%) of the members and that requests the removal of the officer or director.

(b) The removal of the officer or director shall be voted upon at the next regular or special meeting of the association. The association may by a vote of a majority of the members of the association remove the officer or director and fill the vacancy.

(c) The director or officer against whom the charges have been brought must:

(1) be informed in writing of the charges before the meeting described in subsection (b); and

(2) have an opportunity at the meeting to be heard in person or by counsel and to present witnesses.

The person or persons bringing the charges against the director or officer are entitled to the same opportunity to be heard in person or by counsel and to present witnesses.

(d) If the bylaws provide for the election of directors by districts with primary elections in each district, a petition for removal of a director must be signed by twenty percent (20%) of the members residing in the district from which the director was elected. The board of directors must call a special meeting of the members residing in that district to consider the removal of the director. The director in question may be removed from office by a vote of the

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majority of the members of that district.

Sec. 34. (a) An association and its members may make and execute marketing contracts requiring the members to sell, for any period that is not more than ten (10) years:

(1) all or any specified part of the members' agricultural products; or

(2) specified commodities;

exclusively to or through the association or any facilities to be created by the association.

(b) If a member contracts a sale to the association, it shall be conclusively held that title to the products passes absolutely and unreservedly, except for recorded liens, to the association:

(1) upon delivery; or

(2) at any other specified time, if expressly and definitely agreed in the contract.

(c) A contract authorized under this section may provide that the association may:

(1) sell or resell the products delivered by the association's members, with or without taking title to the products; and

(2) pay over to the association's members the resale price, with or without pooling, actual or proportionate, after deducting all necessary selling, overhead, and other costs and expenses, including:

(A) interest on preferred stock, not exceeding eight percent (8%) per year;

(B) reserves for retiring the stock, if any;

(C) other proper reserves;

(D) interest not exceeding eight percent (8%) per year on common stock; and

(E) any other deductions specified in the contract.

Sec. 35. (a) The bylaws or a marketing contract of an association may do the following:

(1) Fix, as liquidated damages, specific amounts to be paid by the members or stockholders to the association upon the breach of any provision of the marketing contract regarding the sale, delivery, or withholding of products.

(2) Provide that the contracting member will pay all costs, premiums for bonds, expenses, and fees if any action is brought upon the contract by the association.

A provision described in this subsection is valid and enforceable, and a clause providing for liquidated damages is enforceable and is not regarded as a penalty.

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(b) If there is a breach or threatened breach of a marketing contract regarding the sale, delivery, or withholding of products by a member, the association is entitled to:

(1) an injunction to prevent the further breach of the contract; and

(2) a decree of specific performance of the contract.

(c) Pending the adjudication of an action under subsection (b) and upon:

(1) filing a verified complaint showing the breach or threatened breach; and

(2) filing a sufficient bond;

the association is entitled to a temporary restraining order and preliminary injunction against the member.

(d) Subsections (a), (b), and (c) are applicable to, and the rights and remedies described in subsections (a), (b), and (c) are available to, any corporation that is organized under any agricultural cooperative law of any other state of the United States and is admitted to do business in Indiana.

(e) A grower of agricultural products that signs a marketing agreement with a cooperative marketing association organized under this chapter is permitted to place crop mortgages on the grower's crops. However, the crop mortgages and other liens are subordinate to the right of the association to take delivery of any such crops covered by the marketing agreement. In such cases, if the mortgagee or lien holder serves proper notice on the association, the proportionate proceeds due or payable to that grower become subject to the mortgages or liens instead of the crops originally covered by the mortgages or liens. If any deficiency remains at the end of the season, the grower is liable for the deficiency under the present practice, and the mortgagee or lienholder has the same rights against the grower for the deficiency as the grower possesses.

Sec. 36. If an association that is organized under or governed by this chapter with capital stock purchases:

(1) the stock;

(2) any property; or

(3) any interest in any property;

of any person, firm, corporation, or association, the association may discharge the obligations incurred in the purchase, wholly or in part, by exchanging for the acquired interest, shares of the association's capital stock to an amount that at par value would equal the fair market value of the stock or interest purchased, as

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determined by the board of directors. In that case, the transfer to the association of the stock or interest purchased must be equivalent to payment in cash for the shares of stock issued.

Sec. 37. (a) During April of every other year, each association organized or reorganized under this chapter shall prepare and file a biennial report setting forth the following information:

(1) The name of the association and the state or country under whose law the association is incorporated.

(2) The address of the association's registered office and the name of the association's registered agent at that office in Indiana.

(3) The address of the association's principal office.

(4) The names and business or residence addresses of the association's directors, secretary, and highest executive officer.

(b) The biennial report of each association must be:

(1) made on a form prescribed and furnished by the secretary of state;

(2) signed by any current officer of the association or, if the association is in the hands of a receiver or a trustee, by the receiver or trustee;

(3) verified and affirmed subject to the penalties for perjury; and

(4) filed in the office of the secretary of state, accompanied by the fees prescribed by law.

(c) Information in the biennial report must be current as of the date the biennial report is executed on behalf of the association.

(d) The first biennial report of the association must be delivered to the secretary of state in the second year following the calendar year in which the association was organized. Subsequent biennial reports must be delivered to the secretary of state every second year following the year in which the last biennial report was filed.

Sec. 38. (a) If, upon receipt of a biennial report delivered under section 37 of this chapter, the secretary of state determines or has reason to believe that the association filing the report is not disclosing the association's true financial condition or is violating this chapter, the secretary of state may require the association to disclose all material facts by:

(1) submitting a verified audit bearing the certificate under oath of a qualified public accountant approved by the secretary of state;

(2) replying to interrogatories; or

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(3) reporting under oath on any matters requested by the secretary of state.

(b) An officer or a director of an association who knowingly distributes, publishes, or files with the secretary of state a written report, certificate, or statement of the condition or business of the association that is false in any material respect commits a Class D felony.

Sec. 39. A law in conflict with this chapter may not be construed to apply to an association provided for in this chapter.

Sec. 40. A person, or a firm, a limited liability company, a corporation, or an association organized in Indiana after February 23, 1925, may not use the word "cooperative" as part of its corporate or other business name or title for cooperative activities of producers of agricultural products unless it has complied with this chapter.

Sec. 41. An association may organize, form, operate, own, control, have an interest in, own stock of, or be a member of any corporation or corporations, or association or associations, with or without capital stock, that are engaged in:

(1) any activity in connection with the producing, marketing, selling, preserving, harvesting, drying, processing, manufacturing, canning, packing, grading, storing, transportation, handling, or use of any:

(A) agricultural products; or

(B) byproducts of any agricultural products;

handled by the association or the association's patrons;

(2) any activity in connection with the manufacturing, assembling, selling, supplying, purchasing, hiring, transportation, or use of supplies, machinery, or equipment that the association or the association's patrons use; or

(3) the financing of any activities described in subdivision (1) or (2) or in performing or furnishing economic or educational service for persons engaged in agriculture.

Sec. 42. (a) An association may, upon resolution adopted by the association's board of directors:

(1) enter into all necessary and proper contracts and agreements; and

(2) make all necessary and proper stipulations, agreements, and contracts and arrangements with any other cooperative corporation, association, or associations formed in Indiana or in any other state;

for the cooperative and more economical performance of all or any

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part of the association's business.

(b) Any two (2) or more associations may, by agreement between them:

(1) unite in employing and using; or

(2) separately employ and use;

the same personnel, methods, means, and agencies for carrying on and conducting the associations' respective businesses.

Sec. 43. (a) A corporation or an association organized under statutes in effect before February 23, 1925, may by a majority vote of its stockholders or members, may elect to be governed by this chapter by:

(1) limiting its membership; and

(2) adopting the other restrictions provided in this chapter.

(b) The corporation or association shall make out in duplicate a statement signed and sworn to by its directors specifying that the corporation or association has, by a majority vote of the stockholders or members:

(1) decided to accept the benefits of and be bound by this chapter; and

(2) authorized the changes.

Articles of incorporation must be filed as required in section 12 of this chapter, except that the articles of incorporation must be signed by the current members of the board of directors. The filing fee is the same as for filing an amendment to articles of incorporation.

Sec. 44. A person or corporation whose officers or employees knowingly induce or attempt to induce any member or stockholder of an association:

(1) organized under this chapter; or

(2) organized under any agricultural cooperative law of any other state of the United States and admitted to do business in Indiana;

to breach the member's or stockholder's marketing contract with the association is liable to the aggrieved association in a civil suit in the penal sum of one hundred dollars ($100) for each offense. In addition, the person or corporation shall pay to the association reasonable attorney's fees and all costs involved in the litigation or proceedings at law.

Sec. 45. (a) A person, firm, limited liability company, or corporation that:

(1) operates a warehouse, an elevator, or other receiving place or deals in any agricultural products within Indiana; and

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(2) solicits, persuades, or permits any member of an association:

(A) organized under this chapter; or

(B) organized under any agricultural cooperative law of any other state of the United States and admitted to do business in Indiana;

to breach the member's marketing contract with the association by accepting or receiving the member's products for sale, for auction, or for display for sale, contrary to the terms of a marketing agreement of which the person, a member of the firm, the manager of the limited liability company, or an active officer or manager of the corporation has knowledge or notice;

is liable to the aggrieved association in a civil suit in the penal sum of one hundred dollars ($100) for each offense, and the aggrieved association is entitled to an injunction against the warehouseman or other person to prevent further breaches and a multiplicity of actions on the breach.

(b) Pending the adjudication of an action under subsection (a) and upon filing:

(1) a verified complaint showing the breach or threatened breach of a marketing contract by reason of any acts described in subsection (a); and

(2) a sufficient bond or undertaking;

the aggrieved association is entitled to a temporary restraining order and a temporary injunction against the person, firm, limited liability company, or corporation. In addition, the warehouseman or other person, firm, limited liability company, or corporation shall pay to the association reasonable attorney's fees and all costs involved in the litigation or legal proceedings.

Sec. 46. (a) An association that is organized under this chapter or that is organized under an agricultural cooperative law of another state and is admitted to do business in Indiana is not:

(1) a conspiracy or a combination in restraint of trade;

(2) an illegal monopoly; or

(3) an attempt to:

(A) lessen competition;

(B) fix prices arbitrarily; or

(C) create a combination or pool;

in violation of any Indiana law.

(b) The marketing contracts and agreements between an association described in subsection (a) and the association's

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members and any agreements authorized in this chapter are not:

(1) illegal;

(2) in restraint of trade; and

(3) contrary to any law enacted against pooling or combinations.

Sec. 47. IC 23-1 and all powers and rights under IC 23-1 apply to associations organized under or governed by this chapter, except where IC 23-1 conflicts with or is inconsistent with this chapter.

Sec. 48. (a) The secretary of state shall charge and collect for the benefit of the state the following fees:

(1) For filing with the secretary of state the articles of incorporation of an association organized or a corporation reorganized under this chapter providing for the issuance of membership certificates only and not for certificates of stock, five dollars ($5).

(2) For filing with the secretary of state articles of incorporation of an association organized or a corporation reorganized under this chapter providing for the issuance of capital stock not in excess of five thousand dollars ($5,000) of par value, five dollars ($5). If the capital stock authorized to be issued by the association exceeds five thousand dollars ($5,000), one cent ($0.01) for each one hundred dollars ($100) of additional par value.

(3) For filing with the secretary of state a certificate of increase of capital stock of any association for an increase of not more than five thousand dollars ($5,000) of par value, five dollars ($5), and for each one hundred dollars ($100) of par value of increase above five thousand dollars ($5,000), one cent ($0.01).

(4) For filing with the secretary of state any certificate not specified in this section, five dollars ($5) each, regardless of the number of amendments contained in the certificate, with the exception of increases of capital stock, the fee for which is as provided in subdivision (3).

(5) For filing biennial or special reports of associations, two dollars ($2) for each filing, which is in addition to any other fees specified in this section. The biennial report filing fee is one dollar ($1) per year, to be paid biennially.

(6) For filing a designation of or change of resident agent for any association, one dollar ($1).

(7) For each certificate issued by the secretary of state, one dollar ($1), and for each impression of the seal of the state of

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Indiana affixed by the secretary of state on the certificate, fifty cents ($0.50).

(b) Fees collected under subsection (a) shall be deposited in the state general fund.

Sec. 49. (a) Any nonprofit cooperative association organized under the agricultural cooperative law of any state of the United States other than Indiana and not admitted to do business in Indiana before March 12, 1935, must submit the following to the secretary of state at the secretary of state's office before transacting any business in Indiana:

(1) A copy of the nonprofit cooperative association's articles of incorporation, with all amendments to the articles of incorporation. The copy of the nonprofit cooperative association's articles of incorporation must be authenticated by the proper officer of the state where the nonprofit cooperative association is incorporated.

(2) An application for admission, which must contain the same information as required in the articles of incorporation of an association seeking to be incorporated under this chapter, together with any additional information that the secretary of state may require, which must include a statement of assets and liabilities as of a date not earlier than thirty (30) days before the filing of the application for admission. The information shall be submitted in triplicate originals on forms prescribed by the secretary of state.

(3) The prescribed fees.

(b) An application submitted under subsection (a) must be signed and verified under oath by:

(1) the president or vice president; and

(2) the secretary or assistant secretary;

of the association.

(c) Except for a fee calculated on the basis of capital or capital stock, which must be calculated on the proportion of the capital or capital stock represented in Indiana, the fees described in this section must equal the fees that would be required if the applicant were seeking to be incorporated under this chapter. However, the fee may not be less than ten dollars ($10).

Sec. 50. (a) If the secretary of state finds that an application for admission submitted under section 49 of this chapter conforms to law and that all patrons of the association who reside in Indiana will be entitled to receive substantially the same rights, benefits, and privileges from the association as though the association were

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incorporated under this chapter, the secretary of state shall:

(1) endorse the secretary of state's approval upon each of the triplicate copies; and

(2) if all fees required by law have been paid:

(A) file one (1) copy of the application for admission and an authenticated copy of the articles of incorporation of the association in the secretary of state's office; and

(B) issue to the association an original and a duplicate certificate of admission, accompanied by two (2) copies of the application bearing the endorsement of the secretary of state's approval.

(b) A certificate of admission issued under subsection (a) must set forth the following:

(1) The name of the association, the state where the association was incorporated, and the location of the association's principal office in that state.

(2) The character of business the association is authorized to transact in Indiana.

(3) The amount of the association's authorized capital stock, if any, and the amount of capital stock issued and outstanding.

(4) The amount of the fee paid for the association's admission.

(5) The address of the corporation in Indiana.

(6) The name and address of the association's resident agent in Indiana for service of legal process.

Sec. 51. Any nonprofit cooperative association organized under the agricultural cooperative law of another state and admitted to do business in Indiana:

(1) may transact business as set forth in the certificate of admission issued to the association by the secretary of state;

(2) has the same rights, privileges, powers, and remedies at law or in equity possessed by an association incorporated under this chapter; and

(3) is subject to the same liabilities, restrictions, duties, and penalties imposed on an association incorporated under this chapter.

Sec. 52. Certificates of stock or of membership issued, transferred, redeemed, or canceled by an association are governed by this chapter and the articles of incorporation and bylaws of the association.

Chapter 2. Indiana Rural Rehabilitation Corporation

Sec. 1. As used in this chapter, "director" means the director of the department of agriculture.

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Sec. 2. The director is designated as the state official to make application to and receive from the United States Secretary of Agriculture, or any other proper federal official, under and subject to Public Law 499, 81st Congress, approved May 3, 1950, the trust assets, either funds or property, held by the United States as trustee on behalf of the Indiana rural rehabilitation corporation.

Sec. 3. (a) The director may enter into agreements with the United States Secretary of Agriculture under Section 2(f) of Public Law 499, 81st Congress, upon the terms and conditions and for periods as may be mutually agreeable, authorizing the United States Secretary of Agriculture to accept, administer, expend, and use in Indiana all or any part of the trust assets or any other funds of the state of Indiana that may be appropriated to use in carrying out the purposes of Titles 1 and 2 of the Bankhead-Jones Farm Tenant Act, in accordance with the applicable provisions of Title 4 of the Bankhead-Jones Farm Tenant Act, as amended.

(b) The director shall provide in an agreement with the United States Secretary of Agriculture under this section:

(1) that all of the funds shall be administered through the Farmer's Home Administration;

(2) that only three percent (3%) of the book value of the assets transferred may be used for administrative purposes; and

(3) that the Farmer's Home Administration may do any and all things necessary to effectuate and carry out the purposes of agreements under this section.

Sec. 4. Notwithstanding any other law, funds and the proceeds of the trust assets that are not authorized to be administered by the United States Secretary of Agriculture under section 3 of this chapter shall be received by the director under an application made under section 2 of this chapter. The director shall deposit the funds with the treasurer of state. The funds shall be held in a special fund for expenditure on proper voucher and warrant by the director for purposes of section 3 of this chapter.

Sec. 5. (a) The director may do the following:

(1) Collect, compromise, adjust, or cancel claims and obligations arising out of or administered under:

(A) this chapter; or

(B) any mortgage, lease, contract, or agreement entered into or administered under this chapter.

(2) If in the director's judgment it is necessary and advisable, pursue a claim or an obligation described in subdivision (1) to final collection in any court having jurisdiction.

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(3) Bid for and purchase at any execution, foreclosure, or other sale or otherwise acquire property:

(A) on which the director has a lien by reason of a judgment or execution; or

(B) that is pledged, mortgaged, or conveyed to secure or that otherwise secures any loan or other indebtedness owing to or acquired by the director under this chapter.

(4) Accept title to any property purchased or acquired under this section, operate or lease the property for a period considered necessary to protect the investment in the property, and sell or dispose of the property in a manner consistent with this chapter.

(b) The authority under this section shall be delegated by the director to the United States Secretary of Agriculture with respect to funds or assets authorized to be administered and used by the director under agreements entered into under section 3 of this chapter.

Sec. 6. The United States and the United States Secretary of Agriculture may not be held liable for the transfer of assets to the director under this chapter.

Chapter 3. Repurchase of Farm or Industrial Machinery Inventory

Sec. 1. (a) This chapter applies to the following:

(1) Contracts that may be terminated or altered at will.

(2) Contracts formed or renewed after June 30, 1989.

(b) This chapter may not be construed to impair the obligation of a contract in violation of Article 1, Section 24 of the Constitution of the State of Indiana.

(c) This chapter does not affect a security interest that a wholesaler, manufacturer, or distributor may have in a retailer's inventory.

Sec. 2. As used in this chapter, "all terrain vehicle" means a motorized, off-highway vehicle that:

(1) is fifty (50) inches or less in width;

(2) has a dry weight of six hundred (600) pounds or less;

(3) is designed for travel on at least three (3) low pressure tires;

(4) is designed for operator use only with no passengers;

(5) has a seat or saddle designed to be straddled by the operator; and

(6) has handlebars for steering control.

The term includes parts, equipment, or attachments sold with the

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vehicle.

Sec. 3. As used in this chapter, "current net price" means:

(1) the price listed by a wholesaler, manufacturer, or distributor of inventory in effect at the time a contract is terminated; minus

(2) an applicable trade or cash discount.

Sec. 4. (a) As used in this chapter, "farm or industrial machinery" means any of the following:

(1) A farm implement.

(2) A tractor.

(3) Farm machinery.

(4) Utility and industrial equipment.

(5) Construction machinery, including a track and wheel tractor, a motor grader, and an excavator.

(6) An attachment or repair part for a machine listed in subdivisions (1) through (5).

(b) The term does not include an all terrain vehicle.

Sec. 5. As used in this chapter, "inventory" means farm or industrial machinery held by a retailer.

Sec. 6. As used in this chapter, "net cost" means:

(1) the price a retailer paid to a wholesaler, manufacturer, or distributor for inventory; minus

(2) any discounts, retainage, and prepaid freight or return freight.

Sec. 7. As used in this chapter, "person" means an individual, a corporation, a limited liability company, a partnership, a trust, or an unincorporated association.

Sec. 8. (a) As used in this chapter, "retailer" means a person engaged in the business of selling, at retail, farm or industrial machinery.

(b) The term does not include a retail seller of:

(1) petroleum products, if the sale of petroleum products is the primary purpose of the retail seller's business;

(2) motor vehicles (as defined in IC 9-13-2-105(a)); or

(3) automotive care and replacement products.

(c) The term includes the heirs, personal representative, guardian, or receiver of a retailer.

Sec. 9. As used in this chapter, "retainage" refers to various purchase, invoice, and other discounts held by the supplier and due the retailer at a later time.

Sec. 10. (a) Upon the termination of a written or an unwritten contract between a retailer and a wholesaler, manufacturer, or

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distributor of farm or industrial machinery under which the retailer had agreed to maintain an inventory, the wholesaler, manufacturer, or distributor shall repurchase the inventory of the retailer under section 11 of this chapter.

(b) If the retailer has an outstanding debt to the wholesaler, manufacturer, or distributor, the amount to be paid in repurchase of the inventory may be credited to the retailer's account.

(c) The requirement under subsection (a) that a wholesaler, manufacturer, or distributor repurchase inventory does not apply when a contract is terminated based upon:

(1) the conviction of the retailer (or a principal owner or operator of the retailer) of an offense involving theft, dishonesty, or false statement; or

(2) a fraudulent misrepresentation by the retailer to the wholesaler, manufacturer, or distributor that is material to the contract.

Sec. 11. (a) Except as provided in section 14 of this chapter, a wholesaler, manufacturer, or distributor shall repurchase farm or industrial machinery that:

(1) the retailer previously purchased from the wholesaler, manufacturer, or distributor; and

(2) the retailer held as inventory on the date of the termination of the contract.

(b) For purposes of subsection (a)(1), proof of purchase from the supplier may include retail invoices from the supplier or a reference to an item in a current or past supplier price book.

Sec. 12. (a) The price for a repurchase under this chapter must equal the sum of:

(1) one hundred percent (100%) of the net cost of all new, unsold, undamaged, and complete farm or industrial machinery (except repair parts); plus

(2) one hundred percent (100%) of the current net price of all new, unused, and undamaged repair parts.

(b) Except as provided in subsection (c), a wholesaler, manufacturer, or distributor that is required to repurchase farm or industrial machinery from a retailer under this chapter shall pay freight charges incurred in shipping the farm or industrial machinery (except repair parts) back to the wholesaler, manufacturer, or distributor.

(c) A retailer shall pay freight charges incurred in shipping repair parts that are repurchased under this chapter back to the wholesaler, manufacturer, or distributor.

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(d) A retailer is responsible for the packaging of all farm or industrial machinery that is repurchased from the retailer under this chapter in preparation for the shipment of the machinery back to the wholesaler, manufacturer, or distributor.

Sec. 13. Upon the payment to the retailer of the repurchase price under section 12 of this chapter, the title to the inventory passes to the wholesaler, manufacturer, or distributor.

Sec. 14. This chapter does not require the repurchase of any of the following:

(1) A repair part that has a limited storage life or is subject to deterioration, including rubber items, gaskets, batteries, solvents, and lubricants.

(2) A single repair part that is priced as a set of two (2) or more items.

(3) Inventory for which the retailer is unable to furnish evidence, satisfactory to the wholesaler, manufacturer, or distributor, of clear title, free and clear of all claims, liens, and encumbrances.

(4) Inventory that the retailer desires to keep, provided the retailer has a contractual right to keep the inventory.

(5) Inventory that is not in a new, unused, and undamaged condition.

(6) Inventory that was ordered by the retailer on or after the date of notification of termination of the contract.

(7) Inventory that was acquired by the retailer from a source other than the wholesaler, manufacturer, or distributor.

(8) Complete farm and industrial machinery, except repair parts, that was purchased at least thirty-six (36) months before the date of termination.

(9) A repair part that is in a broken or damaged package, if the package is necessary for the resale of the repair part to a customer by a retailer.

Sec. 15. A wholesaler, manufacturer, or distributor that fails or refuses to repurchase inventory as required under this chapter within ninety (90) days after the termination of a contract is liable in a civil action to the retailer for:

(1) one hundred percent (100%) of the current net price of repair parts;

(2) one hundred percent (100%) of the net cost of all other inventory;

(3) the retailer's reasonable attorney's fees;

(4) court costs; and

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(5) interest on the amounts determined under subdivisions (1) through (2), computed at a simple interest rate that is set by the court at not less than six percent (6%) per year and not more than ten percent (10%) per year, and beginning to accrue on the sixty-first day after the termination of the contract.

Sec. 16. (a) If a retailer:

(1) is an individual who dies or is incapacitated; or

(2) is a corporation that becomes insolvent;

the retailer's heirs, personal representative, guardian, or receiver may compel a wholesaler, manufacturer, or distributor to repurchase the retailer's inventory under this chapter as if the retailer's contract had terminated.

(b) The retailer's heirs, personal representative, guardian, or receiver must exercise the right provided by this section not later than one hundred eighty (180) days after the retailer's death, incapacitation, or insolvency. However, this section does not require the repurchase of inventory if the heirs, personal representative, guardian, or receiver enters into a new contract with the wholesaler, manufacturer, or distributor.

Sec. 17. A retailer, wholesaler, manufacturer, or distributor may, in person or through a representative, inspect all inventory and certify its acceptability when it is packed for shipment to the wholesaler, manufacturer, or distributor for repurchase under this chapter.

Chapter 4. Mediation Program

Sec. 1. The following definitions apply throughout this chapter:

(1) "Director" refers to the director of the department of agriculture or the director's designee.

(2) "Remediation program" refers to the program established under section 2 of this chapter.

Sec. 2. The director may establish a program under 7 U.S.C. 6991 et seq. (the Federal Crop Insurance Reform and Department of Agriculture Reorganization Act of 1994) to provide procedures for mediating adverse decisions by agencies of the United States Department of Agriculture.

Sec. 3. The remediation program may be certified by the United States Department of Agriculture.

Sec. 4. The director may apply to the Secretary of the United States Department of Agriculture for financial assistance for the operation and administration of the remediation program.

Sec. 5. The director may adopt rules under IC 4-22-2 that are

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necessary to administer the remediation program.

Sec. 6. (a) The director must approve each mediator who serves in the remediation program.

(b) Before a mediator may be approved, the director shall provide adequate training to the mediator to ensure that the mediator:

(1) has a reasonable expertise in agriculture, including a basic understanding of federal and state agricultural programs; and

(2) is not biased, prejudiced, or personally interested in the outcome of a proceeding.

Chapter 5. Indiana Land Resources Council

Sec. 1. As used in this chapter, "council" refers to the Indiana land resources council established by section 3 of this chapter.

Sec. 2. As used in this chapter, "director" refers to the director of the department of agriculture.

Sec. 3. The Indiana land resources council is established.

Sec. 4. The director shall provide the necessary staff and administrative support for the council.

Sec. 5. The purpose of the council is to:

(1) collect information; and

(2) provide:

(A) educational assistance;

(B) technical assistance; and

(C) advice;

to local governments regarding land use strategies and issues across the state.

Sec. 6. The council may do the following:

(1) Provide technical assistance and information about land use strategies.

(2) Facilitate collaboration among commonly affected state, county, and local government units.

(3) Compile and maintain a land planning information library, both hard copy and electronic, that includes current data on land resources in Indiana.

(4) Establish or coordinate educational programs for governmental units, nongovernmental entities, and the public with special consideration for local planning commission members and county commissioners.

(5) Provide counties and local communities conducting land use planning with access to technical and legal assistance through a referral service.

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(6) Provide information to local authorities on model ordinances for programs and techniques on land use.

(7) Obtain grants and assist counties and local communities in locating additional funding sources for planning projects.

(8) Make recommendations to the general assembly and other governmental bodies concerning land resources.

(9) When requested, advise the general assembly on proposals relating to land resources.

Sec. 7. (a) The council consists of the following members:

(1) The director or the director's designee.

(2) Nine (9) members appointed by the governor as follows:

(A) One (1) member representing county government.

(B) One (1) member representing municipal government.

(C) One (1) member representing farm owners.

(D) One (1) member representing home building and land development.

(E) One (1) member representing business.

(F) One (1) member representing the environment.

(G) One (1) member with expertise in land use issues representing academia.

(H) One (1) member representing soil and water conservation districts.

(I) One (1) member representing forestry.

(b) Not more than five (5) of the members appointed by the governor under subsection (a)(2) may be of the same political party.

(c) The term of a member is four (4) years.

(d) Each member appointed by the governor under subsection (a)(2) is entitled to hold office for the term of the member's appointment and is entitled to continue to serve after expiration of the member's appointment until a successor is appointed and qualified.

(e) A member is eligible for reappointment.

(f) A member appointed by the governor under subsection (a)(2) may be removed from office by the governor and serves at the pleasure of the governor.

(g) If a vacancy occurs among the members of the council appointed by the governor under subsection (a)(2), the governor shall appoint an individual to serve for the unexpired term of the vacating member.

Sec. 8. The director or the director's designee serves as chairperson of the council.

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Sec. 9. (a) A quorum of the council for transacting business consists of six (6) members.

(b) The affirmative vote of at least six (6) members is necessary for any action to be taken by the council.

(c) A vacancy in the membership of the council does not impair the right of a quorum to exercise all rights and perform all duties of the council.

Sec. 10. The council shall meet at the call of the chairperson.

Sec. 11. The council's records and information shall be kept at the office of the director.

Sec. 12. (a) Each member of the council who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the council who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

SECTION 4. IC 15-13 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 13. STATE FAIR

Chapter 1. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Advisory committee" refers to the state fair advisory committee established by IC 15-13-6-1.

Sec. 3. "Agricultural interest" means any of the following:

(1) The Indiana Farm Bureau, Inc.

(2) The Farmers' Union.

(3) The Grange.

(4) The National Farmers Organization.

(5) A county or another regularly organized agricultural fair, including a county 4-H fair.

(6) The beef cattle industry.

(7) The dairy cattle industry.

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(8) The grain growers' industry.
(9) Home economic clubs.
(10) The horticulture industry.
(11) Horse associations.
(12) The poultry industry.
(13) The sheep industry.
(14) The swine industry.
(15) The vegetable growers' industry.
(16) A county cooperative extension board.
(17) A soil and water conservation district.

Sec. 4. "Barn" refers to the center for agricultural science and heritage established by IC 15-13-11-1.

Sec. 5. "Barn director" refers to the individual who administers the educational programs and operations of the barn.

Sec. 6. "Board" refers to the state fair board established by IC 15-13-5-1.

Sec. 7. "Bond" means a revenue bond issued by the commission under IC 15-13-10.

Sec. 8. "Commission" refers to the state fair commission established by IC 15-13-2-1.

Sec. 9. "Cost of a project", for purposes of IC 15-13-10, has the meaning set forth in IC 15-13-10-1.

Sec. 10. "District" means any of the following districts:

(1) District 1 consists of the following counties:
Benton County
Carroll County
Jasper County
Lake County
Newton County
Porter County
Pulaski County
Starke County
White County.

(2) District 2 consists of the following counties:
Cass County
Elkhart County
Fulton County
Howard County
Kosciusko County
LaPorte County
Marshall County
Miami County

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St. Joseph County
Whitley County.
(3) District 3 consists of the following counties:
Adams County
Allen County
Blackford County
DeKalb County
Delaware County
Grant County
Huntington County
Jay County
LaGrange County
Noble County
Steuben County
Wabash County
Wells County.
(4) District 4 consists of the following counties:
Bartholomew County
Dearborn County
Decatur County
Fayette County
Franklin County
Hamilton County
Hancock County
Henry County
Jennings County
Johnson County
Madison County
Ohio County
Randolph County
Ripley County
Rush County
Shelby County
Switzerland County
Union County
Wayne County.
(5) District 5 consists of the following counties:
Clark County
Crawford County
Daviess County
Dubois County
Floyd County

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Gibson County
Harrison County
Jackson County
Jefferson County
Knox County
Lawrence County
Martin County
Orange County
Perry County
Pike County
Posey County
Scott County
Spencer County
Vanderburgh County
Warrick County
Washington County.

(6) District 6 consists of the following counties:
Boone County
Brown County
Clay County
Clinton County
Fountain County
Greene County
Hendricks County
Monroe County
Montgomery County
Morgan County
Owen County
Parke County
Putnam County
Sullivan County
Tippecanoe County
Tipton County
Vermillion County
Vigo County
Warren County.

(7) District 7 consists of the following county:
Marion County.

Sec. 11. "Fair" refers to the fair held by the board under IC 15-13-7.

Sec. 12. "Fairgrounds" means the real estate owned by the commission that was originally conveyed to the state by the

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Indiana state board of agriculture by warranty deed dated May 31, 1921, and recorded in the office of the recorder of Marion County on April 21, 1923, in Land Record 74, page 347.

Sec. 13. "Fund" refers to the state fair fund established by IC 15-13-8-1.

Sec. 14. "Political subdivision" has the meaning set forth in IC 36-1-2-13.

Sec. 15. "Project", for purposes of IC 15-13-10, has the meaning set forth in IC 15-13-10-2.

Sec. 16. "Property" has the meaning set forth in IC 35-41-1-23.

Sec. 17. "Trustees" refers to the board of trustees for the barn established by IC 15-13-11-2.

Chapter 2. State Fair Commission

Sec. 1. (a) The state fair commission is established.

(b) The commission:

(1) is a separate body, corporate and politic;

(2) is not a state agency; and

(3) performs essential governmental functions.

Sec. 2. (a) The commission consists of eight (8) members as follows:

(1) Five (5) members appointed by the governor.

(2) The presiding officer of the board.

(3) The director of the department of agriculture appointed under IC 15-11-3-1 or the director's designee.

(4) The presiding officer of the trustees elected under IC 15-13-11-7 or the presiding officer's designee who must be selected from the membership of the trustees.

(b) The chairperson of the advisory committee appointed under IC 15-13-6-2(d) or a member of the advisory committee designated by the chairperson may serve as an ex officio nonvoting member of the commission.

(c) Not more than:

(1) one (1) member appointed under subsection (a)(1) may reside in the same district; and

(2) three (3) members appointed under subsection (a)(1) may be affiliated with the same political party.

Each district is not required to have a member of the commission represent it.

(d) Two (2) members appointed under subsection (a)(1) must have a recognized interest in agriculture or agribusiness.

Sec. 3. (a) Except as provided in subsection (d), the term of an individual appointed under section 2(a)(1) of this chapter begins on

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the later of the following:

(1) October 1 after the expiration of the term of the member whom the individual is appointed to succeed.

(2) The day the individual is appointed by the governor.

(b) The term of a member appointed under section 2(a)(1) of this chapter expires on September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(c) Except as provided in subsection (d), the governor may reappoint a member appointed under section 2(a)(1) of this chapter for a new term. A member reappointed by the governor is the member's own:

(1) successor for purposes of subsection (a); and

(2) immediate predecessor for purposes of subsection (b).

(d) An individual may not serve as a member under section 2(a)(1) of this chapter for more than eight (8) years in any twelve (12) year period, except as provided in section 4(c) of this chapter.

(e) The member serving under section 2(a)(2) of this chapter serves until the member is not the presiding officer of the board.

Sec. 4. (a) The governor shall appoint an individual qualified under sections 2 and 3 of this chapter to fill a vacancy on the commission.

(b) An individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the member the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment under this section is not considered in determining the number of years that a member has served in a twelve (12) year period for purposes of section 3(d) of this chapter.

Sec. 5. (a) The governor shall appoint a member appointed under section 2(a)(1) of this chapter to be the presiding officer of the commission. The presiding officer of the commission serves until the earlier of the following:

(1) The member's term expires.

(2) The member is replaced as presiding officer by the governor.

(b) The commission may elect other officers for the commission from the commission's membership.

Sec. 6. (a) Each member of the commission who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). The member is also entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties

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as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Each member of the commission who is a state employee is entitled to reimbursement for traveling expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 7. A majority of the members of the commission constitutes a quorum for the transaction of business.

Sec. 8. The commission shall administer this article.

Sec. 9. The commission may adopt rules under IC 4-22-2 to implement this article.

Sec. 10. (a) The commission shall employ an executive director who is the chief administrative officer of the commission.

(b) The executive director shall implement the policies of the commission.

(c) The commission may delegate to the executive director any of the commission's powers. The commission may make a delegation under this subsection by either of the following:

(1) A resolution adopted by the commission.

(2) A rule adopted by the commission under IC 4-22-2.

Sec. 11. The executive director may hire staff for the commission.

Sec. 12. The executive director may delegate a power or duty of the executive director to a member of the staff.

Sec. 13. (a) The commission shall:

(1) adopt:

(A) rules under IC 4-22-2; or

(B) a policy;

establishing a code of ethics for employees of the commission; or

(2) decide it wishes to be under the jurisdiction and rules adopted by the state ethics commission.

(b) A code of ethics adopted by rules or policy under this section must be consistent with Indiana law and approved by the governor.

Sec. 14. The commission shall pay the expenses of the commission from the money of the commission, including the fund.

Sec. 15. (a) Before the issuance of any bonds under this chapter:

(1) the executive director of the commission;

(2) each member of the commission; and

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(3) any other employee or agent of the commission authorized by resolution of the commission to handle funds or sign checks;

shall execute a surety bond in the penal sum of fifty thousand dollars ($50,000).

(b) If an individual described in subsection (a)(1) through (a)(3) is already covered by a bond required by state law, the individual does not need to obtain another bond if the bond required by state law:

(1) is in at least the penal sum specified in subsection (a); and

(2) covers the individual's activities for the authority.

(c) Instead of the surety bond required under subsection (a), the chairperson of the commission may execute a blanket surety bond covering each member, the executive director, and the employees or other officers of the commission.

(d) A surety bond required under this section must be:

(1) conditioned upon the faithful performance of the individual's duties; and

(2) issued by a surety company authorized to transact business in Indiana as a surety.

(e) After the issuance of any surety bonds, the surety bonds must be maintained in full force and effect at all times.

(f) The commission shall pay the costs of the surety bonds issued under this section.

Chapter 3. Powers and Duties of the Commission

Sec. 1. The commission shall maintain and develop the:

(1) fairgrounds; and

(2) other property owned by the commission.

Sec. 2. The commission shall administer the:

(1) fairgrounds; and

(2) property owned by the commission;

to provide for maximum use of the fairgrounds and property of the commission for the benefit of the citizens of Indiana.

Sec. 3. (a) The commission is responsible for holding the fair. Holding the fair shall be given priority over all other activities by the commission during the period the fair is held.

(b) In addition to holding the fair, the commission may:

(1) hold expositions;

(2) hold exhibitions; and

(3) engage in any other lawful activity that does not interfere with the operation of the fair.

Sec. 4. The commission may do the following:

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(1) Enter into contracts related to the commission's powers and duties under this article.
(2) Receive gifts.
(3) Charge admissions.
(4) Purchase, lease, and sell real and personal property.
(5) Make improvements to the fairgrounds and property owned by the commission.

Sec. 5. The commission may not permit unlawful activities to be conducted on any of the following:
(1) The fairgrounds.
(2) Property owned by the commission.

Sec. 6. The commission has complete control over the use of the:
(1) fairgrounds; and
(2) property owned by the commission.

Sec. 7. (a) The commission shall adopt a cost accounting system that is governed by generally accepted accounting principles.

(b) The commission is subject to audit by the state board of accounts.

Sec. 8. The commission shall adopt rules under IC 4-22-2 relating to the following:
(1) Procurement of property.
(2) Disposition of property owned by the commission.
(3) Contracting procedures.

Sec. 9. At the first meeting each year of the advisory committee, the commission shall report the following:
(1) The activities of the commission during the previous calendar year.
(2) The financial condition of the commission for the commission's most recently completed fiscal year.
(3) The commission's plans for the current calendar year.

Sec. 10. (a) Promptly following the close of a fiscal year, the commission shall submit an annual report of the commission's activities for the preceding year to the:
(1) governor;
(2) budget committee; and
(3) general assembly.

(b) The annual report submitted under this section to the general assembly must be in an electronic format under IC 5-14-6.

(c) The annual report must set forth a complete operating and financial statement of the commission during that year.

Chapter 4. Property of the Commission

Sec. 1. The commission holds title to property in the

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commission's name.

Sec. 2. (a) The commission holds the fairgrounds in trust for the state.

(b) The commission may not dispose of any part of the fairgrounds except as authorized by a statute specifically providing for disposal of that part of the fairgrounds.

Sec. 3. The commission may not dispose of real property owned by the commission not covered under section 2 of this chapter without the consent of the governor.

Sec. 4. The fairgrounds and property of the commission are exempt from the following:

(1) State taxes.

(2) Local taxes.

(3) License fees.

(4) Special assessments.

Sec. 5. The following may not take an interest in the fairgrounds or property owned by the commission without the consent of the commission:

(1) A political subdivision.

(2) A utility.

Chapter 5. State Fair Board

Sec. 1. The state fair board is established.

Sec. 2. (a) The board consists of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the department of agriculture or the director's designee.

(3) The director of the cooperative extension service of Purdue University or the director's designee.

(4) Seven (7) members appointed under this chapter by the governor, one (1) from each district.

(5) One (1) member elected under this chapter from each district.

(b) Not more than one (1) member appointed under subsection (a)(4) may reside in the same district.

(c) Not more than four (4) members appointed under subsection (a)(4) may be affiliated with the same political party.

(d) Each member appointed under subsection (a)(4) must have a recognized interest in agriculture or agribusiness.

(e) When an appointment of a member under subsection (a)(4) is required, the appointment may not be made until after the election of members under subsection (a)(5) for that year is

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certified under section 22 of this chapter.

Sec. 3. (a) Except as provided in subsection (d), the term of an individual as a member under section 2(a)(4) or 2(a)(5) of this chapter begins on the later of the following:

(1) October 1 after the expiration of the term of the member whom the individual is appointed or elected to succeed.

(2) For an individual appointed under section 2(a)(4) of this chapter, the day the individual is appointed by the governor.

(b) The term of a member under section 2(a)(4) or 2(a)(5) of this chapter expires on September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(c) Except as provided in subsection (d), a member of the board may be reappointed or reelected for a new term. A member reappointed or reelected is the member's own:

(1) successor for purposes of subsection (a); and

(2) immediate predecessor for purposes of subsection (b).

(d) An individual may not serve as a member under section 2(a)(4) or 2(a)(5) of this chapter for more than eight (8) years in any twelve (12) year period, except as provided in section 4(c) of this chapter.

Sec. 4. (a) The governor shall appoint an individual qualified under sections 2 and 3 of this chapter to fill a vacancy on the board.

(b) The individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the member the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment under this section is not considered in determining the number of years that a member has served in a twelve (12) year period for purposes of section 3(d) of this chapter.

Sec. 5. (a) The board shall elect a member serving under section 2(a)(5) of this chapter to be the presiding officer of the board. The member elected under this section is the presiding officer of the board until the earlier of the following:

(1) The date the member's term expires.

(2) The date the member is replaced as presiding officer by the board.

(b) The board may elect other officers for the board from the board's membership.

Sec. 6. (a) Subject to subsection (c), each member of the board who is not a state employee is entitled to receive the following:

(1) The minimum salary per diem provided by

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IC 4-10-11-2.1(b).

(2) Subject to subsection (c), reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) Subject to subsection (c), each member of the board who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(c) The commission shall adopt a policy for:

(1) the number of meetings the board may hold; and

(2) payment of per diem and travel expenses:

(A) for board meetings; and

(B) during the time the fair is held.

Sec. 7. The commission shall pay the expenses of the board approved by the commission from the money of the commission.

Sec. 8. The board may not hold property in the board's name.

Sec. 9. If an organization wants to be certified to vote in an election under this chapter, the organization must apply to the director of the department of agriculture.

Sec. 10. (a) Subject to sections 11 through 13 of this chapter, the director of the department of agriculture shall certify an organization that applies under section 9 of this chapter as eligible to vote in a district election under this chapter only if the organization:

(1) is an agricultural interest;

(2) is regularly organized within the district;

(3) has at least ten (10) active members;

(4) has elected officers;

(5) has an annual meeting;

(6) has been in existence for at least one (1) year before the application for certification is filed with the director of the department of agriculture; and

(7) before July 1 of the year of the election in which the organization wants to participate, files with the director of the department of agriculture:

(A) the name of the organization;

(B) the names and addresses of the organization's officers;

(C) the name, address, and title of the individual who is

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authorized by the organization to vote for the organization in an election under this chapter;

(D) the number of the organization's active members;

(E) a certification that the organization is eligible to be certified under this chapter; and

(F) other information required by the director of the department of agriculture.

(b) A certification under subsection (a) expires July 1 of the fourth year after the certification is issued by the director of the department of agriculture.

Sec. 11. (a) If an organization organized on a statewide basis has an affiliated organization in any county of a district:

(1) the affiliated organization may be certified; and

(2) the organization organized on a statewide basis may not be certified;

for the district under section 10 of this chapter.

(b) If subsection (a) does not apply, but the organization organized on a statewide basis has an affiliated organization within the district:

(1) the affiliated organization may be certified; and

(2) the organization organized on a statewide basis may not be certified;

for the district under section 10 of this chapter. The affiliated organization may cast only one (1) vote in a district election.

(c) If subsections (a) and (b) do not apply, the organization organized on a statewide basis:

(1) may be certified for the district under section 10 of this chapter; and

(2) may cast only one (1) vote in a district election.

Sec. 12. (a) If an organization organized only on a district level basis has an affiliated organization in any county of a district:

(1) the affiliated organization may be certified; and

(2) the organization organized only on a district level basis may not be certified;

for the district under section 10 of this chapter.

(b) If subsection (a) does not apply, the organization organized only on a district level basis:

(1) may be certified for the district under section 10 of this chapter; and

(2) may cast only one (1) vote in a district election.

Sec. 13. (a) The director of the department of agriculture may not certify for a district under section 10 of this chapter more than

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two (2) organizations in a county in the district that satisfy the requirements of section 10 of this chapter.

(b) If more than two (2) organizations in a county in a district that satisfy the requirements of section 10 of this chapter apply for certification, the director of the department of agriculture may certify any two (2) of those organizations, considering the following criteria:

(1) Order of application for certification.

(2) Number of members of each organization.

(3) How long each organization has been in existence.

(4) Activity of each organization in promotion of agricultural interests.

(5) Diversity of representation of interests within the agricultural community.

Sec. 14. (a) Before September 1 of the year the term of a member representing a district expires, the director of the department of agriculture shall notify each organization certified for the district under section 10 of this chapter that a district convention will be held to elect the member to represent the district.

(b) Subject to section 17 of this chapter, the director of the department of agriculture shall:

(1) state in the notice required by subsection (a) the date, time, and place of the district convention and the name of the presiding officer; and

(2) choose a date, time, and place that will encourage maximum participation in the district convention by organizations referred to in subsection (a).

Sec. 15. The director of the department of agriculture shall send copies of the credentials of each individual entitled to vote in a district convention to the following:

(1) The board member representing the district.

(2) The individual who will preside over the district convention.

Sec. 16. (a) The director of the department of agriculture shall choose from among the members of the commission the individual to preside at a district convention.

(b) The presiding officer of the convention may vote in the case of a tie vote on any matter.

Sec. 17. (a) During September before the term of a member representing a district expires, the individuals designated under section 10(a)(7)(C) of this chapter for each organization certified

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under section 10 of this chapter for the district shall meet in a district convention to elect the member's successor.

(b) Voting under subsection (a) is by voice concurrent with the submission of a signed written ballot by each person voting indicating the person's vote.

Sec. 18. The director of the department of agriculture shall adopt rules for the business of a district convention. Rules adopted under this section may not be inconsistent with this chapter.

Sec. 19. (a) Except as provided in subsection (b), the credentials of an individual issued under this chapter are conclusive of the right of the individual to vote at the district convention.

(b) A person may contest the validity of the credentials of an individual by alleging facts constituting fraud or misrepresentation in securing the credentials. The affidavit must be filed with the presiding officer of the district convention not later than the date of the district convention.

(c) If a person contests the validity of the credentials of an individual under subsection (b), the validity of the individual's credentials shall be determined by a majority vote of all individuals representing the county of the individual whose credentials are contested.

Sec. 20. Except as provided in section 16 of this chapter, an individual may not vote at a district convention if the individual does not have valid credentials issued under this chapter.

Sec. 21. (a) To be elected as a member to represent a district, an individual must:

(1) be a resident within the district; and

(2) have the other qualifications to be a member of the board under this chapter.

(b) If an individual receives a majority of the votes cast at a district convention, the individual is elected as a member to represent the district.

Sec. 22. The presiding officer of a district convention shall certify the results of the election under section 21 of this chapter to the commission and to the board.

Sec. 23. The director of the department of agriculture may:

(1) adopt rules under IC 4-22-2; and

(2) prescribe forms;

to implement sections 9 through 22 of this chapter.

Chapter 6. State Fair Advisory Committee

Sec. 1. The state fair advisory committee is established.

Sec. 2. (a) The advisory committee consists of the following

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members:

(1) Four (4) members of the senate, not more than two (2) of whom are members of the same political party, appointed by the president pro tempore of the senate.

(2) Four (4) members of the house of representatives, not more than two (2) of whom are members of the same political party, appointed by the speaker of the house of representatives.

(b) A member appointed under subsection (a) serves until the first day of the first regular session of the next general assembly following the member's appointment.

(c) A vacancy on the advisory committee shall be filled for the unexpired term by the appointing authority who appointed the member whose position is vacant.

(d) After appointment of the members of the advisory committee under subsection (a), the:

(1) speaker of the house of representatives shall name one (1) of the members as chairperson; and

(2) president pro tempore of the senate shall name another member as vice chairperson.

The chairperson and the vice chairperson serve until the first day of the second regular session of that general assembly. The vice chairperson during the first session then becomes the chairperson, and the chairperson during the first session becomes the vice chairperson. The appointing authority may name a different chairperson or vice chairperson at any time.

Sec. 3. The advisory committee shall meet:

(1) at the times the advisory committee determines; or

(2) more frequently if the chairperson considers a meeting necessary.

Sec. 4. The advisory committee shall do the following:

(1) Serve as a liaison between the:

(A) commission;

(B) board of trustees of the barn;

(C) board; and

(D) general assembly.

(2) Review policies affecting the activities of the:

(A) commission;

(B) barn;

(C) state fair;

(D) facilities at the fairgrounds; and

(E) property owned by the commission.

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(3) Provide long range guidance for the:
(A) commission;
(B) board of trustees of the barn; and
(C) board.
(4) Review annually the:
(A) commission's;
(B) board of trustees of the barn's; and
(C) board's;
budgets and other accounts and report financial conditions to the legislative council. A report under this subdivision to the legislative council must be in electronic format under IC 5-14-6.
(5) Further advise the budget committee regarding appropriations and other financial matters concerning the:
(A) commission;
(B) board of trustees of the barn; and
(C) board.
(6) Propose, review, and make recommendations concerning legislation affecting the:
(A) commission;
(B) barn; and
(C) board.
Sec. 5. (a) As requested by the advisory committee, the:
(1) commission;
(2) board; or
(3) board of trustees of the barn;
shall provide to the advisory committee information relating to the operation of each, respectively.
(b) The legislative services agency shall provide staff for the advisory committee.
Chapter 7. Annual Agricultural Fair
Sec. 1. The board shall hold one (1) state agricultural fair each year. The fair must emphasize agriculture and agribusiness.
Sec. 2. In holding the fair, the board is subject to the policies of the commission.
Sec. 3. The executive director employed under IC 15-13-2-10 is responsible for the day to day operation of the fair.
Chapter 8. State Fair Fund
Sec. 1. The state fair fund is established.
Sec. 2. The commission shall administer the fund.
Sec. 3. (a) The fund consists of the following:
(1) Revenue from the property tax imposed under IC 15-13-9.

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(2) Appropriations made by the general assembly.
(3) Interest accruing from investment of money in the fund.
(4) Certain proceeds from the operation of the fair.
(b) The fund is divided into the following accounts:
(1) Agricultural fair revolving contingency account.
(2) Other accounts established by the commission.
(c) The money credited to the agricultural fair revolving contingency account may be used only to pay start-up expenses for the fair each year. Money used to pay the start-up expenses from the account must be replaced using proceeds from the operation of the fair before the proceeds may be used for any other purpose.
Sec. 4. (a) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.
(b) Interest that accrues from investments of the fund shall be deposited in the fund.
Sec. 5. Money in the fund at the end of a state fiscal year does not revert to the state general fund.
Sec. 6. The fund may be used to:
(1) pay the expenses, including administrative expenses, of the commission; and
(2) make lease payments under IC 15-13-10-11.
Sec. 7. The money in the fund is subject to allotment under IC 4-13-2-18.
Sec. 8. (a) The commission may deposit revenues not set forth in section 3 of this chapter in funds:
(1) other than the fund; and
(2) created under the commission's accounting system.
(b) Funds created under the commission's accounting system are subject to audit by the state board of accounts.
Sec. 9. The commission may use money in funds created under section 8 of this chapter for activities of the commission authorized under this article.
Chapter 9. State Fair Property Tax
Sec. 1. A tax is imposed upon all the taxable property in Indiana at a rate of eight hundredths of a cent ($0.0008) for each one hundred dollars ($100) of assessed valuation.
Sec. 2. The treasurer of each county shall collect the tax imposed under this chapter in the same way property taxes of political subdivisions are collected.
Sec. 3. The auditor of each county shall report and pay the taxes collected under this article to the auditor of state.

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Sec. 4. The auditor of state shall deposit revenue from the tax into the fund.

Chapter 10. Revenue Bonds

Sec. 1. (a) As used in this chapter, "cost of a project" includes the following:

(1) The cost of construction and purchase.

(2) The cost of acquisition of all land, rights-of-way, property, rights, easements, and other legal or equitable interests acquired by the commission for construction, including the cost of any relocations incidental to the acquisition.

(3) The cost of demolishing or removing any buildings, structures, or improvements on property acquired by the commission, including the cost of:

(A) acquiring any property to which the buildings, structures, or improvements may be moved; or

(B) acquiring any property that may be exchanged for property acquired by the commission.

(4) Financing charges.

(5) The cost of issuance of bonds or notes, including cost of credit enhancement, such as bond or note insurance.

(6) Remarketing or conversion fees.

(7) Bond or note discount.

(8) Capitalized interest.

(9) The cost of funding any reserves to secure the payment of bonds or notes.

(10) Engineering and legal expenses, and the cost of plans, specifications, surveys, estimates, and any necessary feasibility studies.

(11) Other expenses necessary or incidental to determining the feasibility or practicability of constructing any project.

(12) Administrative expenses of the commission relating to any project financed by bonds or notes.

(13) Reimbursement of the commission for any cost, obligation, or expense incurred by the commission relating to a project.

(14) Other expenses the commission finds necessary or incidental to the construction or purchase of the project, the financing of the construction or purchase of the project, and the placing of the project in operation.

(b) As used in this chapter, "cost of a project" does not include the construction of facilities for pari-mutuel horse racing.

Sec. 2. As used in this chapter, "project" means any of the

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following concerning property at the fairgrounds:

(1) Acquisition.

(2) Construction.

(3) Repair.

(4) Refurbishing.

Sec. 3. (a) Subject to the approval of the governor, the commission may, by resolution, authorize and issue revenue bonds to:

(1) pay all or part of the cost of a project; or

(2) refund outstanding revenue bonds.

(b) The principal of and the interest on bonds must be payable solely from the revenues specifically pledged to the payment of the principal and the interest on the bonds.

(c) The bonds of each issue must:

(1) be dated; and

(2) mature at a time not exceeding thirty (30) years from the date of the bonds.

(d) The bonds may be made redeemable before maturity, at the option of the commission, at a price and under terms and conditions fixed by the commission.

(e) The commission shall:

(1) determine the form of the bonds; and

(2) fix:

(A) the denomination of the bonds; and

(B) the place of payment of principal and interest, which may be at any bank or trust company in the United States.

(f) The bonds must be signed in the name of the commission by:

(1) the commission chairperson; or

(2) the facsimile signature of the commission chairperson.

(g) The official seal of the commission, or a facsimile of the seal, must be:

(1) affixed to the bonds; and

(2) attested by the executive director of the commission.

(h) If an officer whose signature or a facsimile of whose signature appears on a bond ceases to be an officer before the delivery of the bonds, the signature or facsimile is valid and sufficient for all purposes as if the officer had remained in office until the delivery.

(i) Bonds issued under this chapter have all the qualities and incidents of negotiable instruments under the laws of Indiana.

(j) Bonds may be issued in registered form.

(k) Bonds must be sold in accordance with IC 21-32-3.

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(l) The commission shall cooperate with and use the assistance of the Indiana finance authority established under IC 4-4-11 in the issuance of the bonds.

Sec. 4. (a) The proceeds of the bonds of each issue must be:

(1) used solely for the payment of the cost of the project for which the bonds were issued; and

(2) disbursed in the manner and under those restrictions that the commission provides in the resolution authorizing the issuance of the bonds or in a trust agreement securing the bonds.

(b) If the proceeds of an issue of bonds are less than the cost of the project, additional bonds may be issued to provide the amount of the deficit. Unless specifically provided in the resolution authorizing the issuance of the bonds or in a trust agreement securing the bonds, the additional bonds:

(1) are considered to be bonds of the same issue as the initially issued bonds; and

(2) are entitled to payment from the fund from which the initially issued bonds are paid without preference or priority of the initially issued bonds.

(c) If the proceeds of the bonds of an issue exceed the cost of the project for which the bonds were issued, the surplus must be deposited to the credit of the sinking fund for the bonds. However, if there is not a sinking fund, the surplus must be held for the payment of the principal of and the interest on the bonds.

(d) The commission may provide for the replacement of bonds that become mutilated, destroyed, or lost.

(e) Bonds may not be issued under this chapter without the consent of the governor.

Sec. 5. (a) Bonds issued under this chapter may be secured by a trust agreement between the commission and a corporate trustee, which may be any trust company or bank having the powers of a trust company in Indiana.

(b) A resolution adopted by the commission providing for the issuance of bonds, and any trust agreement under which the bonds are issued, may pledge or assign all or any part of the revenues received by the commission except that part necessary:

(1) to pay the cost of the commission's administrative operation, maintenance, and repair expenses, and to provide reserves for those expenses; and

(2) for depreciation reserves required by a bond resolution or trust agreement of the commission.

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(c) The commission may not mortgage any property.

(d) When authorizing the issuance of bonds for a project, the commission may:

(1) limit the amount of bonds that may be issued as a first lien and charge against the revenues pledged to the payment of the bonds; or

(2) authorize the later periodic issuance of additional bonds secured by the same lien to provide funds:

(A) for the completion of the project on account of which the original bonds were issued; or

(B) to pay the cost of additional projects.

The commission may issue additional bonds only on terms and conditions provided in the bond resolution adopted by the commission, in a trust agreement, or in a supplemental agreement. The additional bonds may be secured equally and ratably without preference, priority, or distinction with the original issue of bonds or may be made junior to the original issue.

(e) A pledge or an assignment made by the commission is valid and binding from the time the pledge or assignment is made. Revenues pledged and received by the commission are immediately subject to the lien of the pledge or assignment without physical delivery or further act. The lien of the pledge or assignment is valid and binding against all parties having claims of any kind against the commission, whether or not the parties have notice. Neither the resolution nor a trust agreement by which a pledge is created or assignment made need be filed or recorded except in the records of the commission.

(f) A trust agreement or a resolution providing for the issuance of bonds may contain reasonable provisions for protecting and enforcing the rights and remedies of the bondholders.

(g) A bank or trust company incorporated under the laws of the state and acting as the depository of the proceeds of bonds or other funds of the commission may furnish indemnifying bonds or pledge securities as required by the commission.

(h) A trust agreement may do the following:

(1) Set forth the rights and remedies of the bondholders and the trustee.

(2) Restrict the individual right of action by bondholders as is customary in trust agreements or trust indentures securing bonds or debentures of private corporations.

(3) Contain other provisions the commission considers reasonable and proper for the security of the bondholders.

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(i) All expenses incurred in carrying out the provisions of a trust agreement may be treated as a part of the cost of the operation of the project.

Sec. 6. (a) All money received under this chapter must be held and applied solely as provided in this chapter. Until the time the money is needed for use, the money may be invested or kept in depositories designated by the commission in the manner provided by IC 5-13.

(b) The resolution authorizing the issuance of bonds or the trust agreement securing the bonds must provide that any officer or any bank or trust company entrusted with money under this chapter shall:

(1) act as trustee of the money; and

(2) hold and apply the money for the purposes of this chapter, under this chapter and the authorizing resolution or trust agreement.

Sec. 7. (a) A holder of a bond issued under this chapter may, subject to the authorizing resolution or trust agreement:

(1) protect and enforce the holder's rights under the laws of Indiana, the trust agreement, or the resolution authorizing the issuance of the bonds; and

(2) enforce and compel the performance of the duties required under this chapter, by the trust agreement, or by resolution to be performed by the commission or by any officer of the commission.

(b) The trust agreement or resolution authorizing the issuance of the bonds may include provisions requiring the fixing, charging, and collecting of fees, rentals, or other charges by the commission.

Sec. 8. (a) Bonds issued under this chapter:

(1) do not constitute:

(A) a debt of the state or of any political subdivision of the state; or

(B) a pledge of the faith and credit of the state or of any political subdivision; and

(2) are payable solely from the funds pledged for payment of the bonds under this chapter.

(b) Each bond must contain on the face of the bond a statement to the effect that the bonds, as to both principal and interest, are not an obligation of the state or of any political subdivision of the state, but are payable solely from revenues pledged for payment of the bonds. Those revenues may not include:

(1) proceeds or interest derived from funds of the state; or

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(2) any proceeds received by the commission derived from the levy of any tax.

(c) All expenses incurred in carrying out this chapter are payable solely from funds provided under the authority of this chapter.

(d) This chapter may not be construed to authorize the commission to incur indebtedness or liability on behalf of or payable by:

(1) the state; or

(2) any political subdivision of the state.

Sec. 9. Bonds issued by the commission under this chapter constitute legal investments for:

(1) any private trust funds; and

(2) the funds of any banks, trust companies, insurance companies, building and loan associations, credit unions, banks of discount and deposit, savings banks, loan and trust and safe deposit companies, rural loan and savings associations, guaranty loan and savings associations, mortgage guaranty companies, small loan companies, industrial loan and investment companies, and any other financial institutions organized under the laws of Indiana.

Sec. 10. Interest paid on bonds issued under this chapter is exempt from taxation for all purposes, except:

(1) the inheritance tax under IC 6-4.1; and

(2) for determining financial institution tax liabilities under IC 6-5.5.

Sec. 11. (a) As used in this section, "lessor" has the meaning set forth for "leasing body" in IC 5-1-1-1. The term includes the Indiana bond bank.

(b) The commission may enter into a lease of any property that could be financed with the proceeds of bonds issued under this chapter with a lessor for a term not to exceed thirty (30) years. The lease may provide for payments from revenues under this chapter, taxes in the fund, any other funds that may be legally pledged by the commission, or any combination of these sources. Money in the fund may be used to make lease payments.

(c) A lease may provide that payments by the commission to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased project in accordance with the lease. The terms of each lease must be based upon the value of the project leased and may not create a debt of the commission for purposes of the Constitution of the State of Indiana. Property tax

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revenues may not be used to make lease payments unless those revenues have been appropriated by the general assembly. A lease under this section that is wholly or partly payable from property tax revenues must include the following:

(1) A statement that the term of the lease is for:

(A) a period coextensive with the biennium used for state budgetary and appropriation purposes; and

(B) a fractional period when the lease begins, if necessary.

(2) A statement that the term of the lease is extended from biennium to biennium, with the extensions not to exceed a lease term of thirty (30) years, unless either the commission or the lessor gives notice of nonextension at least six (6) months before the end of a biennium, in which case the lease expires at the end of the biennium in which the notice is given.

(d) The commission may approve the execution of a lease if the commission finds that the service to be provided throughout the term of the lease will serve the public purpose of the commission and is in the best interests of the citizens of Indiana. Upon execution of the lease, the commission may publish notice of the adoption one (1) time each week for two (2) weeks in two (2) newspapers published and of general circulation in Marion County. If notice is published, any action or proceeding in any court to set aside the lease or to obtain relief upon the ground that the action of the commission in entering into the lease is invalid must be filed not more than thirty (30) days after the first publication of notice of the execution of the lease. After the expiration of the thirty (30) day period, a right of action may not be asserted and the validity of the lease or any of the provisions of the lease may not be questioned in any court or agency upon any grounds.

(e) If the commission exercises an option to buy a leased project from a lessor, the commission may subsequently sell the leased project, without regard to any other statute, to the lessor at the end of the lease term at:

(1) a price set forth in the lease; or

(2) the fair market value established at the time of the sale by the commission through auction, appraisal, or arms length negotiation.

Chapter 11. Center for Agricultural Science and Heritage

Sec. 1. (a) The center for agricultural science and heritage (the barn) is established.

(b) The barn is established for the following purposes:

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(1) To educate the public concerning the past, present, and future of American agriculture and rural life.

(2) To educate youth and the general public about American agriculture and food systems.

(3) To provide educational programming for youth that complements school curricula, both onsite and in the classroom.

(4) To create a synergy between Indiana's institutions of education and agriculture related industries.

(5) To generate economic vitality, convention activity, and tourism activity for Indiana.

(6) To become:

(A) a center for agricultural business and thinking;

(B) a clearinghouse of agricultural information;

(C) a resource center for educators and the public; and

(D) a repository for agricultural artifacts and history.

(7) To create a central, prominent partner with whom agricultural organizations can launch, collaborate on, and coordinate programs.

(8) To position Indiana as the recognized agricultural center of the nation.

Sec. 2. The board of trustees for the barn is established.

Sec. 3. (a) The trustees govern the barn. The trustees consist of seventeen (17) members as follows:

(1) The governor or the governor's designee.

(2) The director of the department of agriculture or the director's designee.

(3) The dean of agriculture of Purdue University or the dean's designee.

(4) The president of the Purdue University Agriculture Alumni Association or the president's designee.

(5) The state superintendent of public instruction or the state superintendent's designee.

(6) The state veterinarian or the state veterinarian's designee.

(7) The presiding officer of the commission or the presiding officer's designee selected from the membership of the commission.

(8) The presiding officer of the board or the presiding officer's designee selected from the membership of the board.

(9) One (1) member appointed by the largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization.

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The member serves at the pleasure of the member's organization.

(10) One (1) member appointed by the second largest Indiana organization representing agricultural interests in Indiana, as determined by the number of members of the organization. The member serves at the pleasure of the member's organization.

(11) Seven (7) members appointed by the governor.

(b) Of the members appointed under subsection (a)(11), not more than four (4) may be affiliated with the same political party.

(c) Each member appointed under subsection (a)(11) must have a recognized interest in the barn.

Sec. 4. (a) The term of a member appointed to the trustees under section 3(a)(11) of this chapter:

(1) is four (4) years;

(2) begins on the later of:

(A) October 1 after the expiration of the term of the trustee whom the member is appointed to succeed; or

(B) the day the member is appointed; and

(3) expires September 30 of the fourth year after the expiration of the term of the member's immediate predecessor.

(b) Except as provided in subsection (c), a member appointed under section 3(a)(11) of this chapter:

(1) may be reappointed for a new term;

(2) if reappointed, is the member's own successor or predecessor for purposes of subsection (a); and

(3) may not serve as a trustee for more than eight (8) years in a twelve (12) year period, except as provided in section 6(c) of this chapter.

(c) A member appointed under section 3(a)(11) of this chapter before October 1, 2005, may not serve as a trustee more than nine (9) years in a twelve (12) year period.

Sec. 5. The trustees may do the following, with approval by the commission:

(1) Enter into contracts related to the trustees' powers and duties under this chapter.

(2) Receive gifts.

(3) Charge admissions.

(4) Purchase, lease, and sell personal property.

Sec. 6. (a) The governor shall appoint an individual to fill a vacancy among the trustees.

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(b) The individual appointed by the governor under subsection (a) serves the remainder of the unexpired term of the trustee whom the individual replaces.

(c) The period of the unexpired term for which an individual serves after appointment is not considered in determining the number of years that a trustee has served in a twelve (12) year period for purposes of section 4(b)(3) of this chapter.

Sec. 7. (a) The trustees shall elect a member of the trustees serving under section 3(a)(11) of this chapter to be the presiding officer of the trustees. The trustee elected under this subsection is the presiding officer of the trustees until the earlier of the following:

(1) The expiration of the trustee's term.

(2) The replacement of the trustee as presiding officer by the trustees.

(b) The trustees may elect other officers for the trustees from the trustees serving under section 3(a)(11) of this chapter.

Sec. 8. (a) The trustees shall recommend an individual to be employed by the commission as the barn director, subject to approval by the commission.

(b) The barn director shall implement the policies of the trustees and the commission.

(c) The commission may delegate any of the commission's powers to the barn director. The commission may make a delegation under this subsection by either of the following:

(1) A resolution adopted by the commission.

(2) A rule adopted by the commission under IC 4-22-2.

(d) With approval by the commission, commission employees:

(1) may be compensated in full or in part by the nonprofit entity established under section 13 of this chapter; and

(2) may perform services that support the purposes of the nonprofit entity established under section 13 of this chapter.

Sec. 9. (a) The barn director may hire staff for the barn subject to the budget approved by the trustees and the commission.

(b) The staff of the barn are:

(1) employees of the commission; and

(2) accountable to the commission directly or through the executive director of the commission.

Sec. 10. The barn director may delegate a power or duty of the barn director to a member of the barn staff.

Sec. 11. A majority of the trustees constitutes a quorum for the transaction of business.

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Sec. 12. A majority vote of the trustees is necessary to take official action.

Sec. 13. (a) The trustees may establish a nonprofit entity to solicit, raise, and accept funds.

(b) The nonprofit entity established under this section may receive proceeds from the operations of the barn, subject to approval by the commission.

(c) The nonprofit entity established under this section is governed by a board of directors. The directors include:

(1) the presiding officer of the trustees of the barn, who may act as presiding officer of the board of directors; and

(2) four (4) individuals appointed by the trustees.

Sec. 14. The commission shall pay the operating expenses of the barn from the funds allocated by the commission to the barn.

Sec. 15. At the first meeting each year of the advisory committee, the trustees shall report the following:

(1) The activities of the barn during the previous calendar year.

(2) The financial condition of the barn for the barn's most recently completed fiscal year.

(3) The trustees' plans for the barn for the current calendar year.

Sec. 16. (a) Subject to subsection (b):

(1) each member of the trustees who is not a state employee is entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b) and is entitled to reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties; and

(2) each member of the trustees who is a state employee is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

as provided in the state policies and procedures established by the Indiana department of administration and approved by the budget agency.

(b) The commission shall adopt a policy for:

(1) the number of meetings the trustees may hold; and

(2) payment of per diem and travel expenses:

(A) for trustees' meetings; and

(B) during the time of other required activities.

Sec. 17. The trustees may not hold real property in the trustees' name.

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SECTION 5. IC 15-14 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 14. AGRICULTURAL FAIRS, ASSOCIATIONS, AND SOCIETIES

Chapter 1. Organization of Interstate Fairs

Sec. 1. (a) At least thirty (30) individuals who are residents of at least two (2) states may organize themselves into a society to locate and conduct a fair in any county in Indiana.

(b) Individuals who have organized a society under subsection (a) may organize themselves into a corporation by filing written articles of incorporation under section 2 of this chapter. The articles must:

(1) be signed by each individual who is a member at the time of organization;

(2) specify the:

(A) purpose of the corporation;

(B) corporate name that is adopted;

(C) name and residential address of each member or stockholder; and

(D) manner in which individuals are appointed or elected to manage the business and concerns of the corporation; and

(3) bear an impression and description of the corporate seal.

Sec. 2. (a) A society organized as a corporation under section 1 of this chapter shall file its articles of incorporation in the recorder's office of the county of incorporation.

(b) After the expenses of filing and recording have been paid, the county recorder shall record the articles of incorporation in the miscellaneous book of records in the office of the recorder. A certified copy of the articles of incorporation or the recorded articles are conclusive evidence of the matters and things contained in the articles.

(c) A duplicate of the articles of incorporation must be filed with the secretary of state.

Sec. 3. A corporation incorporated under this chapter:

(1) has all the rights, powers, and privileges given to corporations by common law;

(2) may sue and be sued;

(3) may borrow and secure payment of money by:

(A) notes and mortgage; and

(B) bonds or deeds of trust upon the corporation's personal

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and real property; and

(4) may rent, lease, purchase, hold, sell, and convey real and personal property necessary and proper:

(A) to erect buildings; and

(B) for other purposes of a corporation organized under section 1(a) of this chapter.

Sec. 4. A corporation incorporated under this chapter may:

(1) divide its corporate property into shares; and

(2) designate the manner that the shares may be held, sold, conveyed, assigned, or transferred.

Sec. 5. (a) A corporation incorporated under this chapter:

(1) shall elect officers or agents necessary to carry into operation the purposes of its organization;

(2) may prescribe and adopt rules for the direction of its officers and members; and

(3) shall keep a fair record of its proceedings and accounts in proper books.

(b) The corporation's records or copies of the records that:

(1) are certified by the secretary or clerk of the corporation; and

(2) have affixed the corporate seal;

may be used as evidence in a court proceeding.

Sec. 6. Real or personal property may be:

(1) bequeathed;

(2) devised; or

(3) given;

to a corporation incorporated under this chapter by will if the corporation name is stated or the purpose for the transfer leaves no reasonable doubt as to the corporation or purpose for which the transfer was intended.

Sec. 7. (a) The amount of real estate that a corporation incorporated under this chapter may purchase or own may not exceed:

(1) one hundred sixty (160) acres; and

(2) five hundred thousand dollars ($500,000) in value.

(b) A corporation incorporated under this chapter may sell any land that it possesses or may possess.

Sec. 8. (a) Except as provided in subsection (b), the capital stock of a corporation incorporated under this chapter may not exceed five hundred thousand dollars ($500,000).

(b) The capital stock of a corporation incorporated under this chapter may be increased by the vote of the stockholders at:

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(1) an annual meeting of the stockholders; or

(2) a meeting called especially to increase the capital stock;

to an amount not exceeding one million dollars ($1,000,000).

Sec. 9. (a) A corporation incorporated under this chapter shall annually offer and present cash awards for the improvement of soils, tillage, crops, manures, improvement of stock, articles of domestic industry, and other articles, productions, and improvements the corporation considers proper. The awards must be provided in different amounts and grades so that large and small manufacturers and farmers have an opportunity to compete for the awards.

(b) A corporation incorporated under this chapter may perform any acts the corporation considers best to promote the agricultural and household manufacturing interests of the county and of the states whose residents have organized the corporation.

(c) When a corporation organized under this chapter makes its awards, special attention must be given to the profits that may or are likely to accrue from:

(1) the improved method of raising the crop;

(2) improving the soil or stock; or

(3) the fabrication of the articles offered;

with the intention that the award be given for the most economical method of improvement.

(d) Before an award is made under this section, a person competing for a cash award for improved:

(1) tillage methods;

(2) manufacturing methods; or

(3) production of any crop or other articles;

must deliver to the awarding committee a full and correct statement of the process of the tillage method, manufacturing method, or production. The statement must show the expense and value of the process to show accurately the profits derived or expected to be derived.

Sec. 10. A corporation incorporated under this chapter shall:

(1) annually publish a list of the awards made by the corporation under section 9 of this chapter and a summary of the treasurer's account in a newspaper of the county; and

(2) make a:

(A) report of its proceedings during the year;

(B) synopsis of the awards made by the corporation under section 9 of this chapter for improvements in agricultural and household manufactures, along with summary

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descriptions of the improvements; and

(C) report of the condition of agriculture in the county or district of the corporation, which must:

(i) comply with the rules of the state fair commission; and

(ii) be forwarded to the state fair commission at its annual meeting in January of each year.

A subsequent payment may not be made from the county treasury unless a certificate is presented to the auditor from the secretary of the state fair commission showing that the report has been made.

Sec. 11. (a) A corporation incorporated under this chapter may do the following:

(1) Borrow not more than two hundred thousand dollars ($200,000) at a rate of interest not to exceed six percent (6%) per annum.

(2) Mortgage its property to secure the repayment of the loan.

(3) Issue bonds for not more than two hundred thousand dollars ($200,000).

(b) Bonds issued under subsection (a) must:

(1) not exceed a duration of twenty (20) years;

(2) have interest bearing coupons affixed; and

(3) be secured by mortgage on the property of the corporation.

Sec. 12. (a) As used in this section, "county executive" means the board of commissioners of a county elected under IC 36-2-2-2.

(b) The county executive of a county containing taxable property with a value of at least twenty million dollars ($20,000,000) may make an allowance out of the general fund of the county to a corporation incorporated under this chapter.

(c) Before an allowance under subsection (b) is made, the president or secretary of the association shall file a sworn statement with the county executive showing the:

(1) name and date of organization of the association; and

(2) amount expended for fairgrounds and permanent improvements needed for the fairgrounds and the amount necessary to complete the improvements.

(d) After receiving a sworn statement under subsection (c), the county executive may make an allowance that the county executive considers necessary, but that does not exceed either of the following:

(1) Ten thousand dollars ($10,000).

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(2) One-half (1/2) the amount shown by the statement to be expended on the grounds and improvements.

(e) The amount appropriated under this section is a lien on the real and personal property of the association.

(f) Dividends may not be declared or paid to the incorporators or stockholders until the appropriation made by the board is repaid to the county treasurer with interest.

Chapter 2. State Horticultural Associations

Sec. 1. (a) A state, district, or county society of persons associated for horticultural purposes may incorporate in the following manner:

(1) A state horticultural society may incorporate by depositing a certified copy of the society's articles of association, with its name and a description and an impress of the seal adopted by the society, in the office of the secretary of state.

(2) A district or county horticultural association may incorporate by depositing, under the seal of the state horticultural association, a statement showing that the district or county association:

(A) was organized for horticultural purposes and is entitled to representation; and

(B) has consented to elect at least one (1) delegate to represent the association;

in the state horticultural association at its annual and official meetings, in the office of the recorder of the county where the district or county horticultural association is organized, along with the name by which the association will be known and a description of the seal adopted. The recorder shall record the statement in the miscellaneous record. A fee of fifty cents ($0.50) may be charged and collected to record the statement.

(b) A state, district, or county horticultural association:

(1) is a body corporate and politic, with perpetual succession; and

(2) may:

(A) sue and be sued;

(B) enter into contracts;

(C) plead and be impleaded;

(D) take, hold, and convey real and personal property; and

(E) make bylaws and rules for the governance of the association and the management of its affairs and property consistent with Indiana law.

(c) A state, district, or county horticultural association may:

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(1) purchase;
(2) improve; or
(3) sell, not exceeding, at any one (1) time, one hundred (100) acres of land;

for the use and purposes of the association, and may erect buildings on the land necessary for the use of the association and the improvement of the land.

Sec. 2. (a) The state horticultural association organized under section 1 of this chapter shall hold, in Indianapolis or another location in Indiana to be selected by the association at the preceding meeting, an annual meeting, for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the horticultural interests of the people of Indiana.

(b) At the annual meeting, the district and county horticultural associations may be represented by one (1) or more delegates each, as the state association provides. The district and county associations shall forward, by representatives, the report of the condition and prospects of the district or county associations to the state horticultural society.

Sec. 3. (a) When the state horticultural association has complied with this chapter, the association is entitled to the occupancy and use of any unappropriated room in the state capitol or other building used or occupied by the state.

(b) The room described in subsection (a) shall be designated as the department of horticulture.

(c) An association occupying the room described in subsection (a) may maintain in the room:

(1) a library;
(2) specimens and representations of horticultural industry;
(3) collections of insect specimens or birds that are injurious or beneficial to horticultural products in Indiana; and
(4) floral specimens and representations collected by the association.

Those items and other items that the association collects and deposits in the room must be available for public inspection and examination under rules adopted by the association.

(d) The association:

(1) shall hold the items described in subsection (c) until ordered under rules adopted by the association or the interests of horticulture require; and
(2) may adopt bylaws for the association's protection and good order that are considered necessary and not inconsistent

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with Indiana law.

Chapter 3. County and District Agricultural Societies

Sec. 1. (a) If:

(1) at least thirty (30) individuals who are residents of any county or a district containing two (2) Indiana counties have:

(A) organized themselves into a society for the improvement of agriculture within the county or district;

(B) adopted a constitution and bylaws that comply with the rules furnished by the state fair commission;

(C) appointed the usual and proper officers; and

(D) raised and paid to the treasurer of the society, by voluntary subscription or by fees imposed on its members, at least fifty dollars ($50); and

(2) the president of the society described in subdivision (1)(A) certifies to the respective county auditors the amounts paid, attested by the oath or affirmation of the treasurer before a person authorized to administer oaths;

the county auditors within the district in which the society is organized shall draw a warrant on the treasurer of the respective counties in favor of the president and treasurer of the society for the amount of funds that were received during the previous year for licenses issued to persons exhibiting menageries, circuses, theatrical performances, or other shows.

(b) A warrant issued under subsection (a) may not exceed the amount raised and paid in by the society by voluntary subscriptions or fees.

(c) The treasurer of the county shall pay the warrant issued under this section.

Sec. 2. (a) A county or district society formed under section 1 of this chapter shall annually offer and present cash awards for:

(1) the improvement of soils, tillage, crops, and manures;

(2) the improvement of stock and articles of domestic industry; and

(3) other articles, productions, and improvements;

the society considers proper. The awards must be provided in different amounts and grades so that large and small manufacturers and farmers have an opportunity to compete for the awards.

(b) A society formed under section 1 of this chapter may perform acts the society considers best to promote agricultural and household manufacturing interests of the district and of the state.

(c) When a society formed under section 1 of this chapter makes

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an award under subsection (a), special attention must be given to the profits that may or are likely to accrue from:

(1) the improved method of raising the crop;

(2) improving the soil or stock; or

(3) the fabrication of the articles offered;

with the intention that the award be given for the most economical method of improvement.

(d) Before an award is made under subsection (a), a person offering to compete for a cash award on improved:

(1) tillage methods; or

(2) production of any crop or other articles;

must deliver to the awarding committee a full and correct statement of the process of the tillage or production method. The statement must show the expense and value of the process to show accurately the profits derived or expected to be derived.

Sec. 3. A society organized under section 1 of this chapter shall:

(1) annually publish a list of the awards made by the society under section 2 of this chapter and a summary of the treasurer's account in a newspaper of the county or district; and

(2) make a:

(A) report of its proceedings during the year;

(B) synopsis of the awards made by the society under section 2 of this chapter for improvements in agriculture and household manufactures, along with summary descriptions of the improvements; and

(C) report of the conditions of agriculture in the county or district of the society, which must:

(i) comply with the rules of the state fair commission; and

(ii) be forwarded to the state fair commission at its annual meeting in January of each year.

A subsequent payment may not be made from the county treasury unless a certificate is presented to the auditor from the state fair commission showing that the report has been made.

Chapter 4. Incorporation of State Associations

Sec. 1. Associations of persons for the advancement of the agricultural interests of the state known as:

(1) the state corn growers' association;

(2) the state livestock breeders' association; and

(3) the state dairymen's association;

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may become incorporated by depositing in the office of the secretary of state a certified copy of the articles of the association, including the name assumed and a description and impress of the seal adopted by the association.

Sec. 2. An association organized under section 1 of this chapter shall hold, in Indianapolis, or some other place in Indiana selected by the association at its preceding meeting, or by its executive committee before the date of the meeting, an annual meeting and any auxiliary meetings that may be desired, for the purpose of deliberating and consulting as to the wants, prospects, and conditions of the corn, livestock, or dairy interests of the people of Indiana. A person interested in any of these lines of industry may participate at the meetings.

Sec. 3. (a) The following entities, upon their compliance with sections 1 and 2 of this chapter, are entitled to receive from the state treasury, out of money in the state general fund not otherwise appropriated, sums of money the general assembly appropriates:

(1) The state corn growers' association.

(2) The state livestock breeders' association.

(3) The state dairymen's association.

(b) An appropriation under subsection (a) may be used only for the following purposes:

(1) Obtaining speakers for association meetings.

(2) Payment of traveling expenses for the speakers and officers of the association.

(3) Advertising association meetings.

(4) Publishing and distributing an annual report.

(5) Obtaining medals, trophies, dies, premium ribbons, awards, postage stamps, and clerical services.

An officer may not receive compensation for the officer's services other than the actual expenses incurred in engaging in the business of the association.

Chapter 5. Agricultural Societies, Associations, and Corporations

Sec. 1. (a) This chapter applies to a society, an association, or a corporation:

(1) organized:

(A) for the improvement of agriculture; or

(B) to conduct fairs or agricultural exhibits; or

(2) owning or operating fairgrounds or other real estate for similar purposes.

(b) This chapter does not apply to:

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(1) the state fair commission; or

(2) the property owned by the commission.

Sec. 2. A society, an association, or a corporation described in section 1 of this chapter, with authority of its board of directors, may:

(1) borrow money;

(2) mortgage its property; and

(3) issue notes, bonds, and other obligations without restrictions other than those applying to corporations generally.

Sec. 3. A society, an association, or a corporation described in section 1 of this chapter may:

(1) upon authority granted by the votes of those holding two-thirds (2/3) of the shares of stock:

(A) sell; and

(B) convey by deed all or any part of its grounds and property at any time; and

(2) use the proceeds obtained from the sale in payment of its obligations, or for other and usual corporate purposes, in the same manner as corporations generally are authorized to do.

After payment of its obligations the society, association, or corporation may distribute the proceeds among the shareholders.

Sec. 4. A society, an association, or a corporation described in section 1 of this chapter may:

(1) dissolve; and

(2) liquidate;

the affairs of the society, association, or corporation in the same manner as corporations generally are authorized to do.

Chapter 6. Corporate Status for County and District Agricultural Societies

Sec. 1. (a) A county or district agricultural society, an agricultural and mechanical society, and a horticultural society must be a body corporate with perpetual succession.

(b) A society described in subsection (a) may:

(1) issue capital stock not to exceed ten thousand dollars ($10,000), in shares not to exceed twenty-five dollars ($25) each; and

(2) hold real estate, by purchase, gift, or devise, not to exceed eighty (80) acres.

Sec. 2. Shares in the capital stock of a society described in section 1 of this chapter are transferable for consideration from a person to another person, subject to the bylaws that the society

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adopts.

Sec. 3. (a) In all meetings of stockholders of a society, described in section 1 of this chapter, held for the:

(1) election of:

(A) trustees; or

(B) directors; or

(2) purpose of expressing the will of the stockholders by vote on any question;

a stockholder is entitled to cast one (1) vote for each share the stockholder owns and has fully paid for.

(b) A stockholder is not entitled to vote on more than ten (10) shares in a vote held under subsection (a).

Chapter 7. Allowance for Tax Levy Procedure for Support of County 4-H Clubs

Sec. 1. As used in this chapter, "executive" means the board of commissioners of a county under IC 36-2-2-2.

Sec. 2. Subject to section 3 of this chapter, the executive of a county may make an appropriation from the county general fund to a 4-H club that promotes the agricultural and horticultural interests of the county.

Sec. 3. (a) The president or secretary of a 4-H club described in section 2 of this chapter may file a petition signed by at least thirty (30) resident freeholders of the county with the county auditor of the county requesting that the executive make an appropriation provided for in section 2 of this chapter.

(b) The county auditor shall have the petition, without the signatures, published in a newspaper of general circulation printed and published in the county.

(c) The notice must state the date and time when the petition will be considered by the executive. The auditor shall set the date and time at which the petition will be considered, which must be at least thirty (30) days after the publication of the notice.

(d) If not later than the date and time published in the notice for the consideration of the petition by the executive, a remonstrance signed by more resident freeholders of the county than the number signing the petition is filed with the county auditor protesting the allowance, the executive shall consider the remonstrance. If the executive finds that the remonstrance is signed by a greater number of resident freeholders than the petition asking for an allowance, the executive:

(1) may not make an appropriation for the purposes set forth in section 2 of this chapter; and

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(2) shall dismiss the petition and take no further action.

(e) After final acceptance by the executive, a petition under this section is effective for one (1) to five (5) years, as determined by the executive.

Sec. 4. The county council may levy an annual tax of not more than three and thirty-three hundredths cents ($0.0333) on each one hundred dollars ($100) of assessed valuation to:

(1) construct;

(2) operate; or

(3) maintain;

a building owned and operated by a 4-H club described in section 2 of this chapter. The tax may be levied only until the building has been constructed or for not more than five (5) years, whichever occurs first. After the building has been constructed, the county council may levy an annual tax of not more than sixty-seven hundredths of one cent ($0.0067) on each one hundred dollars ($100) of assessed valuation to operate and maintain the building.

Sec. 5. A 4-H club described in section 2 of this chapter may solicit and accept any kind of contribution for the development and maintenance of the club's projects.

Sec. 6. (a) An amount appropriated under section 2 of this chapter is a lien on the real and personal property of the 4-H club.

(b) A dividend may not be declared or paid to the incorporators or stockholders of the 4-H club until the appropriation made by the board is repaid with interest to the county treasury.

Chapter 8. Issuance of Mortgage Bonds by County Agricultural or Horticultural Societies

Sec. 1. All:

(1) agricultural or horticultural societies; or

(2) county fairs having a state charter;

owning at least fifty (50) acres of real estate in fee simple may issue first mortgage bonds in a maximum amount of seventy-five percent (75%) of the value of the real estate unimproved to pay off a current incumbrance or make permanent improvements on the society's or fair's grounds.

Sec. 2. (a) Bonds issued under section 1 of this chapter:

(1) are free from state tax; and

(2) may not be issued for a period longer than the life of the charter of the society or fair.

(b) The bonds may be sold at a price less than the par value if the action is endorsed by a full meeting of the board of directors of the society or fair.

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Sec. 3. If bonds have been issued under section 1 of this chapter and there is a surplus in the treasury of the society or fair, funds not needed for improvements on the grounds must be used to retire the bonds. Bonds must be retired in the order of their seniority, and a clause stating this privilege must be inserted in all bonds.

Chapter 9. Tax Levy for County Fairs

Sec. 1. (a) The county council and board of county commissioners of a county may appropriate and pay to:

(1) an agricultural fair, exhibition, or association; or

(2) an organized county 4-H club in which the residents of the county are interested;

a sum not exceeding four cents ($0.04) on each one hundred dollars ($100) valuation of the taxable property of the county, to be paid out of the county general fund.

(b) An appropriation under subsection (a) may be used only for necessary costs and expenses:

(1) incidental to the conduct and carrying out the purposes of organized:

(A) 4-H clubs; and

(B) boys' and girls' club work;

(2) for cash awards on:

(A) agricultural and horticultural products;

(B) livestock; and

(C) boys' and girls' club work; and

(3) for judging products, livestock, and club work described in this subsection.

(c) An appropriation under subsection (a) applies to regularly organized:

(1) fair associations; and

(2) boys' and girls' clubs, 4-H clubs, or agricultural clubs;

if the fair or exhibition is given only for the promotion of the interests of agriculture, horticulture, and stock raising. The appropriation does not apply to a person, an association, or a corporation conducting the fair or exhibition for profit or to street fairs or exhibitions.

(d) An appropriation under subsection (a) may not be used or given for contests of speed.

Sec. 2. (a) Subject to subsections (b) and (c), in a county where two (2) or more fairs or exhibitions are conducted as provided in section 1 of this chapter, the county council may appropriate to each of the fairs or associations an amount that the county council considers proper and equitable.

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(b) The amount appropriated under subsection (a) must be computed by the ratio that the cash awards and judging expenses of each fair bears to the total amount spent for awards and judging by the fairs sharing in the division.

(c) The total amount appropriated under subsection (a) may not exceed a sum equal to one cent ($.01) on each one hundred dollars ($100) valuation of the taxable property located in the county.

Chapter 10. Appropriation to County Corn Growers' Association or Horticultural Society in a County Without a County Fair

Sec. 1. (a) This section applies to a county corn growers' association or horticulture society with at least:

(1) fifty (50) members in the local association or society; and

(2) ten (10) members in the state association or society.

(b) In a county where an agricultural fair or association:

(1) does not exist; or

(2) is not active;

the county council and the board of county commissioners may annually appropriate and pay to any county corn growers' association or horticultural society up to two hundred dollars ($200) to be used in the payment of cash awards.

SECTION 6. IC 15-15 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 15. HORTICULTURE PRODUCTS

Chapter 1. Indiana Seed Law

Sec. 1. As used in this chapter, "advertisement" means any representation, other than those on the label, relating to seed covered by this chapter, disseminated in any manner or by any means.

Sec. 2. As used in this chapter, "agricultural seed" means the seeds of legume, grass, forage, cereal, or fiber crops. The term includes other kinds of seeds commonly recognized in Indiana as agricultural seeds, lawn seeds, and mixtures of such seeds.

Sec. 3. As used in this chapter, "brand" means a word, name, number, or design used to identify seed of one (1) person to distinguish it from seed of another person.

Sec. 4. As used in this chapter, "bulk lot" or "in bulk" refers to seed in an unpackaged form. The term does not include seed in bags.

Sec. 5. As used in this chapter, "certifying agency" refers to either of the following:

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(1) An agency authorized under the laws of a state, territory, or possession of the United States to officially certify seed.

(2) An agency of a foreign country determined by the state seed commissioner to adhere to procedure and standards for seed certification generally adhered to by certification agencies described in subdivision (1).

Sec. 6. As used in this chapter, "distribute" means to sell, offer to sell, barter, or supply or transport for sale agricultural or vegetable seed for sowing and seeding purposes in Indiana.

Sec. 7. As used in this chapter, "effective", as applied to inoculants, means that under laboratory tests at least two (2) nodules must be produced on or adjacent to the primary root on at least sixty-six percent (66%) of the plants in the test.

Sec. 8. As used in this chapter, "hybrid" means the first generation of a cross made under controlled conditions between strains of different parentage and of satisfactory purity.

Sec. 9. As used in this chapter, "kind" means one (1) or more related species or subspecies of plant that singly or collectively are known by one (1) common name, including corn, oats, alfalfa, and timothy.

Sec. 10. As used in this chapter, "label" means the display or displays of written, printed, or graphic matter on or attached to a seed container or accompanying seed sold in bulk quantities.

Sec. 11. As used in this chapter, "labeling" refers to the use of labels or other written, printed, or graphic representations in any form accompanying or associated with a lot of seed whether in bulk or in containers. The term includes any representations on an invoice.

Sec. 12. As used in this chapter, "legume inoculant" means a pure or mixed culture of bacteria of the genus Rhizobium capable of effectively inoculating a specific kind or specific kinds of legume plants.

Sec. 13. As used in this chapter, "lot" means a definite quantity of seed identified by a lot number or other mark, every portion or bag of which is uniform within recognized tolerances for the factors that appear in the labeling.

Sec. 14. As used in this chapter, "noxious weed seed" means either of the following:

(1) Prohibited noxious weed seed.

(2) Restricted noxious weed seed.

Sec. 15. As used in this chapter, "percent" or "percentage" refers to the percentage by weight.

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Sec. 16. As used in this chapter, "person" means an individual, a partnership, a company, or a corporation.

Sec. 17. As used in this chapter, "pre-inoculated seed" means seed to which has been applied before sale an application of a legume inoculant to effectively nodulate the resultant plant until the expiration date of the inoculant.

Sec. 18. As used in this chapter, "prohibited noxious weed seed" means:

(1) the seeds of perennial weeds that not only reproduce by seed but also spread by underground roots, stems, and other reproductive parts; and

(2) seeds, which when well established, are highly destructive and difficult to control by ordinary good cultural practice.

Sec. 19. As used in this chapter, "record" means all information relating to the shipment or distribution of a lot of seed. The term includes a file sample of each lot of seed.

Sec. 20. As used in this chapter, "restricted noxious weed seed" means:

(1) seeds of weeds that are very objectionable in fields, lawns, and gardens of Indiana; and

(2) seeds of weeds that can be controlled by good cultural practices.

Sec. 21. As used in this chapter, "treated" refers to seed that has been subjected to an application of a substance or a process to:

(1) reduce, control, or repel certain disease organisms, insects, or other pests attacking the seed or seedlings growing from the seed; or

(2) change the appearance, growth pattern, or performance of the seed or seedlings growing from the seed.

Sec. 22. As used in this chapter, "type" means the general physiological and morphological characters common to a number of varieties, which varieties cannot be differentiated except under special conditions.

Sec. 23. As used in this chapter, "variety" means a subdivision of a kind characterized by growth, yield, plant, fruit, seed, or other characteristics, by which a plant can be differentiated from other plants of the same kind.

Sec. 24. As used in this chapter, "vegetable seed" means the seeds:

(1) of crops grown commercially or in home gardens; and

(2) commonly known and sold in Indiana as vegetable seeds.

Sec. 25. As used in this chapter, "weed seed" means the seeds of

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all plants commonly recognized as weeds in Indiana. The term includes noxious weed seeds.

Sec. 26. The state chemist is the state seed commissioner by virtue of office.

Sec. 27. (a) The state seed commissioner shall administer this chapter. The state seed commissioner may authorize an agent to act for the state seed commissioner under this chapter.

(b) The state seed commissioner may do any of the following to administer this chapter:

(1) Sample, inspect, analyze, and test agricultural and vegetable seed distributed within Indiana for seeding and sowing purposes, when, where, and to the extent the state seed commissioner considers necessary to determine whether the agricultural or vegetable seed is in compliance with this chapter.

(2) Notify a seed distributor of any violations of this chapter.

(3) Adopt rules:

(A) governing:

(i) methods of sampling, inspecting, analyzing, testing, and examining agricultural and vegetable seed; and

(ii) tolerances to be followed in the administration of this chapter; and

(B) necessary for the efficient enforcement of this chapter.

(4) Adopt rules to establish lists of prohibited and restricted noxious weeds.

(5) Adopt rules to establish reasonable standards of germination (as defined by rule adopted under section 28 of this chapter) for vegetable seed.

(6) Adopt rules to establish standards for the effectiveness of legume inoculant applied to pre-inoculated seed.

(7) Adopt rules to govern the treatment of seed and the labeling and distribution of treated seed.

(8) Publish at least one (1) time each year, in the form the seed commissioner considers proper, information concerning:

(A) the sales of agricultural and vegetable seed; and

(B) the results of the analysis of official samples of agricultural and vegetable seed sold within Indiana as compared with the analysis guaranteed on the label.

Information concerning production and use of agricultural and vegetable seed may not disclose the operation of any person.

(9) Enter any:

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(A) public or private property during regular business hours; or

(B) vehicle that transports seed, whether by land, water, or air, at any time the vehicle is accessible;

to inspect seed and the records relating to the seed, subject to this chapter and the rules adopted under this chapter.

(10) As used in this subdivision, "stop sale order" refers to a written order issued by the state seed commissioner to the owner or custodian of a lot of agricultural or vegetable seed that the state seed commissioner has found violates this chapter or rules adopted under this chapter. The state seed commissioner may issue and enforce stop sale orders. A stop sale order prohibits the future sale, processing, and movement of the seed until the state seed commissioner issues a release from the stop sale order. The owner or custodian of the seed is entitled to appeal a stop sale order to a court with jurisdiction in the locality in which the seed is found, as provided in IC 4-21.5, seeking a judgment as to the justification for the order for the discharge of the seed from the stop sale order in accordance with the findings of the court. This subdivision does not limit the right of the state seed commissioner to proceed as otherwise authorized by this chapter.

(11) Establish and maintain or make provisions for seed testing facilities.

(12) Employ qualified persons.

(13) Incur necessary expenses.

(14) Test or provide for testing seed for purity and germination (as defined by rule adopted under section 28 of this chapter) for farmers and dealers on request of a farmer or dealer, prescribe rules governing such testing, and charge for the tests made.

(15) Cooperate with the United States Department of Agriculture and other agencies in seed law enforcement.

(16) Enter the property of a producer of hybrid seed to determine whether the seed produced is as the seed is represented.

Sec. 28. (a) The state seed commissioner may by rule define seed labeling and testing terms in common usage such as "pure seed" and "germination".

(b) A rule adopted by the state seed commissioner under this section must be based on published sources such as the rules of the

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Association of Official Seed Analysts.

Sec. 29. The state seed commissioner may, by rule, define controlled conditions and satisfactory purity for the production of hybrid seed of any kind. A hybrid designation shall be treated as a variety name.

Sec. 30. The label of seed that has been pre-inoculated must indicate that the seed has been pre-inoculated.

Sec. 31. (a) Sections 32 and 33 of this chapter do not apply to the following:

(1) Seed or grain not intended for seeding and sowing purposes. However, treated agricultural seed must be labeled in accordance with section 32 of this chapter when sold to any person for any purpose whether the seed is in containers or in bulk.

(2) Seed in storage or seed that is being transported or consigned to a seed cleaning or processing establishment for cleaning or processing if the invoice or labeling accompanying a shipment of the seed contains the statement "Seed For Processing". Any labeling or other representation that may be made with respect to uncleaned or unprocessed seed is subject to this chapter.

(3) A carrier in respect to seed transported or delivered for transportation in the ordinary course of its business as a carrier if the carrier is not engaged in producing, processing, or distributing agricultural or vegetable seed subject to this chapter.

(4) Seed that satisfies all the following:

(A) The seed is grown on the property owned by the seller of the seed.

(B) The seed is sold and delivered to the purchaser on the property on which the seed is grown.

(C) The seed does not contain prohibited noxious weed seed.

(D) The seed contains not more than one-fourth of one percent (0.25%) of restricted noxious weed seed.

(E) The seed contains not more than two and one-half percent (2.5%) of all weed seed.

If seed is advertised for sale through the medium of the public press, by circular, by catalog, or by exposing a sample of the seed or a printed or written statement about the seed in a public place or place of business, or if the seed is delivered by a common carrier, (except when transported for the purpose

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of being recleaned as provided in this section), the producer is considered to be a vendor, and the seed must meet all requirements of this chapter, including complete labeling of the seed. For cereal and soybean seed where the purpose for which the seed is intended may be in question, seed advertised for sale by variety name, as processed, tested, treated, or offered at a price substantially higher than current market prices, is presumed to be offered for seeding purposes and subject to the labeling provisions of this chapter.

(b) A person is not subject to the penalties of this chapter for distributing agricultural or vegetable seed incorrectly labeled or represented as to kind, variety, or origin and that cannot be identified by examination of the seed unless the person fails to:

(1) obtain an invoice, genuine grower's declaration, or other labeling information; and

(2) take other precautions reasonable to ensure the identity of the seed as stated.

Sec. 32. (a) A container of agricultural seed of any size consisting of more than one (1) pound distributed in Indiana for sowing and seeding purposes must contain or have attached in a conspicuous place on the outside of the container a plainly written or printed tag or label in English giving the information required by this section. If the seed is distributed in bulk, the information required by this section must accompany delivery and be supplied to the purchaser at the time of delivery.

(b) The labeling required for seed sold in bags and packages, and in bulk as required by this section, must include the following statements on the labeling attached to the container:

(1) The commonly accepted name of each kind and variety of each agricultural seed component that exceeds five percent (5%) of the whole and the percentage by weight of each in the order of its predominance. However, the variety designation may be omitted if the label states the name of the kind and the words "variety not stated". If more than one (1) component is required to be named, the word "mixture" or the word "mixed" must be shown conspicuously on the label. A mixture consisting of two (2) or more varieties of the same kind may be designated as a "blend".

(2) Lot number or other lot identification.

(3) Origin (state or foreign country where grown) for all seed except hybrid corn. If the origin is unknown, that fact must be stated.

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(4) The percentage of all weed seed.

(5) The name and rate of occurrence per pound of each kind of restricted noxious weed seed present.

(6) The percentage of all other agricultural or vegetable seed, which may be designated as "other crop seeds" or "crop seeds".

(7) The percentage of inert matter.

(8) For each named agricultural seed:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed if present; and

(C) the calendar month and year the test was completed to determine the percentages.

(9) The name and address of the person who labeled the seed or who distributed it within Indiana.

(10) For all seed named and treated (for which a separate label may be used):

(A) a word or statement indicating that the seed has been treated;

(B) the commonly accepted coined chemical or abbreviated chemical (generic) name of any applied pesticide;

(C) a description of the process or the commonly accepted name of the substance applied if other than a pesticide; and

(D) if the substance in the amount present with the seed is harmful to human or other vertebrate animals, a caution statement such as "Do Not Use For Food Or Feed Or Oil Purposes". A poison statement or symbol must be used as the caution for mercurials and similarly toxic substances.

(11) For pre-inoculated seed, in addition to other labeling requirements of this section (for which a separate label may be used):

(A) a word or statement indicating that the seed has been pre-inoculated; and

(B) the date beyond which the inoculant is not to be considered effective.

(c) The statements required by this section may not be modified or denied.

Sec. 33. A container of vegetable seed of any size distributed within Indiana for sowing and seeding purposes must have attached in a conspicuous place on the outside of the container a

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plainly written or printed label in English giving the following information:

(1) The name of the kind and variety of seed.

(2) The name and address of the person who labeled or who distributed the seed.

(3) For seed that germinates less than the standard most recently established under this chapter:

(A) the percentage of germination (as defined by rule adopted under section 28 of this chapter), exclusive of hard seed;

(B) the percentage of hard seed, if present;

(C) the calendar month and year the test was completed to determine the percentages; and

(D) the words "Below Standard" in not less than 8 point type.

(4) For seed that has been treated, the same labeling information required for agricultural seeds.

(5) The number of noxious weed seeds per pound of vegetable seed, if any weed seed is present.

Sec. 34. (a) For the purpose of defraying the costs of inspection, analysis, publication, and other expenses incurred in the administration of this chapter, the state seed commissioner shall charge the amount set forth in this section for tags or labels required by sections 32 and 33 of this chapter.

(b) The charge for alfalfa, clover, vegetable, and grass seed or mixtures of any of these seeds is the following:

(1) Six cents ($0.06) for each twenty-five (25) pound tag or label.

(2) Twelve cents ($0.12) for each fifty (50) pound tag or label.

(3) Eighteen cents ($0.18) for each seventy-five (75) pound tag or label.

(4) Twenty-four cents ($0.24) for each one hundred (100) pound tag or label.

(c) The charge for seed other than seed described in subsection (b) is the following:

(1) Two and one-fourth cents ($0.0225) for each twenty-five (25) pound tag or label.

(2) Four and one-half cents ($0.045) for each fifty (50) pound tag or label.

(3) Six and three-fourths cents ($0.0675) for each seventy-five (75) pound tag or label.

(4) Nine cents ($0.09) for each hundred (100) pound tag or

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label.

(5) Nine cents ($0.09) for one hundred (100) pounds for each tag or label that the state seed commissioner furnishes in denominations larger than one hundred (100) pounds.

(d) Tags furnished by the state seed commissioner must:

(1) contain the facsimile signature of the state seed commissioner;

(2) be referred to as state seed commissioner tags or labels;

(3) be completely filled out with the information required in sections 32 and 33 of this chapter; and

(4) be attached to containers or be delivered with sales of agricultural or vegetable seed distributed in bulk in quantities of more than one (1) pound.

(e) A distributor or the distributor's successor may return for credit any unused and obsolete state seed commissioner tags or labels. The state seed commissioner shall give credit for the return of obsolete tags or labels after deducting all costs of printing and handling.

(f) If the state seed commissioner grants a distributor a permit to report the quantity of seed sold and pay the inspection fee on the basis of this report instead of attaching or furnishing state seed commissioner tags or labels as provided in this section, the distributor may return for credit, not later than sixty (60) days after issuance of the permit, all unused state seed commissioner tags or labels whether obsolete or not. The state seed commissioner shall credit the distributor those tags or labels:

(1) submitted as blank at the purchase price; and

(2) that have been filled out at the purchase price less the cost of printing and handling.

(g) A distributor of agricultural seed in packages of not more than one (1) pound shall pay not later than January 15 of each year an annual fee of forty-five dollars ($45) for each brand of seed distributed. The distributor is not required to affix state seed commissioner tags or labels to packages of not more than one (1) pound that bear a proper label. Payment of an annual fee is not required of retailers who furnish quantities of not more than one (1) pound from a properly labeled container of seed on which the inspection fee has been paid.

(h) A person who distributes agricultural or vegetable seed in Indiana may apply to the state seed commissioner for a permit to use the person's own labeling, report the quantity of seed sold, and pay the inspection fee on the basis of the report instead of attaching

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or furnishing state seed commissioner tags or labels. The inspection fee is the following:

(1) Twenty-four cents ($0.24) per one hundred (100) pounds of alfalfa, clover, vegetable, grass seed, and mixtures of such seeds, with a minimum payment of six cents ($0.06) for each package or container of more than one (1) pound.

(2) Nine cents ($0.09) per one hundred (100) pounds of all agricultural seed other than seeds described in subdivision (1), with a minimum payment of two and one-fourth cents ($0.0225) for each package or container of more than one (1) pound.

(3) One dollar and fifty cents ($1.50) for each assortment or unit of vegetable seed distributed in an assortment or other display unit, in packets of not more than one (1) pound.

(i) In making application for a permit under subsection (h), the distributor must agree to the following:

(1) Label the seed with the information required by law.

(2) Keep the records the state seed commissioner considers necessary to indicate accurately the number and size of containers of each kind of agricultural and vegetable seed distributed and the quantity of such seed distributed in bulk.

(3) Grant the state seed commissioner or the state seed commissioner's authorized representative permission to examine the records described in subdivision (2) and verify the statement of quantity of seed distributed.

(4) Report under oath to the state seed commissioner on forms furnished by the state seed commissioner the quantity of agricultural and vegetable seed sold during the period covered.

(j) The state seed commissioner may grant a permit under subsection (h) if the state seed commissioner determines that the applicant's proposed report of the quality of agricultural and vegetable seed sold will lead to efficient enforcement of this chapter. The state seed commissioner may revoke the permit at any time if it appears to the state seed commissioner that the distributor is not complying with the agreement described in subsection (i) or this chapter. The report of sales is due and the inspection fees payable quarterly, on the last day of the month following the end of the quarter. If:

(1) the report is not filed and the inspection fee not paid before ten (10) days following the due date;

(2) the report of volume is false; or

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(3) the labeling requirements of this chapter have not been complied with;

the state seed commissioner may revoke the permit. If the inspection fee is unpaid after the ten (10) day grace period, a penalty shall be assessed in the amount of ten percent (10%) in addition to the amount due.

Sec. 35. (a) The state seed commissioner shall pay all fees collected under this chapter to the treasurer of Purdue University.

(b) The board of trustees of Purdue University shall expend the fees on proper vouchers filed with the treasurer of Purdue University. The treasurer shall pay vouchers for the following expenses:

(1) The employment of inspectors and seed analysts.

(2) Procuring samples.

(3) Printing bulletins giving the results of inspection.

(4) Any other expenses of the Purdue University agricultural programs authorized by law and for implementing this chapter.

(c) The dean of agriculture of Purdue University shall make a financial report to the governor in such form as the state board of accounts requires, showing the total receipts and expenditures of all fees received under this chapter.

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

Sec. 36. (a) Each person whose name appears on the label as distributing agricultural or vegetable seed subject to this chapter shall do the following:

(1) Keep for two (2) years complete records of each lot of agricultural or vegetable seed distributed.

(2) Keep for one (1) year a file sample of each lot of seed that is distributed after final disposition of the lot.

(b) All records and samples relating to the shipments involved must be accessible for inspection by the state seed commissioner or the state seed commissioner's agent during customary business hours.

Sec. 37. (a) A person who is engaged in the business of selling agricultural or vegetable seed who enters into a contract with the purchaser under which the seller agrees to repurchase the seed crop produced by the purchaser at a price greater than the current market price of the seed at the time of delivery shall secure an annual license from the state seed commissioner to engage in that business.

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(b) To secure a license required by this section, a person must apply for the license to the state seed commissioner. The application must be accompanied by the following:

(1) A bond with corporate surety, approved by the seed commissioner, in the penal sum of ten thousand dollars ($10,000), payable to the state, for the use and benefit of any purchaser of seed who may have a cause of action against a seller who fails to comply with the terms of the purchase contract.

(2) A fee of one dollar ($1) for each place of business from which agricultural or vegetable seed is distributed by the licensee.

An applicant for a license may request the state seed commissioner to accept a verified financial statement of the applicant's assets instead of the submission of a bond. If the state seed commissioner, after an examination of the applicant's financial statement, determines that the applicant is financially responsible for any damage that may arise out of a breach of a purchase contract, the state seed commissioner may accept the statement instead of a bond.

(c) A license issued under this section expires at the end of the calendar year in which it is issued.

(d) The state seed commissioner may suspend, revoke, or refuse to issue a license under this section to any person who fails to comply with this chapter. If a hearing is waived by nonappearance of the person at the date, time, and place designated for the hearing, the state seed commissioner may proceed to act under this section and suspend, revoke, or refuse to issue a license. The failure to fulfill a contract to deliver seed sold, or the failure to repurchase the seed crop produced from any agricultural or vegetable seed sold, is prima facie evidence of intent to defraud the purchaser if the crop produced by the purchaser meets the requirements prescribed in the contract of sale. Whenever the state seed commissioner has evidence that a licensee has committed fraud on any purchaser, the state seed commissioner shall immediately start proceedings to suspend or revoke the license issued to the licensee.

(e) A person who recklessly, knowingly, or intentionally:

(1) enters into a contract with a producer of agricultural or vegetable seed, under which the person sells seed and agrees to repurchase the seed crop produced from that seed at a price greater than the current market price at the time of delivery; and

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(2) has not obtained a license required by this section;
commits a Class B misdemeanor.

Sec. 38. (a) The state seed commissioner may file an action for the seizure of any lot of agricultural or vegetable seed that violates this chapter.

(b) An action filed under this section must be filed in a court with jurisdiction in the locality in which the seed is located.

(c) If the court finds the seed to be in violation of this chapter and orders the condemnation of the seed, the seed shall be denatured, processed, destroyed, relabeled, or disposed of in compliance with Indiana law. The court may not order the disposition of the seed unless the claimant is given an opportunity to apply to the court for release of the seed or permission to process or relabel the seed to bring it into compliance with this chapter.

Sec. 39. (a) The state seed commissioner may apply for, and the court may grant, a temporary or permanent injunction to restrain a person from violating or continuing to violate this chapter, or a rule adopted under this chapter, notwithstanding the existence of other remedies at law.

(b) The court may not require a bond as a condition of granting an injunction under this section.

Sec. 40. A person may not distribute agricultural or vegetable seed within Indiana if any of the following apply:

(1) If the test to determine the percentage of germination (as defined by rule adopted under section 28 of this chapter) required by sections 32 and 33 of this chapter has not been completed within a nine (9) month period, not including the calendar month in which the test was completed immediately before distribution. However, the state seed commissioner may by rule designate:

(A) a shorter period for a kind of agricultural or vegetable seed that the state seed commissioner finds under ordinary conditions of handling will not maintain, during a nine (9) month period, a germination within the established tolerance limits; or

(B) a longer period for a kind of agricultural or vegetable seed that is packaged in such container materials and under such conditions prescribed by the state seed commissioner that the state seed commissioner finds will, during the longer period, maintain the viability of the seed under ordinary conditions of handling.

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(2) If the seed is not labeled in accordance with this chapter.
(3) If the seed carries labeling that is false or misleading in any particular.
(4) If the seed contains or consists of prohibited noxious weed seed.
(5) If the seed consists of or contains restricted noxious weed seed in excess of one-fourth of one percent (0.25%). If less than one-fourth of one percent (0.25%) of weed seed by weight is present, the number per pound must be declared on the labeling.
(6) If the seed contains more than two and one-half percent (2.5%) of all weed seed.
(7) If the seed is represented to be "certified seed", "registered seed", or "foundation seed", the seed has not been produced and labeled in accordance with the procedures and in compliance with rules of an official or officially recognized seed certification or registration agency.
(8) If the inoculant applied to pre-inoculated seed is ineffective as determined by standards established by rule.

Sec. 41. A person may not do any of the following:
(1) Detach, alter, deface, or destroy any label provided for in this chapter or the rules adopted under this chapter.
(2) Alter or substitute seed in a manner that may defeat the purpose of this chapter.
(3) Disseminate false or misleading advertisements concerning agricultural or vegetable seed.
(4) Hinder or obstruct in any way an authorized person in the performance of the person's duties under this chapter.
(5) Fail to comply with a stop sale order issued under section 27 of this chapter.
(6) Use the word:
(A) "trace" as a substitute for any statement required by this chapter; or
(B) "type" in any labeling in connection with the name of any seed variety.
(7) Use a state seed commissioner tag or label more than once.
(8) Sell grain or other seed that has been treated to any person for any purpose unless the grain or seed is clearly labeled as required in sections 32 and 33 of this chapter.
(9) Distribute seed colored so that it does not contrast with the natural color of the seed.
(10) Distribute noxious weed seed.

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(11) Assign the same brand designation to more than one (1) variety or blend of the same kind of seed, if not sold by variety name.

Sec. 42. Except as provided in section 39 of this chapter, a person who violates this chapter commits a Class C infraction.

Sec. 43. (a) Except as provided in subsection (c), a political subdivision (as defined in IC 36-1-2-13) may not regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed.

(b) A political subdivision may, by resolution, petition the state seed commissioner for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the advertising, labeling, distribution, sale, transportation, storage, or use of seed. If a petition is received, the state seed commissioner shall hold a public hearing to consider granting the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

(c) If the state seed commissioner, after a public hearing under subsection (b), grants a political subdivision's petition for a waiver, the political subdivision may regulate the advertising, labeling, distribution, sale, transportation, storage, or use of seed to the extent allowed by the waiver.

Chapter 2. Sale and Transfer of Plant Cultures

Sec. 1. This chapter does not apply to commercial fertilizers, barnyard manure, marl, lime, wood ashes, or plaster.

Sec. 2. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, a trustee, a receiver, or an assignee for the benefit of creditors.

Sec. 3. (a) Before pure or mixed cultures of microorganisms or materials used for promoting plant growth are sold or offered for sale in Indiana, the manufacturer, dealer, importer, agent, or person that causes the materials to be sold, offered for sale, or provided by sample shall:

(1) file with the state chemist a:

(A) statement of desire to offer for sale in Indiana the materials; and

(B) certificate for registration stating the:

(i) name of the manufacturer;

(ii) location of the principal office of the manufacturer;

(iii) name under which the product will be sold;

(iv) name or names of the plants for which the product

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is to be used;
(v) composition of the substance; and
(vi) kinds of microorganisms contained in the product that promote the growth of plants; and
(2) obtain a permit from the state chemist.
(b) The state chemist may:
(1) refuse to issue a permit to an applicant described in subsection (a); or
(2) cancel a permit issued under subsection (a);
if the state chemist is satisfied that a culture of microorganisms or another material used for promoting the growth of plants is sold under false or misleading claims.

Sec. 4. A person who manufactures, offers for sale, sells, displays for sale, or provides by sample, a pure or mixed culture of microorganisms or materials used for promoting plant growth shall affix or cause to be affixed, in a conspicuous place on the outside of every package or sample of the material, a label on which is plainly printed in English the:
(1) name of the manufacturer;
(2) location of the principal office of the manufacturer;
(3) name under which the product is sold;
(4) name or names of the plants for which the product is to be used;
(5) composition of the substance; and
(6) kinds of microorganisms contained in the product that promote the growth of plants.

Sec. 5. (a) A person that:
(1) offers for sale, sells, or provides by sample a package, a sample, or a quantity of a pure or mixed culture of microorganisms or materials used for promoting plant growth to which the label prescribed by section 4 of this chapter is not affixed;
(2) labels a substance described in subdivision (1) with a false or inaccurate label; or
(3) offers for sale or sells a substance described in subdivision (1) that is not registered with the state chemist;
as required by this chapter commits a Class C infraction.
(b) This chapter does not prevent:
(1) the state chemist;
(2) the Purdue University office of agricultural research programs; or
(3) a person deputized by the state chemist;

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from making experiments with pure or mixed cultures of microorganisms or materials used for promoting plant growth for the advancement of the science of agriculture.

Sec. 6. (a) The state chemist shall charge, collect, and receive the sum of twenty-five dollars ($25):

(1) at the time of registering a pure or mixed culture of microorganisms or materials described in section 3 of this chapter for each material or culture registered; and

(2) not later than the fifteenth day of January of each succeeding year until the pure or mixed cultures of microorganisms or material is no longer sold, distributed, offered, or displayed for sale in Indiana.

(b) Money received under subsection (a) must be forwarded to the treasurer of Purdue University, who shall expend the money on vouchers to be filed with the auditor of state to pay all necessary expenses incurred in implementing this chapter, including:

(1) the employment of inspectors, chemists, and bacteriologists;

(2) the expenses incurred in procuring samples;

(3) printing bulletins; and

(4) giving the results of inspections, as provided by this chapter;

and for any other expenses of Purdue University agricultural programs, as authorized by law and in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall submit to the governor an annual classified report showing the total receipts and expenditures of all fees received under this chapter.

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

Sec. 7. (a) The state chemist or a person deputized by the state chemist may procure a suitable sample from any lot, parcel, or package of pure or mixed cultures of microorganisms or materials used for promoting plant growth that is offered for sale or found in Indiana.

(b) A sample procured under subsection (a) must be drawn or taken during reasonable business hours and in the presence of the owner of the product or a representative of the owner.

Sec. 8. A person who prevents the state chemist or a person deputized by the state chemist from inspecting and obtaining samples of pure or mixed cultures of microorganisms or materials as provided in this chapter commits a Class C infraction.

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Sec. 9. The state chemist may:

(1) prescribe and enforce rules necessary to implement this chapter;

(2) refuse to issue a permit; or

(3) refuse to register or cancel the registration of any product used for promoting plant growth or any pure or mixed cultures of microorganisms or materials used for promoting plant growth if the state chemist believes the product, cultures, or materials:

(A) are registered under a name that would be misleading as to the materials of which they are made; or

(B) are sold under false or misleading claims.

Chapter 3. Records of Deliveries and Purchases of Seed and Grain

Sec. 1. (a) As used in this chapter, "buyer of grain" means a person, firm, limited liability company, or corporation regularly engaged in the business of buying grain or seed produced on a farm in Indiana.

(b) The term does not include a person that purchases grain or seed if less than five (5) separate purchases are made by the person during any one (1) year.

Sec. 2. A buyer of grain or seed shall prepare, keep, and maintain a record of all deliveries and purchases of grain or seed showing the following information:

(1) The kind of grain or seed delivered or purchased, and if the grain or seed delivered or purchased is corn, whether the corn is white or yellow corn.

(2) The date on which the grain or seed is delivered by the vendor.

(3) The number of bushels of grain or seed purchased or delivered.

(4) A description of the vehicle in which the grain or seed is delivered, the name of the driver, and, if the vehicle is a motor vehicle, the license number of the motor vehicle.

(5) The name of the vendor and the name of the producer of the grain or seed.

(6) The name and address of the person to whom the money representing the purchase price of the grain or seed is paid.

Sec. 3. (a) The records kept by buyers of grain or seed under section 2 of this chapter must be available for inspection at any time by a law enforcement officer when attempting to trace the movements of grain or seed to determine whether any criminal

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laws of the state have been violated.

(b) All records described in subsection (a) must be kept for at least three (3) years.

Sec. 4. A person who violates or refuses to comply with this chapter commits a Class C infraction.

Chapter 4. Certification of Agricultural Seeds and Plant Parts

Sec. 1. The dean of agriculture of Purdue University:

(1) shall administer and implement this chapter; and

(2) may adopt rules under IC 4-22-2 that the dean of agriculture considers necessary to carry out the purposes and secure the efficient administration of this chapter.

Sec. 2. (a) A person, a firm, an association, a limited liability company, or a corporation that issues, uses, or circulates a certificate, an advertisement, a tag, a seal, a poster, a letterhead, a marking, a circular, a written or printed representation, or a description of or pertaining to seeds or plant parts intended for propagation or sale or sold or offered for sale on which:

(1) the words "Indiana State Certified", "State Certified", "Indiana Certified", "Certified", or similar words or phrases are used or employed; or

(2) signs, symbols, maps, diagrams, pictures, words, or phrases are used or employed that expressly or impliedly state or represent that the seeds or plant parts comply with or conform to the standards or requirements for certification recommended or approved by Purdue University;

is subject to this chapter.

(b) For purposes of this chapter, an issuance, a use, or a circulation of a certificate or another instrument described in subsection (a) is considered to be certification under this chapter.

Sec. 3. (a) A person, a firm, an association, a limited liability company, or a corporation that is subject to this chapter shall observe, perform, and comply with all rules and requirements fixed, established, or specified by Purdue University as to the crops grown or to be grown in Indiana that are eligible for certification under this chapter and concerning:

(1) the conduct of;

(2) the standards and requirements for; and

(3) the forms of and for;

certification by Purdue University or by an authorized agent of Purdue University.

(b) Not more than one (1) agent for certification under this chapter may be designated for a specified crop.

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Sec. 4. (a) Certification work conducted by Purdue University or an agent described in section 3 of this chapter is performed on a self-supporting basis and not for financial profit.

(b) Purdue University may designate as an agent for the certification of seeds or plant parts intended for propagation for sale a properly qualified:

(1) nonstock, nonprofit agricultural association incorporated under Indiana law; or

(2) agency.

Sec. 5. Purdue University is not financially responsible for debts incurred by, damages inflicted by, contracts broken by, or claims against certifying agencies in conducting certification work under this chapter.

Sec. 6. Purdue University or an agent of Purdue University described in this chapter may withhold certification from a grower of seeds or plant parts who is engaged in or attempting to engage in dishonest practices to evade the requirements of this chapter, including standards and rules established by Purdue University for certification under this chapter.

Sec. 7. (a) Except as provided in subsection (b), the term "certified" must not be used in connection with seeds or plant parts that are:

(1) produced outside Indiana; and

(2) offered for sale in Indiana.

(b) The term "certified" may be used in connection with seeds or plant parts described in subsection (a) if the seeds or plant parts have been certified by the:

(1) agency officially approved by the inspection officials of the state, province, or country in which the:

(A) seeds or plant parts originate; and

(B) certification standards are equal to Indiana certification standards; or

(2) dean of agriculture of Purdue University.

Sec. 8. It is a Class C infraction for a person to issue, make, use, or circulate a certification described in this chapter without the authority and approval of Purdue University or the authorized agent of Purdue University.

Chapter 5. Indiana Seed Arbitration Council

Sec. 1. This chapter applies to civil actions against a seller for the failure of agricultural or vegetable seeds to perform if the container in which the seeds were sold included the following notice on the label:

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NOTICE OF REQUIRED ARBITRATION

Under the seed laws of Indiana and some other states, arbitration is required as a precondition of maintaining certain legal actions, counterclaims, or defenses against a seller of seed. Information about this requirement, where applicable, may be obtained from a state's seed commissioner or the department of agriculture.

Sec. 2. Arbitration under this chapter is not subject to IC 34-57-2.

Sec. 3. As used in this chapter, "agricultural or vegetable seeds" refers to:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 4. As used in this chapter, "arbitration" refers to arbitration conducted under this chapter.

Sec. 5. As used in this chapter, "buyer" means a buyer of:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 6. As used in this chapter, "commissioner" refers to the state seed commissioner.

Sec. 7. As used in this chapter, "council" refers to the Indiana seed arbitration council established by section 9 of this chapter.

Sec. 8. As used in this chapter, "seller" refers to a seller of:

(1) agricultural; or

(2) vegetable;

seeds that are subject to IC 15-15-1.

Sec. 9. (a) The Indiana seed arbitration council is established.

(b) The following persons or their designees are members of the council:

(1) The director of Purdue University cooperative extension service.

(2) The director of the office of agricultural research programs at Purdue University.

(3) The president of the Indiana Seed Trade Association.

(4) The president of an Indiana farmer organization selected by the commissioner.

(5) The commissioner.

(c) The council shall select a chairperson from its membership.

(d) The council may be called into session by the commissioner or by the council's chairperson to consider matters under this

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chapter.

Sec. 10. The council shall do the following:

(1) Assist buyers and sellers in determining the validity of complaints between the buyer and the seller.

(2) Recommend cost damages resulting from the failure of seed to perform or produce properly, whether the damages are related to:

(A) specific representations on the label;

(B) other information on the seed container; or

(C) conditions attributed to the quality of the seed.

Sec. 11. The council may do the following:

(1) Examine all nonprivileged records of the buyer and the seller that the council considers relevant to a complaint filed under this chapter.

(2) Investigate and conduct tests the council considers necessary to determine the validity of the complaint. The council may enter into contracts with qualified persons to perform investigations and tests under this subdivision.

(3) Hold hearings at the times and places designated by the chairperson to perform the functions described in section 10 of this chapter. Written notice of a hearing must be given to the buyer and the seller not later than twenty (20) days before the hearing. Each party must be given an opportunity to present its position at a hearing.

(4) Negotiate and recommend to the buyer and the seller conditions for settlement of a complaint.

(5) Hold hearings to present:

(A) the results of the investigation of a complaint; and

(B) the recommendations to the buyer and the seller for settlement of the complaint.

(6) Compel either or both of the following by subpoena:

(A) The attendance and testimony of witnesses.

(B) The production of documents.

If the council issues a subpoena, the circuit or superior court of the county in which a subpoena is to be served shall enforce the subpoena.

Sec. 12. (a) As a condition precedent to maintaining a civil action against a seller for failure of the agricultural or vegetable seeds to produce or perform:

(1) as represented by the label required to be attached to those seeds or furnished under IC 15-15-1-32 or IC 15-15-1-33;

(2) as represented by warranty; or

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(3) because of negligence;

the buyer must submit the claim to arbitration.

(b) Any applicable period of limitation with respect to a claim subject to this chapter is tolled until twenty (20) days after the filing of the report of arbitration with the commissioner.

Sec. 13. (a) As a condition precedent to asserting a counterclaim or a defense in an action brought by a seller against a buyer, the counterclaim or defense must be submitted to arbitration.

(b) Upon the buyer's filing of a written notice of intention to assert a claim as a counterclaim or defense, accompanied by a copy of the buyer's complaint in arbitration filed under section 18 of this chapter, the action brought by the seller shall be stayed and any applicable statute of limitations is tolled with respect to the claim until twenty (20) days after filing of the report of arbitration with the commissioner.

Sec. 14. The report of arbitration under section 21 of this chapter is binding upon all parties to the extent that they have so agreed in a contract governing the sale of the seed.

Sec. 15. In the absence of an agreement to be bound by arbitration, a buyer may:

(1) commence legal proceedings against a seller based upon a claim subject to this chapter; or

(2) assert a claim subject to this chapter as a counterclaim or defense in any action brought by the seller;

at any time after the receipt of the report of arbitration.

Sec. 16. In any litigation involving a complaint that has been the subject of arbitration under this chapter, any party may introduce the report of arbitration as evidence of the facts found in the report, and the court may give such weight to the council's findings of fact and conclusions of law and recommendations as to damages and costs contained in the report as the court considers appropriate based upon all the evidence before the court. The court may also take into account any finding of the council with respect to the failure of any party to cooperate in the arbitration proceedings, including any finding as to the effect of delay in filing the arbitration claim upon the council's ability to determine the facts of the case.

Sec. 17. (a) A buyer that seeks to assert a claim under this chapter shall invoke arbitration under this chapter by filing a sworn complaint with the commissioner together with a filing fee of one hundred dollars ($100). The buyer shall serve a copy of the complaint upon the seller by certified mail.

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(b) Except in the case of seed that has not been planted, the claim shall be filed within a reasonable time after the alleged defect or violation becomes apparent so as to permit effective inspection of:

(1) the crops or plants under field conditions; or

(2) the grain harvested from the crops or plants.

(c) Notwithstanding subsection (b), a claim must be filed not later than ninety (90) days after completion of the harvest of the crop of the seed at issue.

Sec. 18. (a) Not later than twenty (20) days after receipt of a copy of the complaint, the seller shall file with the commissioner an answer to the complaint and serve a copy of the answer upon the buyer by certified mail.

(b) The seller shall pay a filing fee of one hundred dollars ($100) to the commissioner when the seller files the answer to the complaint under subsection (a).

Sec. 19. (a) Before beginning a complaint investigation, the commissioner shall prepare and provide to the parties an estimate of the costs to be incurred during the investigation of the complaint.

(b) Before a complaint investigation begins, the buyer and the seller shall each pay to the commissioner an amount equal to fifty percent (50%) of the costs estimated by the commissioner under subsection (a). The money required to be paid under this subsection is in addition to the filing fees required by sections 17 and 18 of this chapter.

(c) The commissioner shall deposit the money paid under subsection (b) in a separate account. The costs of the investigation shall be paid from money in the account.

(d) If the actual costs of the investigation are greater than the costs estimated under subsection (a), the buyer and the seller shall each pay fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

(e) If the actual costs of the investigation are less than the costs estimated under subsection (a), the commissioner shall refund to the buyer and the seller each fifty percent (50%) of the difference between the actual costs and the costs estimated under subsection (a).

Sec. 20. The commissioner shall refer the complaint and answer to the council for investigation, findings, and recommendations.

Sec. 21. Upon referral of a complaint for investigation, the council shall make a prompt and full investigation of the matters

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complained of and report its findings and recommendations to the commissioner not later than sixty (60) days after the referral or a later date as the parties may determine.

Sec. 22. The report of the council must include findings of facts, conclusions of law, and recommendations as to costs, if any.

Sec. 23. The council may delegate all or any part of any investigation to one (1) or more of its members. Any delegated investigation shall be summarized in writing and considered by the council in its report.

Sec. 24. The council shall ensure that all trade secrets and other information of a proprietary nature collected during the course of an investigation under this chapter are kept confidential to the degree necessary to ensure the property rights of the seller and the civil rights of the buyer.

Sec. 25. A member of the council is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b). A member is, however, entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 26. After the council has made its report, the commissioner shall promptly transmit the report by certified mail to all parties.

Sec. 27. The buyer and seller shall each give written notice to the commissioner of the acceptance or rejection of the council's recommended terms of settlement not later than thirty (30) days after the date of the council's recommendation.

Sec. 28. The commissioner may adopt rules under IC 4-22-2 to do the following:

(1) Describe the conditions and circumstances relating to seed to which arbitration under this chapter is applicable.

(2) Supplement the procedures of the arbitration process set forth in this chapter.

Chapter 6. Seed Contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to a seed contract for seed that is planted in Indiana.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed contract for seed that is planted in Indiana.

Sec. 2. This chapter does not apply to either of the following:

(1) A seed contract entered into before January 1, 2004.

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(2) A production contract.

Sec. 3. The definitions in IC 15-15-7 apply throughout this chapter.

Sec. 4. (a) The provisions of this chapter are considered to be a part of every seed contract.

(b) A seed contract is not required to contain or restate any provision of this chapter.

(c) A bag or other container used by a seed supplier to deliver seed to a farmer is not required to bear a label or any other writing containing or restating any provision of this chapter. A provision found on a label or any other writing on a seed bag or container inconsistent with this chapter is not enforceable against a farmer.

(d) The failure of a seed supplier to state any provision of this chapter in a seed contract, on a label, or in any other writing on a seed bag or container is not a violation of this chapter.

Sec. 5. A provision of a seed contract in conflict with this chapter is void.

Sec. 6. A provision of a seed contract that purports to waive a provision of this chapter is void.

Sec. 7. A seed contract subject to this chapter is governed by the laws of Indiana.

Sec. 8. If a seed contract purports to choose the laws of a jurisdiction other than Indiana to govern the contract, the choice is not enforceable.

Sec. 9. (a) This section applies only if a seed contract purports to choose a forum that would not otherwise have jurisdiction over a farmer.

(b) The forum selection provision of a seed contract must be printed conspicuously in immediate proximity to the space reserved for the signature of the farmer. For purposes of this subsection, a forum selection provision is printed conspicuously if any of the following apply:

(1) The provision is printed in capital letters, and other text is printed in capital and lower case letters.

(2) The provision is printed in a larger, bold, or other typeface different from other text.

(3) The provision is printed in a color that contrasts with other text.

(4) The provision is underlined.

(5) The provision is printed in any other way that highlights the provision in relation to the other text of the contract.

(c) A forum selection provision that violates this section is not

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enforceable.

Sec. 10. Communications:

(1) between a farmer and:

(A) a member of the farmer's immediate family;

(B) an attorney;

(C) an accountant;

(D) a professional adviser; or

(E) a partner, an associate, or another individual engaged with the farmer in the farming enterprise for which the seed was purchased;

(2) regarding the terms of a seed contract; and

(3) made for the purpose of giving advice to the farmer;

are not a breach of a confidentiality provision in a seed contract.

Sec. 11. If:

(1) a product in which the seed supplier has rights is possessed by the farmer or found on real property owned or occupied by the farmer; and

(2) the presence of the product is de minimus or not intended by the farmer;

the farmer is not liable for breach of the seed contract.

Chapter 7. Inspections Under Seed Contracts

Sec. 1. (a) Except as provided in section 2 of this chapter, this chapter applies to the inspection of:

(1) seed; and

(2) the crop growing from seed;

by a seed supplier under the seed supplier's rights in a seed contract.

(b) Other applicable Indiana law not in conflict with this chapter applies to a seed supplier inspecting:

(1) seed; and

(2) the crop growing from seed;

under the seed supplier's rights in a seed contract.

Sec. 2. This chapter does not apply to an inspection by a seed supplier under a production contract.

Sec. 3. As used in this chapter, "farmer" refers to a person who is engaged in commercial farming and who plants seed in Indiana under a seed contract to grow a commercial crop.

Sec. 4. As used in this chapter, "production contract" refers to any of the following:

(1) A contract to grow seed for demonstration purposes.

(2) A contract to grow seed for research purposes.

(3) A contract to grow seed under which the seed supplier:

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(A) retains title to the crop or a product from the crop; or
(B) has the right or obligation to purchase, receive, or direct the disposition of the crop or a product from the crop.
(4) A contract to grow seed in connection with an identity preserved crop program.

Sec. 5. As used in this chapter, "seed" refers to agricultural seed (as defined in IC 15-15-1-2) or vegetable seed (as defined in IC 15-15-1-24) used to grow a commercial agricultural or a commercial vegetable crop.

Sec. 6. As used in this chapter, "seed contract" refers to a written contract between a seed supplier and a farmer that a farmer must sign to obtain the seed or the right to plant the seed.

Sec. 7. As used in this chapter, "seed supplier" refers to a person engaged in commercial production or supply of either of the following:
(1) Seed.
(2) Technology genetically engineered into seed.

Sec. 8. A provision of a seed contract in conflict with this chapter is unenforceable against a farmer.

Sec. 9. A provision of a seed contract that purports to waive a provision of this chapter is unenforceable against a farmer.

Sec. 10. (a) As used in this section, "commissioner" refers to the state seed commissioner.

(b) A seed contract may not give or be interpreted to give a seed supplier or an agent of a seed supplier the right to enter real property owned or occupied by the farmer to acquire samples of the crop grown from the seed or any other plant growing on the real property unless all of the following apply:
(1) The seed supplier gives written notice to the farmer and the commissioner of the seed supplier's intent to enter the real property. The notice must be given not later than five (5) business days before the day the seed supplier or the seed supplier's agent enters the real property. The notice must include the following information:
(A) The date and time of the entry upon the land.
(B) The purpose for the entry upon the land.
(2) The seed supplier must permit the farmer, the commissioner, or the agents of the farmer or the commissioner to accompany the seed supplier or the seed supplier's agent while samples are taken.
(3) The seed supplier must permit the farmer, the

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commissioner, or the agents of the farmer or the commissioner to take matching samples or receive split samples of any samples taken by the seed supplier.

(c) The seed supplier must provide reasonable cooperation to the farmer, the commissioner, or the agents of the farmer or the commissioner during the course of activities described in subsection (b)(2) and (b)(3).

(d) If the commissioner or an agent of the commissioner accompanies the seed supplier on the real property to take samples under this section, the seed supplier and the farmer shall each pay fifty percent (50%) of the reasonable costs incurred by the commissioner or the commissioner's agent, as determined by the commissioner, in connection with the activities.

(e) In an action on the seed contract between the seed supplier and the farmer, the prevailing party may recover the costs that the prevailing party paid under subsection (d) in addition to any other damages to which the prevailing party is entitled.

(f) A seed supplier may obtain an order from a court with jurisdiction authorizing the seed supplier or the seed supplier's agent to enter real estate owned or occupied by a farmer and on which seed that is the subject of a seed contract is growing. If the court issues an order, the order must require that if any samples are taken, matching or split samples must be taken by a person who is independent from the seed supplier.

(g) The commissioner may adopt rules under IC 4-22-2 to implement this section.

Sec. 11. (a) As used in this section, "suit" refers to a suit commenced against a farmer by a seed supplier to enforce the seed supplier's rights under, or in connection with, a seed contract.

(b) If a seed supplier files suit against a farmer, the seed supplier shall provide simultaneous written notice of the suit to the director of the department of agriculture.

(c) Failure to give notice of the suit to the director of the department of agriculture as provided in subsection (b) does not impair the jurisdiction of the court to hear the suit.

(d) A seed supplier that fails to give notice to the director of the department of agriculture as provided in subsection (b) commits a Class B infraction.

(e) The director of the department of agriculture shall keep a file of all notices of suits received under this section.

Sec. 12. (a) A farmer has a right of action against a seed supplier if the seed supplier or an agent of the seed supplier enters real

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property owned or occupied by the farmer in violation of section 10 of this chapter.

(b) If a farmer prevails in an action filed under this section, the farmer is entitled to recover from the seed supplier all the following:

(1) Any actual damages proven by the farmer resulting from the seed supplier's violation of section 10 of this chapter.

(2) The farmer's reasonable attorney's fees and other litigation costs reasonably incurred in connection with the action.

Chapter 8. Indiana Organic Certification Accreditation

Sec. 1. As used in this chapter, "applicant" refers to a certifying agent applying for accreditation from the director in compliance with the Organic Foods Production Act.

Sec. 2. As used in this chapter, "certifying agent" refers to a person or entity acting as an independent contractor who is:

(1) accredited by the director;

(2) approved by the panel to conduct field or farm certification; and

(3) accredited by the United States Department of Agriculture under the Organic Foods Production Act.

Sec. 3. As used in this chapter, "director" refers to the director of the department of agriculture or the director's designee.

Sec. 4. As used in this chapter, "organic" refers to the method of crop production with respect to a particular crop. The term does not refer to the quality, nutritional value, or healthfulness of the crop produced.

Sec. 5. As used in this chapter, "Organic Foods Production Act" means the Organic Foods Production Act of 1990 (7 U.S.C. 6501 et seq.).

Sec. 6. As used in this chapter, "panel" means the Indiana organic peer review panel established by section 9 of this chapter.

Sec. 7. (a) The director may grant accreditation to an applicant under this chapter.

(b) In determining whether to grant accreditation to an applicant, the director shall consider the report concerning the applicant that is prepared by the panel under section 13 of this chapter.

(c) The director shall make a determination and respond to the applicant not later than three (3) months after the date of receipt of the application.

Sec. 8. A certifying agent operating within Indiana must apply

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in writing to the director for accreditation.

Sec. 9. (a) The Indiana organic peer review panel is established.

(b) The panel consists of nine (9) members who have knowledge in techniques involving the growing of organic products and have experience in the field of organic agriculture. The governor shall appoint the members as follows:

(1) Three (3) representatives of the Indiana farming community who are operators of an organic farm in Indiana that is certified by a private certification agency.

(2) One (1) representative of a group representing retailers or distributors of organic products.

(3) Two (2) representatives of a group representing consumers of organic products.

(4) One (1) representative of a group representing processors or handlers of organic products.

(5) The director shall serve as an ex officio nonvoting member of the panel.

(6) The state chemist shall serve as an ex officio nonvoting member of the panel.

(c) Not more than two (2) voting members of the panel appointed under subsection (b) may be persons who are employed by the state.

(d) The panel shall select a chairperson from among the panel members.

(e) The term of each voting member of the panel is four (4) years. A vacancy that occurs on the panel before the expiration of a term shall be filled for the unexpired term in the same manner as the appointment to the panel of the vacated position is made under subsection (b).

(f) The governor may remove a panel member for cause.

Sec. 10. (a) Each year, the panel shall meet quarterly and at any other times called by the chairperson.

(b) Four (4) voting members present at a meeting constitute a quorum.

(c) A majority of a quorum is required to conduct the business of the panel.

(d) IC 5-14-1.5 applies to meetings of the panel.

Sec. 11. (a) A member of the panel who is not a state employee is not entitled to the minimum salary per diem provided by IC 4-10-11-2.1(b).

(b) A member of the panel is entitled to reimbursement for traveling expenses and other expenses actually incurred in

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connection with the member's duties as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 12. The director shall implement this chapter with the assistance of the panel. The director has no regulatory authority under this chapter except as provided under section 17 of this chapter.

Sec. 13. (a) The panel shall do the following:

(1) Adopt standards to be used in reviewing the procedure by which certifying agents certify that the agricultural product was produced or handled in accordance with the regulations adopted under the Organic Foods Production Act.

(2) Review all applicants every three (3) years.

(3) Prepare and submit a report concerning each applicant to the director.

(4) Assist the director in evaluating applications for accreditation from applicants.

(5) Establish fees to be paid by an applicant seeking accreditation from the director to certify organic products. The fees established may not exceed the costs of administering this chapter.

(b) The standards adopted under this section must concern the following:

(1) The production and handling of agricultural products.

(2) A procedure under which certifying agents certify a farm, field, or product under this chapter.

(3) The inspection of farms and products.

(4) Testing by certifying agents.

(5) Reasonable security provided by the certifying agent for the protection of the rights of participants in an applicable organic certification program.

(6) Other terms and conditions that the panel considers necessary, in compliance with the Organic Foods Production Act.

Sec. 14. A product sold in Indiana that is:

(1) labeled organic or certified organic; and

(2) produced in any other state of the United States;

must be certified in accordance with the Organic Foods Production Act.

Sec. 15. A person may sell or label a product produced in Indiana as:

(1) organic;

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(2) certified organic; or

(3) Indiana certified organic;

in Indiana only if the product has been certified by a certifying agency that has been accredited by the director.

Sec. 16. The panel may, subject to the approval of the director, do all things necessary to implement this chapter. However, if residue testing of a product subject to certification under this chapter is required by federal law or regulations, the testing must be conducted according to standards developed by the state chemist.

Sec. 17. The director shall adopt rules under IC 4-22-2 to implement this chapter.

Sec. 18. The panel may, subject to the approval of the director, seek injunctive relief for violations of this chapter.

Sec. 19. (a) A person:

(1) who uses the term:

(A) organic;

(B) certified organic; or

(C) Indiana certified organic;

alone or in combination with other words to market a product that has not been designated "certified organic" by an accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act; and

(2) who:

(A) knows; or

(B) reasonably should know;

that the product has not been designated "certified organic" by an accredited certifying agent under this chapter and in accordance with the Organic Foods Production Act;

commits a Class A infraction.

(b) Each label or each copy of a written public document containing the words "organic" or "certified organic" alone or in combination with other words used to market a product that has not been designated "certified organic" by an accredited certifying agent constitutes a separate infraction.

Chapter 9. Certification of Agricultural Products

Sec. 1. As used in this chapter, "administrator" means the governor or the governor's designee.

Sec. 2. As used in this chapter, "agricultural product" includes a plant or part of a plant or plant byproduct lawfully grown in Indiana.

Sec. 3. As used in this chapter, "buyer" means a buyer of an

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agricultural product bought for direct shipment to a person in a foreign country.

Sec. 4. The administrator may certify that a certain agricultural product meets the specifications of a buyer of the agricultural product.

Sec. 5. The administrator shall charge a fee to cover the costs of certification under this chapter.

Sec. 6. The administrator has all power necessary to implement this chapter.

Sec. 7. Neither the administrator nor the state incurs any liability for lawful actions taken under this chapter.

Sec. 8. A person who intentionally or knowingly forges a certification or the identification of an agricultural product under this chapter commits a Class D felony.

Chapter 10. Agricultural Marketing and Research

Sec. 1. The general assembly declares that a sound, efficient, and privately operated system for distributing and marketing agricultural products is essential to a prosperous agriculture and is indispensable to the maintenance of high employment and to the welfare and prosperity of the state.

Sec. 2. (a) To accomplish the objectives stated in section 1 of this chapter by making a scientific approach through research, study, experimentation, education, extension market, and news services, and through cooperation among state and federal agencies, appropriate organizations, and private industry, there is appropriated, from money in the state general fund not otherwise appropriated, to Purdue University for the use and benefit of its agricultural research programs and cooperative extension service fifty thousand dollars ($50,000) for each state fiscal year solely for purposes of this chapter and in addition to other funds appropriated to Purdue University.

(b) Purdue University may, through its agricultural research programs and cooperative extension service, conduct, assist, and foster research to improve the marketing, handling, storage, processing, transportation, and distribution of agricultural products to do the following:

(1) Improve marketing methods.

(2) Reduce distribution costs.

(3) Develop new and wider markets.

(4) Provide for the dissemination of information to implement this chapter, including more effective use of agricultural products, consumer education, and quality improvement so

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that agricultural products may be marketed in an orderly manner and to the best interest of the producers and consumers.

(c) Money appropriated by this chapter shall be used for payment of salaries, supplies, traveling expenses, and any other expenses considered necessary to implement this chapter, including money that Purdue University considers necessary for the expenses of appropriate organizations and private industries cooperating in the program.

Sec. 3. Purdue University is designated and authorized as the agency of the state to receive:

(1) cooperative funds from the United States Department of Agriculture for research, education, and marketing services as authorized in the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.); or

(2) any other cooperative funds provided by the United States Department of Agriculture for research, education, and marketing services.

Chapter 11. Promotion of Agricultural Products

Sec. 1. As used in this chapter, "agricultural commodity" means poultry, poultry products, cattle, dairy products, sheep, wool, mint, or soybeans.

Sec. 2. As used in this chapter, "commercial quantity" means a quantity produced and marketed through commercial channels of trade.

Sec. 3. As used in this chapter, "commodity market development council" refers to a group representative of the agricultural commodity.

Sec. 4. As used in this chapter, "dean of agriculture" refers to the dean of agriculture of Purdue University. The term includes the dean's designee.

Sec. 5. As used in this chapter, "director" refers to the director of the department of agriculture.

Sec. 6. As used in this chapter, "handler" means a person who engages in the selling, marketing, or distribution of an agricultural commodity that the person:

(1) has purchased for resale; or

(2) is marketing on behalf of a producer.

The term includes a producer who distributes an agricultural commodity that the producer has produced.

Sec. 7. As used in this chapter, "processor" means a person engaged in the receiving, grading, packing, canning, freezing,

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drying, or other methods of preparation for market of agricultural commodities produced in Indiana for sale.

Sec. 8. As used in this chapter, "producer" means an individual, a firm, a limited liability company, a corporation, a partnership, or an unincorporated association engaged in Indiana in the business of producing for market or receiving income from an agricultural commodity in commercial quantities.

Sec. 9. (a) A marketing program proposed or adopted under this chapter may include any of the following:

(1) Market development and research programs.

(2) Market promotion, education, and public relations programs.

(3) Market information services.

(4) The right to contract with qualified organizations, agencies, or individuals for any of the activities described in subdivision (1), (2), or (3).

(b) A commodity market development council organized under this chapter may not do any of the following:

(1) Establish, promulgate, or fix the price of an agricultural commodity.

(2) Limit the production of an agricultural commodity in any way.

(3) Use the fees collected under this chapter for political or legislative activity of any kind.

Sec. 10. (a) A representative group of at least five percent (5%) of the producers of an agricultural commodity may petition the dean of agriculture for permission to establish a commodity market development council.

(b) A petition described in subsection (a) must include the following:

(1) A statement of the area of production to be included. The area must be statewide. However, the area may be limited to a well defined smaller area if the area is the principal commercial producer of the agricultural commodity in Indiana.

(2) A statement of the general purposes of the agricultural commodity market development council program. The purposes may include research, education, market development, publicity, sales promotion, and cooperation with other state, regional, and national organizations.

(3) The amount of the fee to be collected for each designated unit of commercial quantities of the agricultural commodity.

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(4) The method to be used in the collection of the fee.

(5) The composition, qualification, terms of office, method of nomination, election, filling unexpired terms, expenses, and duties of the members of the commodity market development council. However, the following apply to the council:

(A) The council must consist of an odd number of at least five (5) but not more than fifteen (15) members. A member may not serve on the council for more than six (6) consecutive years. A majority of the council members must be producers selected by producers.

(B) The dean of agriculture serves as an ex officio member of the council.

(C) The director of the department of agriculture or the director's designee serves as an ex officio member of the council.

(6) The method of conducting the referendum of the agricultural commodity producers. The method must be either by mail or by polling place, depending on the area and volume of the commodity.

Sec. 11. (a) A hearing held under section 12 of this chapter must be public, and a permanent record must be made of all testimony received. The dean of agriculture shall conduct the hearing and may make the determination from the record.

(b) The dean of agriculture shall give notice of the hearing by publication in trade journals and newspapers of general circulation in each area affected not later than ten (10) days before the date of the hearing. The representative group must pay all fees for initial organization in cash to the dean. Initial organization fees may not be paid from state money.

(c) The dean of agriculture shall do the following:

(1) Make and publish findings based upon the facts, testimony, and evidence received at the public hearing.

(2) Provide for copies of the dean of agriculture's findings and decisions to be delivered or mailed to all parties of record appearing at the hearing or the parties' attorneys of record.

Sec. 12. (a) If the director approves the petition, in whole or as revised, the director shall call a referendum among producers of commercial quantities of the commodity to vote upon establishment of the proposed commodity market development program.

(b) Before issuance of a notice of referendum on a proposed commodity market development program, the director shall

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establish the number of producers qualified of that particular agricultural commodity. The producers must register with the director, who shall maintain a list of those producers. At least twenty percent (20%) of the producers must register before a referendum may be held. The director shall establish a registration period for establishing, continuing, changing, or terminating a marketing program after the director calls for a referendum. Postdating of a registration is void. The producer or handler list established under this subsection is final and conclusive in making determinations relative to the assent of producers upon the issuance, amendment, or termination of a commodity market development program.

(c) The director shall publish a notice of referendum to the attention of producers in the newspapers or trade journals within the affected area that the director prescribes. The director may also mail notice to all producers or handlers on the current list of producers.

(d) If the majority of those who actually vote favor the adoption of the proposal in the petition, the director shall declare the proposal to be adopted.

(e) A proposal to change the amount of the fee or to make other major changes in the program may be made only if a proposal for the change is adopted by a two-thirds (2/3) vote of the commodity market development council or by petition of twenty-five percent (25%) of the agricultural commodity producers. The proposal must then be submitted to a referendum under which the same percentages of votes favoring the proposal (by number and production) are required for approval as were required for establishment of the original market development program.

(f) A proposal to terminate a commodity market development program may be made only if a proposal for termination is adopted by a majority of the commodity market development council or by petition of two percent (2%) of the agricultural commodity producers. The proposed termination must be submitted to a referendum under which a simple majority of those voting in favor of termination of the program is required for termination.

(g) A referendum to:

(1) set up a commodity market development council for a particular commodity;

(2) change the amount of fee;

(3) make other major changes; or

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(4) terminate a commodity market development council;

may not be held within twelve (12) months of a referendum conducted for a similar purpose for the same agricultural commodity.

(h) The director shall conduct a referendum on the continuation of the commodity market development council at least one (1) time every three (3) years.

(i) Any eligible producer may register to participate in a referendum on the continuation or termination of a program. Registration for such a referendum may not be limited to those producers who registered for the referendum to establish the program.

Sec. 13. The director shall be guided by the advice, recommendations, and assistance of the commodity market development council about:

(1) the collection and expenditures of funds; and

(2) audits and refunds;

associated with the commodity market development program.

Sec. 14. (a) As used in this section, "commercial channel of trade" means that series of transactions leading directly from the final producer of the agricultural commodity to the purchase of the agricultural commodity by a processor.

(b) The fee for an agricultural commodity imposed under this chapter must be paid when the final producer places the agricultural commodity in a commercial channel of trade.

Sec. 15. (a) Except as provided in subsection (b), the director shall collect the fee imposed under the commodity market development program from the producers, handlers, or processors.

(b) This subsection applies to a commodity market development program for cattle, dairy products, or soybeans. The director shall collect ninety-seven percent (97%) of the fee imposed under the commodity market development program from the producers, handlers, or processors. A producer, handler, or processor may retain the remaining three percent (3%) as compensation for collecting the fee.

(c) If a market development fee is unpaid on the date that the fee was due, a penalty of one percent (1%) per month is imposed beginning on the date the fee was due until payment plus the penalty is received by the director. If, after notice, a person defaults in a payment of the fee or penalties imposed under this subsection, the amount due shall be collected by civil action in the name of the state of Indiana at the request of the director, and the

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person adjudged in default shall pay the costs of the action. The attorney general, at the request of the director, and, if requested by the attorney general, the prosecuting attorney of any county, in which a cause of action arose under the provisions for the collection of fees due and unpaid, shall institute proper action in an Indiana court for the collection of unpaid fees and penalties.

(d) The individual commodity council market development fund is established. The fund consists of all fees paid to the director under that agricultural commodity program. The director shall spend all money credited to the fund, less administration expenses, for the use and benefit of the commodity market development council for which the fund is established.

(e) The director shall submit an annual statement to the commodity market development council that shows all receipts, administration expenses, refunds, and the balance credited to the fund.

(f) Not more than one (1) fee may be collected for an agricultural commodity under this chapter or under a federal program for promotion or market development.

Sec. 16. The state board of accounts shall audit the funds received and expended by the commodity market development council under this chapter.

Sec. 17. The director shall assist a commodity market development council to do the following:

(1) Elect a chairperson and any other officers.

(2) Authorize the expenditure of a budgeted amount of the council market development fund in the administration of the commodity market development program.

(3) Collect commodity market development fees.

(4) Perform other necessary duties.

Sec. 18. (a) A producer or handler is entitled to have the fees paid by the producer or handler refunded as provided in this section.

(b) A producer or handler must file a request for refund with the director not later than one hundred eighty (180) days after the payment of the fees.

(c) The director shall provide forms for the request of refund of fees under this section. A refund form shall be made available to a producer or handler when payment is made.

(d) For the purpose of making an application for a refund, a producer is considered the agent of all persons who have an interest in the agricultural commodity. The interest of each person

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in the agricultural commodity must be indicated on the refund request form, and the refund shall be paid to each interested person's interest according to that person's interest.

Chapter 12. Indiana Corn Market Development

Sec. 1. This chapter applies to all kinds and varieties of corn marketed or sold as corn by a producer in Indiana.

Sec. 2. As used in this chapter, "bushel" means fifty-six (56) pounds of corn by weight.

Sec. 3. As used in this chapter, "corn" does not include sweet corn, seed corn, or popcorn.

Sec. 4. As used in this chapter, "council" refers to the Indiana corn marketing council established by section 17 of this chapter.

Sec. 5. As used in this chapter, "dean of agriculture" refers to the dean of agriculture of Purdue University.

Sec. 6. As used in this chapter, "director" refers to the director of the department of agriculture or the person designated by the director of the department of agriculture to carry out duties imposed on the director of the department of agriculture under this chapter.

Sec. 7. As used in this chapter, "first purchase" means a sale of corn at the first point of delivery when the corn is weighed and graded and title to the corn is transferred.

Sec. 8. (a) As used in this chapter, "first purchaser" means a person who is engaged in Indiana in the business of buying corn from producers. The term refers to a person buying or acquiring corn from:

(1) the producer of the corn; or

(2) the Commodity Credit Corporation, if the corn is pledged as collateral for a loan issued under a price support loan program administered by the Commodity Credit Corporation.

(b) The term does not include a buyer of corn who buys less than one hundred thousand (100,000) bushels of corn annually for the buyer's own use as seed or feed.

Sec. 9. As used in this chapter "grain" has the meaning set forth in IC 26-4-1-13.

Sec. 10. As used in this chapter, "market development" means to:

(1) provide for the development of new or larger domestic and foreign markets for corn;

(2) promote the production and marketing of renewable fuels and new technologies that use corn; and

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(3) access federal government money available to the state to further the market development activities described in subdivisions (1) and (2).

Sec. 11. As used in this chapter, "marketing year" means the twelve (12) month period beginning October 1 and ending the following September 30.

Sec. 12. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 13. As used in this chapter, "producer" means a person engaged in the business of producing and marketing corn in Indiana under the producer's own name.

Sec. 14. As used in this chapter, "promotion" means:

(1) communication directly with corn producers;

(2) technical assistance; and

(3) trade marketing activities;

to enhance the marketing opportunities of corn for corn products in domestic and foreign markets.

Sec. 15. As used in this chapter, "research" means a study to advance the:

(1) marketability;

(2) production;

(3) product development;

(4) quality; or

(5) functional or nutritional value;

of corn or corn products, including a research activity designed to identify and analyze barriers to domestic and foreign sales of corn or corn products.

Sec. 16. As used in this chapter, "sale" means a conveyance of title to corn or the pledge or other encumbrance of corn as security for a loan extended by the Commodity Credit Corporation under a federal price support loan program.

Sec. 17. (a) The Indiana corn marketing council is established. The council is a public body corporate and politic, and though it is separate from the state, the exercise by the council of its powers constitutes an essential governmental function. The council may sue and be sued and plead and be impleaded.

(b) The council consists of seventeen (17) voting and eight (8) ex officio, nonvoting members. The elected members from districts listed under section 21(a) of this chapter must be:

(1) registered as voters in Indiana;

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(2) at least eighteen (18) years of age; and

(3) producers.

(c) Each elected member of the council must reside in the district identified in section 21(a) of this chapter from which the member is elected.

(d) Each member of the council is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency. However, council members are not entitled to a salary or per diem.

Sec. 18. (a) The term of office of an elected or appointed council member is three (3) years. A member's term of office expires at the end of the final marketing year in the term. However, a member continues in office until a successor who meets the qualifications set forth in section 17(b) of this chapter is elected.

(b) An elected or appointed council member may not hold office for more than three (3) consecutive full terms.

Sec. 19. (a) If a member of the council elected or appointed under section 21(a), 21(b), 21(c), or 21(d) of this chapter ceases to meet one (1) or more of the qualifications set forth in section 17(b) of this chapter, the member's term of office terminates and the member's office becomes vacant.

(b) Whenever an elected council member's office becomes vacant before the expiration of the member's term of office, the council shall fill the vacancy by appointing a replacement member who meets the qualifications set forth in section 17(b) of this chapter. The appointee shall serve for the remainder of the unexpired term.

(c) Whenever the office of a council member appointed under section 21(e), 21(g), or 21(h) of this chapter becomes vacant before the expiration of the member's term of office, the dean of agriculture shall fill the vacancy by appointing a replacement member who represents the group from which the member was originally appointed. The appointee shall serve for the remainder of the unexpired term.

(d) Whenever the office of a member appointed under section 21(f) of this chapter becomes vacant, the appointing authority who appointed the member shall fill the vacancy. An appointee under this subsection shall serve for the remainder of the unexpired term.

Sec. 20. (a) When necessary, the council may appoint individuals who hold offices of importance to the corn industry or have special

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expertise concerning that industry to participate in the work of the council. These individuals may not participate in votes taken by the council but are eligible for reimbursement for traveling expenses.

(b) A person appointed under this section serves a term of three (3) years.

(c) A person appointed under this section may not serve for more than three (3) consecutive full terms.

Sec. 21. (a) One (1) council member shall be elected from each of the following districts:

DISTRICT 1. The counties of Lake, Newton, Jasper, Benton, Porter, LaPorte, Starke, White, and Pulaski.

DISTRICT 2. The counties of St. Joseph, Elkhart, Marshall, Kosciusko, Fulton, Carroll, Cass, Miami, and Wabash.

DISTRICT 3. The counties of LaGrange, Steuben, Noble, DeKalb, Whitley, Allen, Huntington, Wells, and Adams.

DISTRICT 4. The counties of Montgomery, Fountain, Warren, Tippecanoe, Vermillion, Parke, Putnam, Vigo, Clay, and Owen.

DISTRICT 5. The counties of Clinton, Boone, Tipton, Howard, Grant, Hamilton, Madison, Hendricks, Marion, Hancock, Morgan, Johnson, Shelby, Rush, Bartholomew, and Decatur.

DISTRICT 6. The counties of Blackford, Jay, Delaware, Henry, Randolph, Wayne, Fayette, and Union.

DISTRICT 7. The counties of Sullivan, Greene, Knox, Daviess, Martin, Gibson, Pike, Dubois, Posey, Vanderburgh, Warrick, and Spencer.

DISTRICT 8. The counties of Monroe, Brown, Lawrence, Jackson, Orange, Washington, Perry, Crawford, Harrison, and Floyd.

DISTRICT 9. The counties of Franklin, Jennings, Jefferson, Ripley, Dearborn, Ohio, Clark, Switzerland, and Scott.

(b) Six (6) council members shall be elected to represent all counties in Indiana.

(c) The dean of agriculture shall appoint one (1) representative of the largest general farm organization in Indiana to serve as a member of the council.

(d) The dean of agriculture shall appoint one (1) representative of the second largest general farm organization in Indiana to serve as a member of the council.

(e) The director shall appoint two (2) representatives of first purchaser organizations to serve as nonvoting members of the

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council.

(f) Four (4) members serve on the council, to be appointed as nonvoting members as follows:

(1) One (1) member appointed by the president pro tempore of the senate.

(2) One (1) member appointed by the minority leader of the senate.

(3) One (1) member appointed by the speaker of the house of representatives.

(4) One (1) member appointed by the minority leader of the house of representatives.

The members appointed under this subsection are ex officio members of the council. The members of the senate must be of different political parties. The members of the house of representatives must be of different political parties. Notwithstanding any other law, the members appointed under this section are entitled to receive the per diem of members of the general assembly for time spent in attendance at the meetings of the council. Per diem of these members shall be paid by the council upon approval of the director.

(g) The dean of agriculture or the dean's designee shall serve as an ex officio, nonvoting member of the council.

(h) The secretary of agriculture or the secretary's designee shall serve as an ex officio, nonvoting member of the council.

Sec. 22. An election of a council member shall be held in a district in the year in which the term of the district's council member is to expire. Between January 1 and March 15 of that year, the council shall notify the producers of the district of the impending election by publishing one (1) notice in a statewide agricultural publication and by making information available to the news media in the district.

Sec. 23. (a) The ballot for the election of a district council member must include the name of each producer who:

(1) meets the qualifications set forth in section 17(b) of this chapter; and

(2) files with the council, before June 30 of the year of the election, a petition in support of candidacy signed by ten (10) other producers who reside in the district.

(b) The council shall provide petition forms upon request and shall make forms available:

(1) at cooperative extension service offices located in the district; and

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(2) via the council's Internet web site.

(c) The council shall allow a producer to request a ballot through the council's Internet web site.

(d) A name other than the names of the producers who have qualified under this section may not be printed on the ballot by the council. All names on the ballot must be listed in alphabetical order based on the producer's surname.

(e) The council shall require each producer who submits a ballot to provide a separate attestation that the person is an eligible producer.

Sec. 24. (a) For purposes of the election of a district council member, the council shall provide an absentee ballot to every producer who:

(1) resides outside Indiana or expects to be absent from the district in which the producer resides on the day of the election; and

(2) requests an absentee ballot from the council at least five (5) days but not more than thirty (30) days before the election.

(b) A producer's absentee ballot is not valid unless the council receives the ballot from the producer at least two (2) days before the election.

Sec. 25. (a) The director shall appoint election judges for the election of council members. The director shall also appoint a teller committee to count absentee ballots and to canvass and certify results of elections of council members.

(b) Each election judge or teller committee member appointed under this section is entitled to reimbursement for traveling expenses and other expenses actually incurred in connection with official duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency, but is not entitled to any salary or per diem.

Sec. 26. The election of a district council member must be conducted by the council in August at voting places located in the district. The winner of an election takes office on the following October 1.

Sec. 27. (a) The council shall do the following:

(1) Elect a president, vice president, secretary, treasurer, and other officers the council considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Bond the treasurer and such other persons as necessary to

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ensure adequate protection of funds received and administered by the council.

(4) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(5) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the council and the scope of this chapter.

(6) Annually publish an activities report and audit and present the report and audit to the director, the dean of agriculture, and the legislative council. The report and audit must be:

(A) sent to the legislative council in an electronic format under IC 5-14-6; and

(B) available on the council's Internet web site.

(7) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(8) Formulate and execute assessment procedures and methods of collection.

(9) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within the council's authority.

(10) Adopt bylaws and operating procedures governing operations of the council.

(11) Keep accurate accounts of all receipts and disbursements of funds handled by the council and have the receipts and disbursements audited annually by a certified public accountant.

(12) Establish and maintain an Internet web site.

(13) Take any other action necessary for the proper implementation of this chapter.

(b) A majority of the voting members of the council constitutes a quorum. The affirmative votes of at least a majority of the quorum, and at least nine (9) affirmative votes, are required for the council to take action.

Sec. 28. (a) The council shall meet at least three (3) times in each marketing year at the call of the president or at the request of two-thirds (2/3) of the members of the council.

(b) The council shall comply with the requirements under IC 5-14-1.5 (open door law).

Sec. 29. (a) The council shall pay all expenses incurred under this chapter with money from the assessments remitted to the council under this chapter.

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(b) The council may invest all money the council receives under this chapter, including gifts or grants that are given for the express purpose of implementing this chapter, in the same way allowed by law for public funds.

(c) The council may expend money from assessments and from investment income not needed for expenses for market development, promotion, and research.

(d) The council may not use money received, collected, or accrued under this chapter for any purpose other than the implementation of this chapter.

Sec. 30. (a) The Indiana corn market development account is established within the state general fund for purposes of market development and reimbursing the state for the E85 retail merchant deduction allowed under IC 6-2.5-7-5(d). The account shall be administered by the council. The account consists of:

(1) assessments the council receives under this chapter;

(2) gifts; and

(3) grants.

(b) The expenses of administering this chapter must be paid from money in the account. If the balance of the account is not more than five hundred thousand dollars ($500,000) in a fiscal year, the council may expend not more than twenty-five percent (25%) of the balance for administrative expenses. If the account has a balance of more than five hundred thousand dollars ($500,000) in a fiscal year, the council may spend an additional amount of not more than ten percent (10%) of the balance over five hundred thousand dollars ($500,000) for administrative expenses.

(c) On July 1 of each year the budget agency shall transfer from the account an amount equal to the lesser of:

(1) twenty-five percent (25%) of the balance of the account on the immediately preceding June 30, before the deduction of any expenses under subsection (b); or

(2) the sum of all retail merchant deductions allowed under IC 6-2.5-7-5(d) and IC 6-2.5-7-5.5, in the immediately preceding state fiscal year.

The amount transferred under this subsection shall be deposited in the same manner as state gross retail and use taxes are required to be deposited under IC 6-2.5-10-1.

(d) The treasurer of state shall invest the money in the account not currently needed to meet the obligations of the account in the same manner as other public money may be invested. Interest that

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accrues from these investments shall be deposited in the account.

(e) Money in the account at the end of a state fiscal year does not revert to the state general fund.

Sec. 31. (a) Obligations incurred by the council and other liabilities and claims against the council may be enforced only against the assets of the council in the same manner as if the council were a corporation. Liabilities for the debts or actions of the council may not arise against:

(1) the state;

(2) a political subdivision (as defined in IC 34-6-2-110); or

(3) a member, an officer, an employee, or an agent of the council in an individual capacity.

(b) The members and employees of the council may not be held responsible individually in any way to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) An employee of the council may not be held responsible individually for the act or omission of any member of the council.

(d) Any liability of the members of the council is several and not joint. A member of the council may not be held liable for the default of any other member.

Sec. 32. (a) An assessment of one-half cent ($0.005) per bushel must be collected on all corn sold in Indiana. The assessment may be imposed and collected on a quantity of corn only once and must be collected by the first purchaser. A buyer of corn who purchases more than one hundred thousand (100,000) bushels annually for the buyer's own use as seed or feed is responsible only for collecting checkoff assessments on corn purchases made after the buyer exceeds the one hundred thousand (100,000) bushel threshold and becomes a first purchaser. The rate of the assessment imposed by this section may be changed only by the general assembly.

(b) The first purchaser of a quantity of corn shall deduct the assessment on the corn from the money to be paid to the producer based on the sale of the corn. A first purchaser shall accumulate assessments collected under this subsection throughout each of the following periods:

(1) January, February, and March.

(2) April, May, and June.

(3) July, August, and September.

(4) October, November, and December.

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(c) At the end of each period, the first purchaser shall remit to the council all assessments collected during the period. A first purchaser who remits all assessments collected during a period within thirty (30) days after the end of the period is entitled to retain three percent (3%) of the total of the assessments as a handling fee.

Sec. 33. (a) If a producer has sold corn and the state assessment was deducted from the sale price of the corn, the producer may secure a refund equal to the amount deducted upon filing a written application.

(b) A producer's application for a refund under this section must be made to the council not more than one hundred eighty (180) days after the state assessment is deducted from the sale price of the producer's corn.

(c) The council shall provide application forms to a first purchaser for purposes of this section upon request and make application forms available on the council's Internet web site. Before July 1, 2009, a first purchaser shall provide an application form to each producer along with each settlement form that shows a deduction. After June 30, 2009, a first purchaser shall make application forms available in plain view at the first purchaser's place of business.

(d) Proof that an assessment has been deducted from the sale price of a producer's corn must be attached to each application for a refund submitted under this section by a producer. The proof that an assessment was deducted may be in the form of a duplicate or an original copy of the purchase invoice or settlement sheet from the first purchaser. The claim form and proof of assessment may be mailed or faxed to the council. The refund form must clearly state how to request a refund, the address where the form may be mailed, and the fax number where the form may be faxed.

(e) If a refund is due under this section, the council shall remit the refund to the producer not later than thirty (30) days after the date the producer's application and proof of assessment are received.

Sec. 34. The checkoff assessment and remittance record form must:

(1) be in a format that allows a corn producer to submit the same form for an assessment refund;

(2) contain the address and fax number of the location to which the assessment refund form may be sent;

(3) contain information concerning procedures to claim an

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assessment refund; and

(4) contain any other information determined necessary by the council.

Sec. 35. (a) A first purchaser shall keep detailed records of all assessments collected and remitted under this chapter for at least three (3) years.

(b) Upon request, a first purchaser shall supply the council with any information from records kept under subsection (a).

(c) The council may periodically audit a first purchaser's checkoff assessment and remittance records kept under subsection (a). An audit must be conducted by a qualified public accountant of the council's choosing, and the costs of the audit shall be paid by the council.

Sec. 36. (a) If a first purchaser fails to remit the assessments collected during a period specified in section 32 of this chapter within thirty (30) days after the end of the period, the council shall contact the first purchaser and allow the first purchaser to present comments to the council concerning:

(1) the status and amount of the assessments due; and

(2) reasons why the council should not bring legal action against the first purchaser.

(b) After allowing a first purchaser the opportunity to present comments, the council:

(1) may adjust the amount of the assessments due, if the first purchaser's comments reveal that the council's figure is inaccurate;

(2) may assess a penalty against the first purchaser;

(3) shall:

(A) assess a fee for an unpaid assessment due the council, from a person responsible for remitting assessments, at the rate of two percent (2%) of the amount of the unpaid assessment each month, beginning with the day following the date the assessment is due under this subsection; and

(B) if there is any remaining amount due after the assessment of the fee under clause (A), assess a fee at the same rate on the corresponding day of each month thereafter until the entire amount of the unpaid assessment is paid;

(4) shall compute the amounts payable on unpaid assessments under this section monthly and include any unpaid late charges previously applied under this section; and

(5) shall determine the date of a payment for purposes of this

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subsection by the postmark applied to the remitting envelope.

(c) If a first purchaser fails to remit assessments after being allowed to present comments under subsection (a) or to pay any penalty assessed under subsection (b), the council may bring a civil action against the first purchaser in a circuit, superior, or municipal court of any county. The action shall be tried and a judgment rendered as in any other proceeding for the collection of a debt. In an action under this subsection, the council may obtain:

(1) a judgment in the amount of all unremitted assessments and any unpaid penalty; and

(2) an award of the costs of bringing the action.

Sec. 37. (a) Proceeds of the checkoff assessment collected by the council under this chapter may not be used to influence legislation or governmental action or policy.

(b) Proceeds of the assessment collected under this chapter may be used to communicate information related to the:

(1) conduct;

(2) implementation; or

(3) results;

of promotion, research, and market development activities to appropriate government officials.

(c) After January 1, 2009, proceeds of the assessment collected under this chapter may be used for action designed to market corn or corn products directly to a foreign government or a political subdivision of a foreign government. However, not more than five percent (5%) of the annual amount collected may be used under this subsection.

Sec. 38. (a) For the marketing year beginning October 1, 2009, if at least twenty-five percent (25%) of the assessment is refunded during the marketing year, the council shall:

(1) cease collecting the assessment on January 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(b) If for the marketing year beginning October 1, 2009, less than twenty-five percent (25%) of the assessments are refunded, the council shall review the refunds for each year beginning with the marketing year beginning October 1, 2010. If refunds exceed twenty-five percent (25%) in two (2) consecutive marketing years, the council shall:

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(1) cease collecting the assessment on January 1 of the subsequent year;

(2) maintain a sufficient amount of money to pay any refunds requested by producers; and

(3) request that the legislative council have legislation prepared to repeal the corn market law.

(c) The dean of agriculture and the council shall report to the legislative council the amounts collected and refunded. The report to the legislative council must be in an electronic format under IC 5-14-6.

Sec. 39. (a) If a person fails to discharge a duty imposed by this chapter other than remitted assessments, the council shall allow the person an opportunity to present comments to the council concerning reasons why the council should not bring legal action against the person. If it is necessary to obtain compliance with this chapter, the council may bring an action against the person in a circuit, superior, or municipal court of any county seeking an injunction mandating compliance and any other appropriate legal remedies.

(b) In an action under this section, the council may be granted injunctive relief without establishing the absence of an adequate remedy at law.

SECTION 7. IC 15-16 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 16. HORTICULTURE CONTROL

Chapter 1. Agricultural Ammonia

Sec. 1. Except as provided in this chapter, this chapter applies to all facilities for the distribution of ammonia or ammonia solutions that are located in Indiana.

Sec. 2. As used in this chapter, "ammonia" means agricultural anhydrous ammonia (NH_3) fertilizer.

Sec. 3. As used in this chapter, "ammonia solution" means an agricultural ammonia solution that:

(1) contains by weight at least ten per cent (10%) free ammonia; or

(2) has a vapor pressure of at least one (1) pound per square inch gauge (PSIG) at one hundred four (104) degrees Fahrenheit.

Sec. 4. As used in this chapter, "distribute" means to:

(1) offer for sale;

(2) sell;

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(3) barter; or
(4) supply;
ammonia or ammonia solutions to a person for agricultural purposes as a fertilizer. The term does not include a shipment made to a point or points outside Indiana.

Sec. 5. As used in this chapter, "person" means:
(1) an individual;
(2) a firm;
(3) a partnership;
(4) an association;
(5) a corporation;
(6) a company;
(7) a joint stock association;
(8) a body politic;
(9) an organized group of persons whether incorporated or not incorporated;
(10) a trustee;
(11) an assignee; or
(12) any other representative of an entity described in subdivisions (1) through (11).

Sec. 6. The state chemist or the state chemist's agent shall administer this chapter.

Sec. 7. (a) The rules adopted under this chapter must be uniform in force and effect throughout Indiana.

(b) This chapter does not impair the power of a municipality or other political subdivision of this state to regulate the use of land by zoning regulations or building codes.

Sec. 8. (a) Before installing facilities for the distribution of ammonia or ammonia solutions, a person shall, on forms provided by the state chemist, apply for approval of the location of the proposed distribution facilities. The application must include a statement that the installation will comply with all local zoning regulations and building codes.

(b) If the state chemist determines that the location meets the requirements of this chapter and the rules adopted under this chapter, the state chemist shall issue written approval of the location not later than thirty (30) days after receipt of the application. If the state chemist determines that the location does not meet the requirements of this chapter and the rules adopted under this chapter, the state chemist shall issue written disapproval of the location not later than thirty (30) days after receipt of the application.

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(c) Distribution facilities installed before December 30, 1965, are exempt from the requirements for location approval.

(d) A public way may not be placed closer to an existing distribution facility than the distance required by rules adopted under this chapter.

Sec. 9. (a) The state chemist or the state chemist's agent shall inspect distribution facilities and operating procedures at reasonable times and to the extent reasonably necessary to determine whether the distribution facility complies with this chapter and the rules adopted under this chapter.

(b) The state chemist or the state chemist's agent may enter any public or private premises at reasonable hours in order to:

(1) have access to and inspect facilities, equipment, and vehicles of transport not principally engaged in interstate commerce; and

(2) observe procedures used in the distribution, application, or use of ammonia or ammonia solutions.

Sec. 10. (a) The state chemist shall adopt rules establishing the minimum safety standards for the design, construction, location, installation, and operation of equipment for storage, handling, use, and transportation (not otherwise regulated) of ammonia and ammonia solutions.

(b) The rules described in subsection (a) must be:

(1) reasonably necessary to protect the safety of the public, including persons handling or using the materials; and

(2) in substantial conformity with the current nationally accepted standards of safety that apply to the equipment described in subsection (a).

(c) The state chemist shall adopt the rules described in subsection (a) only after a notice and public hearing.

Sec. 11. All equipment for the storage, handling, distribution, and use of ammonia or ammonia solutions must be installed and maintained:

(1) in a safe operating condition; and

(2) in conformity with the rules adopted under section 10 of this chapter.

Sec. 12. (a) If the state chemist or the state chemist's agent finds a violation of this chapter or the rules adopted under this chapter, the state chemist or the state chemist's agent may issue an order to the owner, the owner's agent, or the operator of the facility or equipment involved directing that the violation be corrected immediately.

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(b) The state chemist or the state chemist's agent shall grant a request for a reasonable extension of time to comply with an order described in subsection (a) if:

(1) there is practical difficulty in complying with the order; and

(2) the time extension will not cause a safety hazard to the public, including persons who use the facility or equipment.

(c) An order issued under this section must be in writing.

Sec. 13. A person may not:

(1) install facilities for distribution of ammonia or ammonia solutions without first obtaining written approval of the state chemist for the location;

(2) distribute ammonia or ammonia solutions from an unapproved location for which approval is required under this chapter;

(3) distribute, store, transport, or use ammonia or ammonia solutions in violation of this chapter or the rules adopted under this chapter;

(4) violate a correction order issued under section 12 of this chapter; or

(5) use an ammonia or ammonia solutions container for any purpose without the prior authorization of the owner of the container.

Sec. 14. (a) A person who violates this chapter commits a Class C infraction.

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

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

Sec. 15. In addition to any other remedy provided by law, the state chemist may apply for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter or any rule adopted under this chapter. An injunction shall be issued without bond.

Chapter 2. Commercial Fertilizers

Sec. 1. Because the department of biochemistry at Purdue

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University is particularly conversant with the purpose and procedures provided by this chapter, the general assembly desires that the governor appoint a professor of biochemistry at Purdue University as the state chemist.

Sec. 2. This chapter may not be construed:

(1) to restrict or avoid sales or exchanges of commercial fertilizers among importers, manufacturers, or blenders who mix fertilizer materials for sale; or

(2) as preventing the free and unrestricted shipments of commercial fertilizers to manufacturers or blenders who have registered their brands as required by this chapter.

Sec. 3. As used in this chapter, "blender" means a person who is engaged in the business of blending fertilizer materials.

Sec. 4. As used in this chapter, "blending" means the physical mixing or combining of at least two (2) fertilizer materials. The term includes the simultaneous application of at least two (2) fertilizer materials to produce a uniform mixture.

Sec. 5. As used in this chapter, "board" refers to the Indiana fertilizer advisory board established by section 25 of this chapter.

Sec. 6. As used in this chapter, "brand" means a term, design, or trademark used in connection with at least one (1) grade of fertilizer.

Sec. 7. As used in this chapter, "bulk fertilizer" means a fertilizer distributed in nonpackaged form.

Sec. 8. As used in this chapter, "commercial fertilizer" means mixed fertilizer or fertilizer materials. The term does not include nonprocessed manure, marl, lime, wood ashes, or plaster.

Sec. 9. As used in this chapter, "custom blend" means a fertilizer blended:

(1) according to specifications provided to a blender in a soil test nutrient recommendation; or

(2) to meet consumer requirements specified before blending.

Sec. 10. As used in this chapter, "distributor" means a person who:

(1) offers for sale;

(2) sells;

(3) barters; or

(4) supplies;

commercial fertilizers.

Sec. 11. As used in this chapter, "fertilizer material" means any substance containing nitrogen, phosphate, potash, or any recognized plant nutrient that is:

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(1) used for the plant nutrient content; and

(2) designed to have value in promoting plant growth.

The term includes unmanipulated animal and vegetable manures.

Sec. 12. As used in this chapter, "grade" means the minimum percentages of the following elements stated in the following order:

(1) Total nitrogen (N).

(2) Available phosphate (P_2O_5).

(3) Soluble potash (K_2O).

Sec. 13. As used in this chapter, "mixed fertilizer" means any combination or mixture of fertilizer materials:

(1) designed for use; or

(2) claimed to have value;

in promoting plant growth.

Sec. 14. As used in this chapter, "official sample" means any sample of commercial fertilizer taken by the state chemist or the state chemist's agent.

Sec. 15. As used in this chapter, "permit" refers to a permit issued under section 34 of this chapter to report the tonnage of commercial fertilizer sold.

Sec. 16. As used in this chapter, "percent" or "percentage" means the percentage by weight.

Sec. 17. As used in this chapter, "person" means:

(1) an individual;

(2) a partnership;

(3) an association;

(4) a firm;

(5) a limited liability company; or

(6) a corporation.

Sec. 18. As used in this chapter, "registrant" means a person who registers fertilizer under this chapter.

Sec. 19. As used in this chapter, "sell" or "sale" includes exchange.

Sec. 20. As used in this chapter, "specialty fertilizer" means a fertilizer distributed for nonfarm use.

Sec. 21. As used in this chapter, "storage" means the storage of bulk fertilizer by a person who:

(1) manufactures or distributes bulk fertilizer; or

(2) stores bulk fertilizer for personal use.

Sec. 22. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

Sec. 23. As used in this chapter, "use" means the process of placing fertilizer to promote plant growth.

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Sec. 24. (a) The office of state chemist is established.

(b) The governor shall appoint the state chemist, who serves at the pleasure of the governor.

(c) The state chemist shall administer this chapter.

(d) The state chemist may designate an agent to discharge duties imposed on the state chemist by law.

Sec. 25. (a) The Indiana fertilizer advisory board is established to:

(1) study the regulation of fertilizer; and

(2) advise the state chemist on the administration of this chapter.

(b) The board consists of the following members:

(1) Two (2) representatives of the retail fertilizer industry.

(2) One (1) representative of fertilizer manufacturing, distributing, or manufacturing and distributing.

(3) Two (2) representatives of producers of agricultural crops.

(4) One (1) representative of the lawn care industry.

(5) One (1) representative of the Purdue School of Agriculture.

(6) One (1) representative of a public conservation organization.

(7) The president of the Indiana Plant Food and Agricultural Chemicals Association, who serves as a nonvoting member.

(8) One (1) representative of the department of environmental management, who serves as a nonvoting member.

(9) The fertilizer administrator for the office of the state chemist, who serves as a nonvoting member.

(10) The engineer specialist for the office of the state chemist, who serves as a nonvoting member.

(c) The state chemist shall appoint the voting members of the board, who serve for terms of four (4) years.

(d) Voting members of the board may be appointed for successive terms at the discretion of the state chemist.

Sec. 26. (a) The state chemist may remove a voting member of the board for cause before the expiration of the member's term.

(b) Vacancies created by the death, resignation, or removal for cause of a member of the board must be filled in the manner prescribed for appointment to that board position. Vacancies must be filled not later than thirty (30) days after the death, resignation, or removal for cause.

Sec. 27. The board shall elect one (1) of its voting members chairperson to serve for a term of two (2) years, unless the

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chairperson's appointment expires before the expiration of the term, in which case the term is for the duration of the chairperson's appointment.

Sec. 28. The board shall invite nonvoting members to serve at the pleasure of the board.

Sec. 29. (a) The board may meet at times specified by the chairperson or by a majority of the board, but shall meet at least once a year.

(b) Five (5) voting members of the board constitutes a quorum. Official actions require a majority of the voting members. The chairperson may actively participate in all decisions of the board.

Sec. 30. Each member of the board who is not a state employee is entitled to receive both of the following:

(1) The minimum salary per diem provided by IC 4-10-11-2.1(b).

(2) Reimbursement for travel expenses and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Each member of the board who is a state employee is entitled to reimbursement for travel expenses as provided under IC 4-13-1-4 and other expenses actually incurred in connection with the member's duties, as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 31. (a) Before distributing commercial fertilizer in Indiana, the person whose name appears on the label of each brand and grade of the fertilizer must submit:

(1) an application for registration to the state chemist on a form furnished by the state chemist; and

(2) the appropriate filing fee set forth in subsection (b).

(b) The filing fee for fertilizers sold in packages weighing more than twelve (12) pounds is twenty dollars ($20) for each grade of each brand. The filing fee for fertilizers sold in packages weighing not more than twelve (12) pounds is fifty dollars ($50) for each grade of each brand.

(c) Upon approval of the application, the state chemist shall furnish a copy of the registration to the applicant.

(d) All registrations expire on June 30 each year.

(e) In addition to the appropriate filing fee set forth in subsection (b), a late filing fee equal to one hundred percent

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(100%) of the appropriate filing fee is assessed when:

(1) an application to renew the registration of a commercial fertilizer under this section is received after July 31; or

(2) a product that must be registered under this section is found to be in distribution before registration.

(f) An application under subsection (a) must include the following information:

(1) The name and address of the registrant.

(2) The brand and grade.

(3) The guaranteed analysis showing the minimum percentage of plant food claimed in the following order and form:

Total Nitrogen (N)	**percent**
Available Phosphate (P_2O_5)	**percent**
Soluble Potash (K_2O)	**percent**

(g) The minimum percentage of plant food in mixed fertilizers under subsection (f)(3) must be given in whole numbers only. However, the state chemist may allow fractional numbers to be used under subsection (f)(3) for specialty fertilizers or if plant food elements or other additives are added.

(h) For unacidulated mineral phosphatic materials and basic slag:

(1) the total phosphate;

(2) the available phosphate; and

(3) the degree of fineness;

must be guaranteed. For bone, tankage, and other natural organic phosphate materials, only the total phosphate must be guaranteed.

(i) Additional plant food elements or other additives that are determinable by chemical methods may be guaranteed only by permission of the state chemist. The state chemist shall grant permission only if the state chemist determines, with the advice of the dean of agriculture of Purdue University or the dean's designee, that the guarantee would not constitute a misrepresentation and is correct. Additional plant foods that are guaranteed:

(1) must be included in the guarantee in the form of the element; and

(2) are subject to inspection and analysis in accordance with the methods that the state chemist prescribes.

(j) A distributor is not required to register a brand of commercial fertilizer that is registered under this chapter by another person if the label used by the distributor does not differ in any respect from that used by the registrant.

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(k) A distributor who acts as a blender is not required under subsection (a) to register a custom blend that the distributor produces if the fertilizer materials blended together to produce the custom blend are registered under subsection (a). However, a distributor who acts as a blender shall provide the state chemist with the following information about each custom blend that the distributor produces:

(1) The name and address of the distributor.

(2) The brand and grade of the custom blend.

(3) The guaranteed analysis of the custom blend showing the minimum percentage of plant food claimed in the following order and form:

(A) The percent of total nitrogen (N).

(B) The percent of available phosphate (P_2O_5).

(C) The percent of soluble potash (K_2O).

Sec. 32. (a) The bag or other container in which any commercial fertilizer is offered for sale, sold, or distributed in Indiana must have a written or printed statement of the net weight and the information required by section 31 of this chapter:

(1) on tags affixed to the end of the package:

(A) between the ears;

(B) on the sewed end; or

(C) in both locations described in clauses (A) and (B); or

(2) directly on the package.

(b) If the commercial fertilizer is distributed in bulk, the written or printed statement required by section 31 of this chapter must:

(1) accompany the fertilizer at delivery; and

(2) be supplied to the purchaser at time of delivery.

Sec. 33. (a) Except as provided in subsection (c), a person who distributes commercial fertilizers:

(1) in bulk; or

(2) in packages weighing more than twelve (12) pounds;

in Indiana to a person who is not a registrant or permit holder under this chapter shall pay to the state chemist an inspection fee computed under subsection (b).

(b) The inspection fee charged under subsection (a) is forty-five cents ($0.45) per ton for each ton of commercial fertilizer distributed. If a fertilizer tonnage report is required under this chapter, the minimum inspection fee is ten dollars ($10) payable semiannually.

(c) Sales or exchanges between importers, manufacturers, distributors, or registrants are exempt from the inspection fee.

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Sec. 34. (a) Each registrant shall apply to the state chemist for a permit to report the tonnage of commercial fertilizer sold and pay the inspection fee of forty-five cents ($0.45) per ton on the basis of the report. In making the application, the registrant must agree to the following:

(1) To keep records that the state chemist requires to indicate accurately the tonnage and kinds of commercial fertilizers sold in Indiana.

(2) To grant the state chemist permission to examine those records and verify the statement of tonnage.

(3) To report under oath to the state chemist on forms furnished by the state chemist the tonnage of commercial fertilizer sold during the period covered.

(b) The state chemist:

(1) may grant the permit if the state chemist determines that the tonnage report of fertilizer described in subsection (a) will lead to efficient enforcement of this chapter; and

(2) may revoke the permit at any time if it appears to the state chemist that the registrant is not complying with:

(A) the terms of the agreement entered into at the time of the issuance of the permit; or

(B) this chapter.

(c) The report of tonnage is due and the inspection fees are payable semiannually on the last day of the month following the end of the semiannual period.

(d) If:

(1) the report of tonnage is not filed and the inspection fee paid by the fifteenth day following the due date;

(2) the report of tonnage is false; or

(3) the permit holder has not complied with labeling requirements of this chapter;

the state chemist may revoke the permit.

(e) If the inspection fee is unpaid after the fifteen (15) day grace period described in subsection (d), a penalty shall be assessed in the amount of:

(1) fifty dollars ($50); or

(2) ten percent (10%) of the amount due;

whichever is greater, in addition to the amount due.

Sec. 35. (a) The state chemist shall pay to the treasurer of Purdue University all inspection fees collected under this chapter.

(b) Inspection fees collected under this chapter must be used to pay all necessary expenses incurred in carrying out this chapter,

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including the following:

(1) Employing inspectors and chemists.

(2) Procuring samples.

(3) Printing bulletins.

(4) Giving the results of fertilizer inspections as provided for by this chapter.

(5) Any other expenses incurred by Purdue University agricultural programs:

(A) authorized by law; and

(B) in support of the purposes of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual classified report to the governor showing the total receipts and expenditures of all fees received under this chapter.

Sec. 36. (a) Notwithstanding any other law, all excess funds accumulated from the fees collected by:

(1) the state chemist, under this chapter, IC 15-15-2, IC 15-16-4, and IC 15-19-7; and

(2) the state seed commissioner under IC 15-15-1;

shall be paid to the treasurer of Purdue University. The funds shall be administered by the board of trustees of Purdue University.

(b) On approval of the governor and the budget agency, the board of trustees may spend the excess funds for the construction, operation, rehabilitation, and repair of buildings, structures, or other facilities used for:

(1) carrying out the purposes of those chapters referred to in subsection (a) under which the fees are collected; or

(2) the agricultural programs authorized by law and in support of the purposes of the chapters referred to in subsection (a).

Sec. 37. (a) The state chemist shall publish at least annually in a form that the state chemist considers proper, information concerning the following:

(1) The sales of commercial fertilizers, including any data on sales that the state chemist considers advisable.

(2) The results of the analyses conducted under section 38 of this chapter based on official samples of commercial fertilizers sold within the state compared with the analysis guaranteed under sections 31 and 32 of this chapter.

(b) The information published by the state chemist concerning the sale of commercial fertilizers:

(1) must show separately the fall season and spring season of each year; and

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(2) may not disclose the operations of any person.

Sec. 38. (a) The state chemist shall:

(1) sample, inspect, make analysis of, and test commercial fertilizers distributed within Indiana; and

(2) inspect the storage of bulk fertilizers in Indiana at a time and place and to such an extent as necessary to determine whether the commercial fertilizers and their storage are in compliance with this chapter.

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

(1) fertilizers; and

(2) plans and records relating to the transportation, storage, sale, and use of fertilizers;

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

(c) The state chemist shall adopt methods of sampling and analysis from sources that may include AOAC (Association of Analytical Communities) International. In cases of dispute, AOAC International's methods prevail if AOAC International's methods are available.

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

Sec. 39. If an official fertilizer analysis conducted by the state chemist under section 38 of this chapter results in a determination that the registrant of a commercial fertilizer is subject to a penalty or other legal action under this chapter, the state chemist shall forward a report of the results of the analysis to the registrant at least thirty (30) days before the report is submitted to the purchaser of the fertilizer. If the analysis was requested by a person other than the state chemist, the results of the analysis shall be forwarded to the registrant and purchaser immediately. If, during the thirty (30) day period, the state chemist does not receive adequate evidence contesting the results in the report, the report becomes an official report at the expiration of the thirty (30) day period. Upon the registrant's request, the state chemist shall furnish to the registrant part of the fertilizer sample analyzed by the state chemist to determine that the registrant is subject to a penalty or other legal action under this chapter.

Sec. 40. (a) If an analysis conducted by the state chemist under section 38 of this chapter shows that a commercial fertilizer fails in any respect to meet the guaranteed analysis filed by a registrant

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under section 31 of this chapter, the state chemist may require the payment of a refund to the purchaser equal to the difference between:

(1) the price the purchaser paid for the fertilizer; and

(2) the current value of the fertilizer after the state chemist's analysis.

(b) The registrant must forward receipts for payment of refunds required under subsection (a) promptly to the state chemist. If the purchaser cannot be found, the registrant shall pay the refund to a local charitable or educational organization of the registrant's choice and forward the receipts promptly to the state chemist.

(c) This section does not prevent the appeal of the imposition any penalty assessed by the state chemist under this chapter to a court with jurisdiction.

Sec. 41. Bulk fertilizers must be stored in a manner that:

(1) minimizes the release of fertilizer; and

(2) protects the waters of the state.

Sec. 42. (a) A commercial fertilizer is misbranded if:

(1) the fertilizer carries any false or misleading statement upon or attached to the container; or

(2) false or misleading statements concerning the fertilizer's agricultural value are made:

(A) on the container; or

(B) in any advertising matter accompanying or associated with the fertilizer.

It is unlawful to distribute a misbranded commercial fertilizer.

(b) It is unlawful to distribute an adulterated commercial fertilizer. For purposes of this subsection, a commercial fertilizer is adulterated if:

(1) the fertilizer contains any deleterious or harmful substance in a sufficient amount to render the fertilizer injurious to beneficial plant life, animals, humans, aquatic life, soil, or water when applied in accordance with directions for use on the label; or

(2) the label does not include adequate warning statements or directions for use that may be necessary to protect plant life, animals, humans, aquatic life, soil, or water.

Sec. 43. (a) The state chemist may:

(1) cancel the registration of any brand of commercial fertilizer; or

(2) refuse to register any brand of commercial fertilizer in accordance with this chapter;

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if the state chemist receives satisfactory evidence that the registrant has used fraudulent or deceptive practices in the evasion or attempted evasion of this chapter or any rule adopted under this chapter.

(b) The state chemist may not revoke or refuse a registration under subsection (a) until the registrant receives notice and has the opportunity to appear for a hearing.

Sec. 44. The state chemist may adopt rules under IC 4-22-2 concerning the following:

(1) The use of fertilizer material.

(2) The distribution and storage of bulk commercial fertilizers, including standards for the storage of bulk fertilizers to protect the waters of the state.

Sec. 45. The state chemist may allow the use of technologies or methods other than those specified in the administrative rules adopted by the state chemist under section 44 of this chapter if the technologies or methods provide substantially similar protection to the waters of the state from the release of bulk fertilizer as provided by the rules.

Sec. 46. (a) If the state chemist determines that a lot of commercial fertilizer is being offered for sale in violation of this chapter, the state chemist may issue to and enforce upon the owner or custodian of the lot:

(1) a written or printed stop sale, use, or removal order; and

(2) a written or printed order to hold the lot at a designated place until:

(A) the owner or custodian complies with the law;

(B) the state chemist releases the lot in writing; or

(C) the violation is legally disposed of by written authority.

(b) The state chemist shall release commercial fertilizer withdrawn under subsection (a) when:

(1) the owner or custodian of the lot complies with this chapter; and

(2) all costs and expenses incurred in connection with the withdrawal have been paid.

Sec. 47. (a) Any lot of commercial fertilizer not in compliance with this chapter is subject to seizure based on a complaint of the state chemist filed in a court with jurisdiction in the area in which the commercial fertilizer is located.

(b) Subject to subsection (a), if the court finds the commercial fertilizer is in violation of this chapter and orders the condemnation of the commercial fertilizer, the fertilizer must be

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disposed of in any manner consistent with the quality of the commercial fertilizer and the laws of the state.

(c) A court may not order the disposition of any lot of commercial fertilizer without first giving the claimant an opportunity to apply to the court for:

(1) release of the commercial fertilizer; or

(2) permission to process or relabel the commercial fertilizer to bring it into compliance with this chapter.

Sec. 48. (a) A person who:

(1) knowingly makes a false statement in application for registration required in section 31 of this chapter;

(2) offers for sale, sells, or provides a sample, a package, or any quantity of any commercial fertilizer, the analysis and brand of which has not been registered as provided in section 31 of this chapter;

(3) fails to pay the fees as provided in sections 33 and 34 of this chapter; or

(4) violates this chapter;

commits a Class C infraction. In a prosecution involving the composition of a commercial fertilizer, a certified copy of the official analysis signed by the state chemist shall be accepted as prima facie evidence of the composition.

(b) The state chemist need not report, for prosecution or for the institution of seizure proceedings, minor violations of this chapter if the state chemist believes that the public interest will be best served by a suitable notice of warning in writing.

Sec. 49. The state chemist may apply for a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under this chapter. The injunction shall be issued without bond. The remedies under this subsection are supplemental to other remedies allowed under this section or other law.

Sec. 50. (a) Except as provided in subsection (b), a political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the storage or use of fertilizer.

(b) A political subdivision may, by resolution, petition the state chemist for a hearing to allow a waiver to adopt an ordinance because of special circumstances relating to the storage or use of fertilizer. If a petition is received, the state chemist shall hold a public hearing to consider allowing the waiver requested. The public hearing must be conducted in an informal manner. IC 4-21.5 does not apply to a public hearing under this section.

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Chapter 3. Commercial Lawn Care Service Fertilizers

Sec. 1. (a) Except as provided in subsection (b), IC 15-16-2 applies to a licensee.

(b) A licensee is not required to:

(1) register tank mixed liquid fertilizer grades under IC 15-16-2-31; and

(2) pay an inspection fee and file for a permit to report tonnage under IC 15-16-2-33 and IC 15-16-2-34;

when the licensee is engaged in lawn care service.

Sec. 2. The definitions in IC 15-16-2 apply throughout this chapter.

Sec. 3. As used in this chapter, "label" means:

(1) written material;

(2) printed material;

(3) graphic material; or

(4) any other statement;

accompanying a fertilizer.

Sec. 4. As used in this chapter, "lawn care service" means service provided to private, institutional, or commercial entities for compensation to maintain and nourish:

(1) turf;

(2) shrubbery;

(3) trees; and

(4) other plants;

commonly associated with private, institutional, or commercial lawns. The term includes the application of commercial fertilizer individually or in combination with a pesticide (as defined in IC 15-16-4-30).

Sec. 5. As used in this chapter, "licensee" means a person who has been issued a license under this chapter.

Sec. 6. As used in this chapter, "tank mixed liquid fertilizer" means a fluid mixture of commercial fertilizer and water in which the total nutrient content of the mixture does not exceed the amount determined under rules adopted by the state chemist under IC 4-22-2 in accordance with current practices of the lawn care service industry.

Sec. 7. A person:

(1) who is engaged in lawn care service; and

(2) whose name must appear on the label of a fertilizer under this chapter;

must obtain a license from the state chemist before the person may distribute a tank mixed liquid fertilizer to another person.

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Sec. 8. (a) To obtain a license described under section 7 of this chapter, a person must:

(1) submit an application; and

(2) pay a fee of one hundred dollars ($100) for each location from which the person distributes tank mixed liquid fertilizer:

(A) in Indiana; and

(B) outside Indiana that conducts operations in Indiana;

to the state chemist.

(b) An application for a license issued under this chapter must include:

(1) the name and address of the person applying for the license; or

(2) if the application submitted applies to at least one (1) location described under subsection (a)(2), the name and address of each location.

Sec. 9. The state chemist may adopt rules under IC 4-22-2 to establish qualifications for licenses issued under this chapter, including a training requirement necessary to assure that a person responsible for a location described under section 8(a)(2) of this chapter is in compliance with this chapter.

Sec. 10. A license issued under this chapter shall be issued in the name of the person that distributes tank mixed liquid fertilizer at the location described under section 8(a)(2) of this chapter.

Sec. 11. A license issued under this chapter:

(1) expires December 31 of each year; and

(2) may be renewed by the state chemist.

Sec. 12. A licensee shall display the name and address shown on a license issued under this chapter on labels and invoices for fertilizers distributed in Indiana by the licensee.

Sec. 13. A licensee shall inform the state chemist in writing of:

(1) the addition of a location described under section 8(a)(2) of this chapter; and

(2) a change in:

(A) the name of the licensee's facilities; and

(B) the principal personnel associated with the licensee;

made during the time the licensee holds a license issued under this chapter.

Sec. 14. (a) A fertilizer distributed as part of lawn care service must:

(1) be labeled under IC 15-16-2-32; and

(2) include the name and address of the licensee distributing the fertilizer.

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(b) The information described under subsection (a) shall be supplied in written or printed form to a purchaser of fertilizer at the time the fertilizer is delivered to the purchaser.

Sec. 15. (a) A licensee that distributes or sells fertilizer to a person in Indiana shall furnish the state chemist with an annual report showing the:

(1) quantity in tons; and

(2) grade;

of each fertilizer material used in tank mixed liquid fertilizer in each county.

(b) A report described under subsection (a) must include the:

(1) name; and

(2) range of concentration;

of each pesticide incorporated with tank mixed liquid fertilizer.

(c) A report described under this section must be made:

(1) on a form provided by the state chemist; or

(2) by any other method approved by the state chemist.

(d) A report required under this section must be filed with the state chemist before January 31 of the year following the year for which the report must be made.

Sec. 16. (a) The state chemist shall annually record information concerning the sale of commercial fertilizers used for lawn care service based on the tonnage reports required under section 15 of this chapter.

(b) An annual report issued under this section:

(1) may be made available upon written request; and

(2) may not disclose the operations of any person.

Sec. 17. The state chemist, who may act through an agent authorized by the state chemist, shall do the following:

(1) Administer this chapter.

(2) Adopt rules under IC 4-22-2:

(A) concerning the distribution of commercial fertilizers used in lawn care service; and

(B) necessary to implement this chapter.

Sec. 18. (a) If:

(1) a person applying for a license under this chapter uses fraudulent or deceptive practices to evade or attempt to evade compliance with this chapter or rules adopted under this chapter, the state chemist may refuse to issue a license to the person; or

(2) a licensee uses fraudulent or deceptive practices to evade or attempt to evade compliance with this chapter or rules

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adopted under this chapter, the state chemist may revoke the licensee's license.

(b) The state chemist may not:

(1) refuse to issue a license to a person; or

(2) revoke a licensee's license;

until the person or the licensee has had an opportunity to appear at a hearing conducted by the state chemist.

Sec. 19. If a licensee:

(1) does not submit a report required to be submitted under section 15 of this chapter by February 15 of a year;

(2) submits a false report under this chapter; or

(3) does not comply with label requirements under this chapter;

the state chemist may revoke the licensee's license or refuse to renew the licensee's license.

Sec. 20. (a) A person that:

(1) knowingly makes a false application for a license issued under this chapter; or

(2) violates this chapter;

commits a Class C infraction.

(b) The state chemist is not required to report minor violations of this chapter for:

(1) prosecution; or

(2) the implementation of seizure proceedings;

if the state chemist believes that the public interest will be best served by a suitable written notice of warning.

(c) The state chemist may apply for a temporary or permanent injunction restraining a person from violating or continuing to violate this chapter or a rule adopted under this chapter. An injunction issued under this subsection shall be issued without bond.

Chapter 4. Pesticides

Sec. 1. A pesticide product is not in violation of this chapter when the product is:

(1) intended solely for export to a foreign country; and

(2) prepared or packed according to the specifications or directions of the purchaser.

However, this chapter applies if the pesticide product is not exported.

Sec. 2. As used in this chapter, "active ingredient" means:

(1) in the case of a pesticide other than a plant regulator, defoliant, or desiccant, an ingredient that will:

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(A) prevent;
(B) destroy;
(C) repel; or
(D) mitigate;
insects, nematodes, fungi, rodents, weeds, or other pests;
(2) in the case of a plant regulator, an ingredient that, through physiological action, will accelerate or retard the rate of growth or rate of maturation or alter the behavior of:
(A) ornamental or crop plants; or
(B) the produce of ornamental or crop plants;
(3) in the case of a defoliant, an ingredient that will cause the leaves or foliage to drop from a plant; and
(4) in the case of a desiccant, an ingredient that will artificially accelerate the drying of plant tissue.

Sec. 3. As used in this chapter, "adulterated" refers to a pesticide or pesticide product if:
(1) the strength or purity of the pesticide falls below the professed standard or quality as expressed on its labeling under which it is sold;
(2) any substance has been substituted wholly or in part for the pesticide product; or
(3) any valuable constituent of the pesticide product has been wholly or in part removed.

Sec. 4. As used in this chapter, "antidote" means the most practical immediate treatment in case of poisoning, including first aid treatment.

Sec. 5. As used in this chapter, "aquatic ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:
(1) Aquatic ecology.
(2) Limnology.
(3) Invertebrate zoology.
(4) Invertebrate ecology.
(5) Ichthyology.
(6) Aquatic botany.
(7) Algology.
(8) Primary production ecology.

Sec. 6. As used in this chapter, "board" means the Indiana pesticide review board established by section 42 of this chapter.

Sec. 7. As used in this chapter, "bulk pesticide" means any pesticide or mixture of pesticides that is transported or held in a reusable immediate container in undivided quantities greater than:

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(1) one hundred (100) pounds net dry weight; or
(2) fifty-five (55) U.S. gallons liquid measure.

The term does not include a pesticide that is in the custody of the ultimate user and has been prepared for application by the ultimate user by diluting the pesticide according to the label directions for that pesticide.

Sec. 8. As used in this chapter, "defoliant" means any:
(1) substance; or
(2) mixture of substances;

intended to cause leaves or foliage to drop from a plant with or without causing abscission.

Sec. 9. As used in this chapter, "desiccant" means any:
(1) substance; or
(2) mixture of substances;

intended for artificially accelerating the drying of plant tissues.

Sec. 10. As used in this chapter, "device" means any instrument or contrivance intended for trapping, destroying, repelling, or mitigating insects or rodents or destroying, repelling, or mitigating any pest. The term does not include:
(1) equipment used for the application of pesticides when sold separately from the pesticides;
(2) firearms; or
(3) simple mechanical devices, including barriers, traps, or adhesives, or other simple contrivances that are not subject to this chapter as determined by the pesticide review board.

Sec. 11. As used in this chapter, "distribute" means to:
(1) offer for sale;
(2) sell;
(3) exchange;
(4) barter; or
(5) supply or offer to supply;

a pesticide product.

Sec. 12. As used in this chapter, "final printed labeling" means the printed label or other labeling that will appear on or accompany a pesticide product.

Sec. 13. As used in this chapter, "front panel" means the part of a label that is visible to a purchaser under normal conditions of sales displays.

Sec. 14. As used in this chapter, "fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of a lower order than mosses and liverworts), including:
(1) rusts;

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(2) smuts;
(3) mildews;
(4) molds;
(5) yeasts;
(6) bacteria; and
(7) viruses;

except those on or in a living human or other animal.

Sec. 15. As used in this chapter, "fungicide" means any substance or mixture of substances intended for:

(1) preventing;
(2) destroying;
(3) repelling; or
(4) mitigating;

any fungi.

Sec. 16. As used in this chapter, "herbicide" means any substance or mixture of substances intended for:

(1) preventing;
(2) destroying;
(3) repelling; or
(4) mitigating;

any weed.

Sec. 17. As used in this chapter, "highly volatile herbicide" means a herbicide that the board has determined to be capable of emitting vapors that may cause serious injury to desired plants by reason of movement of the vapors from the area of application of the herbicide to areas inhabited by the desired plants.

Sec. 18. As used in this chapter, "immediate container" means the part of a container that is in direct contact with a pesticide product.

Sec. 19. As used in this chapter, "inert ingredient" means an ingredient that is not an active ingredient.

Sec. 20. As used in this chapter, "ingredient statement" means any of the following:

(1) A statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients, in the pesticide.

(2) A statement of the name of each active ingredient in decreasing order of abundance and the total percentage of active ingredients, together with the name of each and total percentage of the inert ingredients, if any, in the pesticide.

However, the statement under subdivision (1) applies if the preparation is highly toxic to humans, determined under section 50

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of this chapter. In addition to requirements under subdivisions (1) and (2), if a pesticide contains arsenic in any form, the term also means a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

Sec. 21. As used in this chapter, "insect" means any small invertebrate animal:

(1) generally having the body more or less obviously segmented;

(2) for the most part belonging to the class Insecta; and

(3) comprising:

(A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or

(B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

Sec. 22. As used in this chapter, "insecticide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

any insects.

Sec. 23. As used in this chapter, "label" means:

(1) the:

(A) written;

(B) printed, or

(C) graphic;

matter on, or attached to, a pesticide product or the immediate container of the pesticide product; and

(2) any outside container or wrapper of the retail package of the pesticide product.

Sec. 24. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon the pesticide product or any of its containers or wrappers;

(2) accompanying the pesticide product at any time; or

(3) to which reference is made on the label or in literature accompanying the pesticide product, except when accurate, nonmisleading reference is made to current official publications of:

(A) the United States Department of Agriculture;

(B) the United States Department of Interior;

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(C) the United States Department of Health and Human Services;
(D) state experiment stations;
(E) state agricultural colleges; or
(F) other similar federal institutions or official agencies of Indiana or other states authorized by law to conduct research in the field of pesticides.

Sec. 25. As used in this chapter, "misbranded" refers to any of the following:

(1) Any pesticide product if its labeling bears any:
(A) statement;
(B) design; or
(C) graphic representation;
relative to the pesticide product or to its ingredients that is false or misleading.

(2) Any pesticide product if any of the following apply:
(A) It is an imitation of or is offered for sale under the name of another pesticide product.
(B) Its labeling bears any reference to registration under this chapter.
(C) The labeling accompanying it does not contain instructions for use that are necessary and, if complied with, adequate for the protection of the public.
(D) The label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals.
(E) The label does not bear an ingredient statement on that part of the immediate container and on any outside container or wrapper through which the ingredient statement on the immediate container cannot be clearly read of the retail package that is presented or displayed under customary conditions of purchase. However, a pesticide product is not misbranded under this definition if the size or form of the immediate container or the outside container or wrapper of the retail package makes it impracticable to place the ingredient statement on the part that is presented or displayed under customary conditions of purchase and the ingredient statement appears prominently on another part of the immediate container, outside container or wrapping, or labeling, as permitted by the state chemist.

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(F) Any word, statement, or other information required under this chapter or the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) to appear on the labeling is not prominently placed on the labeling with conspicuousness (as compared with other words, statements, designs, or graphic matter in the labeling) and in terms that make it likely to be read and understood by the average individual under customary conditions of purchase and use.

(G) In the case of an insecticide, nematocide, fungicide, or herbicide, when used as directed or in accordance with commonly recognized practice, it is injurious to humans or other vertebrate animals, vegetation, except weeds to which it is applied, or the individual applying the pesticide.

(H) In the case of a plant regulator, defoliant, or desiccant when used as directed, it is injurious to humans or other vertebrate animals, vegetation to which it is applied, or the individual applying the pesticide. However, physical or physiological effects on plants or parts of plants are not considered to be injurious, if that is the purpose for which the plant regulator, defoliant, or desiccant was applied, in accordance with the label claims and recommendations.

(I) The immediate container does not clearly display the United States Environmental Protection Agency establishment number indicating the specific location where the pesticide product was produced.

Sec. 26. As used in this chapter, "nematocide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

nematodes.

Sec. 27. As used in this chapter, "nematode", commonly known as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class Nematoda that is an unsegmented roundworm:

(1) with an elongated, fusiform, or saclike body covered with cuticle; and

(2) that inhabits soil, water, plants, or plant parts.

Sec. 28. As used in this chapter, "person" means any:

(1) individual;

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(2) partnership;
(3) association;
(4) fiduciary;
(5) corporation; or
(6) organized group of persons;
whether incorporated or not.

Sec. 29. As used in this chapter, "pest" has the meaning set forth in IC 15-16-5-24.

Sec. 30. As used in this chapter, "pesticide" means:
(1) any substance or mixture of substances intended for:
(A) preventing;
(B) destroying;
(C) repelling; or
(D) mitigating;
a pest; and
(2) any substance or mixture of substances intended for use as a:
(A) plant regulator;
(B) defoliant; or
(C) desiccant.

Sec. 31. As used in this chapter, "pesticide for use by prescription only" means any pesticide that the board has found to be more hazardous than a restricted use pesticide so that any specific use and application must be determined and prescribed by a qualified pest management specialist approved by the state chemist.

Sec. 32. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert ingredients.

Sec. 33. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

Sec. 34. As used in this chapter, "plant regulator" means any substance or mixture of substances, intended through physiological action, for:
(1) accelerating or retarding the rate of growth or rate of maturation; or
(2) altering the behavior of ornamental or crop plants or the produce of ornamental or crop plants.
The term does not include substances to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments.

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Sec. 35. As used in this chapter, "produce" means to:

(1) manufacture;

(2) prepare;

(3) compound;

(4) process, or

(5) change;

the container of a pesticide product or an active ingredient. The term does not include the dilution of formulated pesticides by an individual for the individual's use done according to the directions on the pesticide label.

Sec. 36. As used in this chapter, "registrant" means a person who registers a pesticide product under this chapter.

Sec. 37. As used in this chapter, "restricted use pesticide" means:

(1) any pesticide classified as a restricted use pesticide by the administrator of the United States Environmental Protection Agency; or

(2) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests it is intended to prevent, destroy, control, or mitigate.

Sec. 38. As used in this chapter, "rodenticide" means any substance or mixture of substances intended for:

(1) preventing;

(2) destroying;

(3) repelling; or

(4) mitigating;

rodents or any other vertebrate animal that the board declares to be a pest.

Sec. 39. As used in this chapter, "terrestrial ecologist" means a scientist with a degree in, extensive training in, or experience in at least one (1) of the following:

(1) Animal ecology.

(2) Plant ecology.

(3) Vertebrate natural history.

(4) Herpetology.

(5) Ornithology.

(6) Mammalogy.

(7) Field zoology.

Sec. 40. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

Sec. 41. As used in this chapter, "wildlife" has the meaning set

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forth in IC 15-16-5-38.

Sec. 42. (a) The Indiana pesticide review board is established. The board consists of the following members:

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

(2) One (1) representative of the state department of toxicology.

(3) One (1) representative of the state veterinarian.

(4) One (1) representative of the department of natural resources.

(5) One (1) representative of the department of environmental management.

(6) One (1) representative of the Purdue University office of agricultural research programs.

(7) One (1) representative of the Purdue University cooperative extension service.

(8) Two (2) ecologists with earned doctorate degrees:

(A) one (1) a terrestrial ecologist; and

(B) one (1) an aquatic ecologist.

Not more than one (1) ecologist may be from a state supported university or college, and not more than one (1) ecologist may be a plant ecologist.

(9) One (1) public representative.

(10) One (1) representative of the pesticide industry.

(11) Two (2) representatives of producers of agricultural crops or products on which pesticides are applied or that may be affected by the application of pesticides:

(A) one (1) of whom represents producers of agronomic crops; and

(B) one (1) of whom represents producers of nonagronomic crops.

(12) One (1) public representative from conservation organizations.

(13) Three (3) qualified scientists, one (1) each in the fields of entomology, plant pathology, and weed science. One (1) scientist must be the representative of either the Purdue University office of agricultural research programs or the Purdue University cooperative extension service.

(14) Three (3) certified and licensed commercial applicators of pesticides who must represent three (3) different certificate or license categories established under IC 15-16-5-45.

(15) The state chemist, who is an ex officio member and shall serve as a nonvoting member.

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(16) The pesticide administrator for the office of the state chemist, who shall serve as a nonvoting member.

(17) The pesticide training coordinator, who shall serve as a nonvoting member.

(b) The voting members shall be appointed by the governor for terms of four (4) years. Appointments shall be made so that not more than five (5) terms expire annually.

(c) Voting members may be appointed for successive terms at the discretion of the governor.

(d) The governor may remove a voting member of the board prior to the expiration of the member's term for cause.

Sec. 43. A vacancy on the board created by death, resignation, or removal for cause of a member shall be filled by the governor not later than thirty (30) days after the occurrence. The new member serves for the remainder of the vacated term and must meet the qualifications to be appointed to the board.

Sec. 44. The board shall elect a member to serve as chairperson for a term of two (2) years. However, if the chairperson's appointment ends before the expiration of the term, the term is for the duration of the chairperson's appointment.

Sec. 45. (a) The board shall meet at least annually.

(b) The board may meet at other times and at a location specified by the chairperson or a majority of the board.

Sec. 46. (a) Ten (10) members of the board constitute a quorum.

(b) Official actions are subject to approval by a simple majority of board members present at a called meeting.

(c) The chairperson shall actively participate in all decisions of the board.

Sec. 47. The following individuals appointed to the board shall serve without compensation but are entitled to receive per diem payments at rates and under conditions incident to these positions:

(1) State officials.

(2) Staff members of state offices.

(3) Staff members of the Purdue University office of agricultural research programs.

(4) Cooperative extension service staff members.

Other members are entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures, established by the Indiana department of administration and approved by the budget agency.

Sec. 48. The board shall:

(1) collect;

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(2) analyze; and
(3) interpret;
information on matters relating to the use of pesticides.

Sec. 49. (a) The board may, after notice and public hearing as provided in IC 4-22-2, declare as a pest any form of:
(1) plant;
(2) animal life; or
(3) virus;
that is injurious to plants, humans, domestic animals, articles, or substances.

(b) When a hearing is held by the board, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing.

Sec. 50. (a) The board may adopt rules under IC 4-22-2 to do the following:
(1) Establish a list of restricted use pesticides and pesticides for use by prescription only for all of Indiana or designated areas within Indiana, if the board finds that the characteristics of a pesticide require that rules restricting the:
(A) sale;
(B) distribution; or
(C) use;
of the pesticide by any person are necessary to prevent undue hazards to persons, animals, wildlife, lands, or waters, other than the pests that they are intended to prevent, destroy, control, or mitigate.
(2) Provide for the:
(A) safe handling;
(B) transportation;
(C) storage;
(D) display;
(E) distribution; and
(F) disposal;
of pesticides and pesticide containers.
(3) Restrict or prohibit the use of certain types of containers or packages for specific pesticides. The restrictions may apply to the:
(A) type of construction;
(B) strength; or
(C) size;
to alleviate danger of spillage, breakage, or misuse.

(b) The board may adopt by reference the restricted use

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classification of a pesticide that is maintained by the United States Environmental Protection Agency.

(c) The board may do the following:

(1) Include in a rule adopted under subsection (a)(1) the time and conditions of the:

(A) sale;

(B) distribution, or

(C) use;

of pesticides designated as restricted use pesticides and pesticides for use by prescription only.

(2) Require in a rule under subsection (a)(1) that any or all materials be purchased, possessed, or used only under:

(A) permit;

(B) certificate;

(C) license; or

(D) registration;

of the state chemist or under certain conditions or in certain quantities or concentrations.

(d) The state chemist may require all persons issued:

(1) permits;

(2) certificates;

(3) licenses, or

(4) registrations;

under subsection (c) to maintain records as to the use of the restricted use pesticides and pesticides for use by prescription only.

Sec. 51. The state chemist shall administer this chapter.

Sec. 52. The state chemist may adopt rules under IC 4-22-2 to administer this chapter, including rules providing for the following:

(1) The collection and examination of samples of pesticide products.

(2) Determining whether a pesticide product is highly toxic to humans or wildlife.

(3) The issuance of permits to purchase, possess, or use "restricted use pesticides" and "pesticides for use by prescription only".

(4) Determining standards of coloring or discoloring for pesticide products and to subject pesticide products to the requirements of section 57 of this chapter.

Sec. 53. An agent of the state chemist has the same authority that is vested in the state chemist by this chapter.

Sec. 54. The state chemist may cooperate with and enter into

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agreements with:

(1) any other agency of this state;

(2) any federal agency; and

(3) any other state or agency of another state;

to carry out this chapter and apply uniform rules.

Sec. 55. The state chemist or the state chemist's agent may do the following:

(1) Enter any public or private premises, including any vehicle of transport during regular business hours:

(A) to:

(i) have access to; and

(ii) obtain samples of;

pesticide products; and

(B) to:

(i) examine; and

(ii) copy;

records relating to the use, transportation, and sale of pesticide products, subject to this chapter and the rules adopted under this chapter.

(2) Enter at a reasonable time in or upon any:

(A) private; or

(B) public;

property for the purpose of inspection and investigating conditions possibly resulting from the use or misuse of a pesticide product.

Sec. 56. For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same:

(1) product name;

(2) registrant name;

(3) United States Environmental Protection Agency registration number; and

(4) labeling.

Sec. 57. Except as provided in section 58 of this chapter, a person may not produce, distribute, display, sell, or offer for sale within Indiana or deliver for transportation or transport in intrastate commerce or between points within Indiana through any point outside Indiana any of the following:

(1) Any pesticide product that has not been registered under section 61 of this chapter.

(2) Any pesticide product if any of the claims made for it or any of the directions for its use differ in substance from the

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representations made in connection with its registration.

(3) A pesticide product if the composition of the product differs from the composition as represented in connection with its registration. However, at the discretion of the state chemist, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(4) Any pesticide (except a bulk pesticide or a pesticide in a container designed and constructed to accommodate the return and refill of greater than fifty-five (55) gallons liquid or one hundred (100) pounds of dry material) unless it is in the registrant's or the manufacturer's unbroken immediate container, and there is affixed to that container, and to any outside container or wrapper of the retail package through which the required information on the immediate container cannot be clearly read, a label bearing:

(A) the name and address of the manufacturer, registrant, or person for whom manufactured;

(B) the name, brand, or trademark under which the pesticide product is sold; and

(C) the net weight or measure of the content, subject, however, to reasonable variations as the state chemist may permit.

(5) The pesticides commonly known as:

(A) standard lead arsenate;

(B) basic lead arsenate;

(C) calcium arsenate;

(D) magnesium arsenate;

(E) zinc arsenate;

(F) zinc arsenite;

(G) sodium fluoride;

(H) sodium fluosilicate; and

(I) barium fluosilicate;

unless the pesticides have been distinctly colored or discolored as provided by rules adopted under this chapter, or any other white powder pesticide that the state chemist, by rule, requires to be distinctly colored or discolored unless it has been so colored or discolored. If the state chemist requires a white powder pesticide to be distinctly colored or discolored under this section, the state chemist must first investigate and hold a public hearing on the necessity for action for the protection of the public health and the feasibility of coloration

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or discoloration. The state chemist may exempt any pesticide to the extent that it is intended for a particular use or uses from the coloring or discoloring required or authorized by this section if the state chemist determines that coloring or discoloring is not necessary for the protection of the public health.

(6) Any pesticide product that is adulterated or misbranded.

(7) Any pesticide in containers violating rules adopted under section 50(a)(3) of this chapter. Pesticides found in containers that are unsafe due to damage may be seized and impounded.

(8) A highly volatile herbicide except on written permission by the state chemist.

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

Sec. 58. Section 57 of this chapter does not apply to:

(1) any carrier while lawfully engaged in transporting a pesticide product in Indiana if the carrier, upon request, permits the state chemist or the state chemist's designated agent to copy all records showing the transactions in and movement of the pesticide products; or

(2) public officials of Indiana and the federal government engaged in the performance of their official duties.

Sec. 59. A person may not:

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

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

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

(A) the state chemist;

(B) proper officials;

(C) employees of the state;

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

(E) physicians; or

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

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

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

(5) use a highly volatile herbicide except on written permission by the state chemist.

Sec. 60. Section 59(4) of this chapter does not apply to pesticides used in research by:

(1) the United States Department of Agriculture;

(2) the United States Department of Interior;

(3) the Purdue University agricultural research programs; or

(4) other persons who are qualified researchers as approved by the board.

Sec. 61. (a) Each pesticide product that is:

(1) produced, distributed, sold, displayed, or offered for sale within Indiana; or

(2) delivered for transportation or transported:

(A) in intrastate commerce; or

(B) between points within Indiana through any point outside Indiana;

must be registered in the office of the state chemist.

(b) The application for registration must be made on a form provided by the state chemist that includes the following information:

(1) The name and address of the:

(A) applicant; and

(B) person whose name will appear on the label, if a person other than the applicant.

(2) The complete brand name of the pesticide.

(3) A complete copy of the labeling accompanying the pesticide.

(4) A statement of all claims to be made for it, including directions for use.

(5) If requested by the state chemist, a full description of the tests made and the results of the tests upon which the claims are based. In the case of renewal of registration, a statement shall be required only with respect to information that is different from that furnished when the pesticide was registered or last reregistered.

Sec. 62. (a) Each registrant shall pay an annual, nonrefundable fee of one hundred seventy dollars ($170) for each application for each pesticide product registered.

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

(c) All fees collected by the state chemist under this chapter

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shall be paid to the treasurer of Purdue University, who shall deposit the fees in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

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

(1) The employment of:

(A) inspectors;

(B) investigators;

(C) researchers;

(D) analysts;

(E) administrators; and

(F) clerical and service staff.

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

(3) Purchasing:

(A) supplies;

(B) equipment; and

(C) services.

(4) Necessary remodeling.

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

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

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

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

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

Sec. 63. The registration fee provisions of section 62 of this chapter apply to commercial fertilizers containing pesticides.

Sec. 64. (a) The state chemist shall require the submission of the complete formula of any pesticide product, including the:

(1) confidential statement of formula;

(2) analytical methods for the analysis of the pesticide formulation and the analysis of residues of the pesticide

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product in environmental media; and

(3) analytical standards of the pesticide product.

In the case of a federally registered product, this requirement may be waived.

(b) The state chemist shall register a pesticide product if:

(1) the state chemist determines that the composition of the pesticide product warrants the proposed claims for it; and

(2) the pesticide product, its labeling, and other material required to be submitted comply with the requirements of section 61 of this chapter.

(c) The state chemist shall notify the applicant that the pesticide product, labeling, or other material required to be submitted fails to comply with the law if the state chemist determines:

(1) that the proposed claims for the pesticide product; or

(2) the pesticide product and its labeling and other material required to be submitted;

does not comply with this chapter.

(d) If the state chemist notifies an applicant under subsection (c), the state chemist shall give the applicant an opportunity to make the necessary corrections. If upon receipt of notice, the applicant does not make the corrections, the state chemist may refuse to register the pesticide product.

(e) The state chemist, in accordance with the procedures specified in this section, may suspend or cancel the registration of a pesticide whenever the state chemist determines that the pesticide product or its labeling does not comply with this chapter.

(f) If:

(1) an application for registration is refused; or

(2) the state chemist proposes to suspend or cancel a registration;

notice of the action must be given to the applicant or registrant, who shall have fifteen (15) days from the date of the notice to request a hearing on the proposed action in accordance with IC 4-21.5.

Sec. 65. The state chemist may, by rule, declare that information required under this chapter is confidential.

Sec. 66. A person may not distribute:

(1) an unregistered pesticide product;

(2) an adulterated pesticide product; or

(3) a misbranded pesticide product.

Sec. 67. A person may not handle, transport, store, display, or distribute pesticide products in a manner as to endanger:

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(1) humans;
(2) the environment;
(3) food;
(4) feed; or
(5) any other products that may be:
(A) transported;
(B) stored;
(C) displayed; or
(D) distributed;
with pesticide products.

Sec. 68. A person may not dispose of, discard, or store any pesticide products or pesticide containers in a manner that may cause injury to:
(1) humans;
(2) plants;
(3) animals;
(4) wildlife;
(5) lands; or
(6) waters;
except the pests that pesticide products are intended to prevent, destroy, control, or mitigate.

Sec. 69. (a) Subject to this section, if a person violates this chapter or a rule adopted under this chapter, the state chemist under IC 4-21.5-3-6 may warn, cite, or impose a civil penalty on the person or:
(1) deny;
(2) suspend;
(3) revoke; or
(4) amend;
the person's registration under this chapter.

(b) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board. The board shall establish a schedule of the civil penalties that may be imposed under subsection (a) by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:
(1) Two hundred fifty dollars ($250) for a person's first violation.
(2) Five hundred dollars ($500) for a person's second violation.
(3) One thousand dollars ($1,000) for a person's third violation and each subsequent violation.

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(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) A proceeding under IC 4-21.5-3 that involves the imposition of a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(e) Money collected for civil penalties imposed under this section shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.

Sec. 70. (a) The examination of pesticide products shall be made under the direction of the state chemist to determine whether the pesticide products comply with this chapter.

(b) If it appears after an examination that a pesticide product fails to comply with this chapter and the state chemist contemplates instituting proceedings against any person, the state chemist shall give appropriate notice to the person.

(c) A person notified under subsection (b) shall be given an opportunity to present the person's views, either orally or in writing, with regard to the contemplated proceedings to the state chemist.

(d) Subject to subsection (e), if the state chemist determines that a person violated this chapter, the state chemist shall refer the facts to the prosecuting attorney for the county in which the violation occurred with a copy of the results of the analysis or the examination of the pesticide product.

(e) This chapter may not be construed to require the state chemist to report for prosecution or for the institution of other proceedings minor violations of this chapter whenever the state chemist believes that the public interests will be best served by other action.

Sec. 71. (a) The state chemist may apply for a:

(1) temporary; or

(2) permanent;

injunction restraining any person from violating or continuing to violate this chapter or any rule adopted under the chapter notwithstanding the existence of other remedies at law.

(b) A court may grant a:

(1) temporary; or

(2) permanent;

injunction that the state chemist applies for under subsection (a).

(c) An injunction granted under this section shall be issued without bond.

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Sec. 72. The state chemist shall publish, in a form the state chemist considers proper, notice of all the judgments entered in actions instituted under the authority of this chapter.

Sec. 73. (a) Except as provided in subsection (f), if the state chemist:

(1) finds any pesticide product:

(A) upon any premises; or

(B) in any means of conveyance;

where it is held for purposes of, or during or after, distribution or sale; and

(2) determines that the pesticide product:

(A) is in violation of this chapter; or

(B) has been or is intended to be:

(i) distributed; or

(ii) sold;

in violation of this chapter;

the state chemist may issue an order under subsection (b).

(b) The state chemist may issue a written or printed:

(1) stop sale;

(2) use; or

(3) removal;

order to the owner or custodian of a pesticide product.

(c) Except as provided in subsection (d), after receiving an order under subsection (b), the owner or custodian of a pesticide product may not:

(1) sell;

(2) use; or

(3) remove;

the pesticide product described in the order.

(d) The owner or custodian of a pesticide product who receives an order under subsection (b) may:

(1) sell;

(2) use; or

(3) remove;

the pesticide product only in accordance with the order or until the pesticide product is released in writing by the state chemist or by order of a court.

(e) When a stop sale order is issued under subsection (b), the state chemist shall immediately issue a notification to the dealer or registrant of the pesticide product that states the following:

(1) A stop sale order has been issued on the pesticide product.

(2) A reference to the specific language of the law or rule that

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is believed to have been violated.

(f) Labels of pesticide devices may be submitted to the state chemist for approval before the sale of the pesticide device.

Sec. 74. (a) The state chemist may file a claim in accordance with subsection (b) to condemn any pesticide product that is:

(1) distributed, sold, or offered for sale in Indiana; or

(2) delivered for transportation or transported:

(A) in intrastate commerce; or

(B) between points;

within Indiana through any point outside Indiana;

in any court with jurisdiction in any county of the state where the product is found and seized.

(b) A claim may be filed under subsection (a) if:

(1) the pesticide product is adulterated or misbranded;

(2) the pesticide product has not been registered under section 61 or 62 of this chapter;

(3) the pesticide product fails to bear on its label the information required by this chapter;

(4) the pesticide product is a white powder pesticide product and is not colored as required under this chapter; or

(5) any of the claims made for the pesticide product or any of the directions for its use differ in substance from the representations made in connection with its registration.

Sec. 75. (a) If a pesticide product is condemned under this chapter, the court shall enter a decree ordering the:

(1) disposal;

(2) destruction; or

(3) sale;

as the court may direct.

(b) If the pesticide product is sold under subsection (a), the proceeds, less legal costs, shall be paid to the state chemist.

(c) A pesticide product described in subsection (a) may not be sold except as provided for in this chapter.

(d) After:

(1) payment of costs; and

(2) execution and delivery of a good and sufficient bond that stipulates that the pesticide product may not be disposed of unlawfully;

the court may direct that the pesticide product be delivered to the owner of the pesticide product for relabeling or reprocessing.

Sec. 76. Whenever a decree of condemnation is entered under section 75(a) of this chapter against a pesticide product:

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(1) court costs;
(2) fees;
(3) storage costs; and
(4) other proper expenses;

shall be awarded against the person, if any, intervening as claimant of the pesticide product.

Sec. 77. A person who recklessly, knowingly, or intentionally:
(1) violates this chapter; or
(2) impedes or prevents the state chemist or the state chemist's authorized agent in performance of the state chemist's duty in connection with this chapter;

commits a Class C misdemeanor, except as provided in section 78 of this chapter.

Sec. 78. A person who, with intent to defraud:
(1) uses; or
(2) reveals;

information relative to formulas of products acquired under authority of section 64 of this chapter commits a Class A misdemeanor.

Chapter 5. Pesticide Use and Application

Sec. 1. As used in this chapter, "agricultural commodity" means any plant or part of a plant and animals or animal products produced primarily for sale, consumption, propagation, or other use by humans or animals.

Sec. 2. As used in this chapter, "animal" means all vertebrate and invertebrate species, including humans and other mammals, birds, fish, and shellfish.

Sec. 3. As used in this chapter, "beneficial insects" means insects that, during some part of their life cycles, are effective pollinators of plants, are parasites or predators of pests, or are useful to humans.

Sec. 4. As used in this chapter, "board" means the Indiana pesticide review board established by IC 15-16-4-42.

Sec. 5. As used in this chapter, "certificate of financial responsibility" means a notarized statement from an officer of a bank or other financial institution attesting to the fact that a licensee under this chapter has adequate financial resources equal to the amount of liability insurance or bonding required by rule under section 58 of this chapter to protect persons who may suffer legal damages as a result of the applicator's pesticide operations or the pest inspector's inspections.

Sec. 6. As used in this chapter, "certified applicator" means any

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individual who is certified under this chapter as qualified to use or supervise the use of pesticides and has been issued a license or permit as evidence of the individual's qualifications.

Sec. 7. As used in this chapter, "commercial applicator" means a certified applicator, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose or on any property other than as provided by section 30 of this chapter.

Sec. 8. As used in this chapter, "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

Sec. 9. As used in this chapter, "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

Sec. 10. As used in this chapter, "device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life other than bacteria, viruses, or other microorganisms on or in living humans or other living animals. The term does not include equipment used for the application of pesticides when sold separately from the pesticides.

Sec. 11. As used in this chapter, "distribute" means to offer for sale, sell, exchange, or barter, or supply or offer to supply a pesticide.

Sec. 12. As used in this chapter, "environment" includes water, air, land, and all plants and humans and other animals living in water, air, or on land and the interrelationships that exist among these.

Sec. 13. As used in this chapter, "equipment" means any type of ground, water, or aerial apparatus or contrivance using motorized, mechanical, or pressurized power to apply any pesticide.

Sec. 14. As used in this chapter, "fungus" means any nonchlorophyll-bearing plant of a lower order than mosses and liverworts, including:

(1) rust;
(2) smut;
(3) mildew;
(4) mold;
(5) yeast; and
(6) bacteria;

except those on or in living humans or other animals, and those on or in processed food, beverages, or pharmaceuticals.

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Sec. 15. As used in this chapter, "insect" means any small invertebrate animal:

(1) generally having the body more or less obviously segmented;

(2) for the most part belonging to the class Insecta; and

(3) comprising:

(A) six (6) legged usually winged forms, including beetles, bugs, bees, flies; or

(B) other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, including spiders, mites, ticks, centipedes, and wood lice.

Sec. 16. As used in this chapter, "licensed applicator for hire" means any licensed certified commercial applicator who is employed by a licensed pesticide business to use or to supervise the use of any pesticide on the property of another and who has assumed direct responsibility for the use or supervision of the use of pesticides by the business.

Sec. 17. As used in this chapter, "licensed applicator not for hire" means a licensed certified commercial applicator who is employed by a private employer to use or supervise the use of a restricted use pesticide only on the property of the employer. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

Sec. 18. As used in this chapter, "licensed pest inspector" means an individual licensed under this chapter to make diagnostic inspections or reports to determine infestations of wood destroying pests on the property of another person and meets the requirements under section 58 of this chapter.

Sec. 19. As used in this chapter, "licensed pesticide business" means any licensed person that owns, operates, or manages a business that is engaged in or professes to be engaged in:

(1) using any pesticide, including restricted use pesticides; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests.

Sec. 20. As used in this chapter, "licensed public applicator" means a licensed certified commercial applicator who uses or supervises the use of a restricted use pesticide as an employee of a state agency, municipal corporation, or other governmental agency. The term includes a commercial applicator using a pesticide in a potentially hazardous situation or site as determined by the board.

Sec. 21. As used in this chapter, "nematode", commonly known

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as a nema or an eelworm, means an invertebrate animal of the phylum nemathelminthes and class nematoda that is an unsegmented roundworm:

(1) with an elongated, fusiform, or saclike body covered with cuticle; and

(2) that inhabits soil, water, plants, or plant parts.

Sec. 22. As used in this chapter, "permit" means a written certificate issued by the state chemist or the state chemist's agent to a private applicator, authorizing the purchase, possession, or use of restricted use pesticides.

Sec. 23. As used in this chapter, "person" means any individual, partnership, association, fiduciary, corporation, or any organized group of persons whether incorporated or not.

Sec. 24. As used in this chapter, "pest" means:

(1) any insect, rodent, nematode, fungus, or weed; or

(2) any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other microorganism (except viruses, bacteria, or other microorganisms on or in living humans or other living animals) that is declared to be a pest by the administrator of the United States Environmental Protection Agency or by the board.

Sec. 25. As used in this chapter, "pesticide" means:

(1) any substance or mixture of substances intended for:

(A) preventing;

(B) destroying;

(C) repelling; or

(D) mitigating;

a pest; or

(2) any substance or mixture of substances intended for use as a:

(A) plant regulator;

(B) defoliant; or

(C) desiccant.

Sec. 26. As used in this chapter, "pesticide consultant" means a person engaged in the retail sale of pesticides who:

(1) offers or supplies technical advice to;

(2) aids; or

(3) makes recommendations to;

another person concerning the use of a pesticide as part of business.

Sec. 27. As used in this chapter, "pesticide formulation" means a pesticide product comprised of all active ingredients and inert

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ingredients.

Sec. 28. As used in this chapter, "pesticide product" means a pesticide or device offered for distribution or use, including any labeling.

Sec. 29. As used in this chapter, "plant regulator" means any substance or mixture of substances intended, through physiological action, for:

(1) accelerating or retarding the rate of growth or rate of maturation; or

(2) altering the behavior of plants or the produce of plants.

The term does not include substances to the extent they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

Sec. 30. As used in this chapter, "private applicator" means a certified applicator who uses or supervises the use of pesticides for purposes of producing any agricultural commodity on property owned, rented, or managed by the employer or the applicator, if applied without compensation on the property of another person.

Sec. 31. As used in this chapter, "property" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances, and machinery, appurtenant to or situated on land and water areas, fixed or mobile, including any used for transportation.

Sec. 32. As used in this chapter, "registered pesticide dealer" means any person who distributes any restricted use pesticide.

Sec. 33. As used in this chapter, "registered technician" means a person who:

(1) is not licensed under this chapter;

(2) has registered with the state chemist; and

(3) is authorized to engage in pesticide use and related activities under the direct supervision of a licensed and certified applicator.

Sec. 34. As used in this chapter, "restricted use pesticide" means:

(1) any pesticide classified as restricted by the administrator of the United States Environmental Protection Agency; or

(2) a pesticide that the board has determined to be unduly hazardous to persons, animals, plants, wildlife, waters, or lands other than the pests the pesticide is intended to prevent, destroy, control, or mitigate.

Sec. 35. As used in this chapter, "unreasonable adverse effects on the environment" means an unreasonable risk to humans or the

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environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

Sec. 36. As used in this chapter, "use" means an act of handling, releasing, or exposing individuals or the environment to a pesticide. The term includes the following:

(1) Application or supervision of an application of a pesticide, including mixing or loading the pesticide.

(2) Storage of pesticides and pesticide containers by the intended applicator of the pesticides.

(3) Transportation of pesticides and pesticide containers by the intended applicator of the pesticides.

(4) Disposal of pesticides and pesticide containers by the intended applicator of the pesticides.

Sec. 37. As used in this chapter, "weed" means any plant that grows where the plant is not wanted.

Sec. 38. As used in this chapter, "wildlife" means all living things that are not human, domesticated, or pests. This term includes mammals, birds, reptiles, and aquatic life.

Sec. 39. This chapter shall be administered by the state chemist.

Sec. 40. The state chemist may delegate to an employee or agent any function that is vested in the state chemist by this chapter.

Sec. 41. The state chemist may adopt rules to declare that information required to be submitted under this chapter is confidential.

Sec. 42. The state chemist may waive all or part of the requirements provided for in sections 45, 46, 48, 49, 50, 51, 52, 53, 54, and 57 of this chapter on a reciprocal basis with any other state agency or federal agency that has substantially the same standards.

Sec. 43. In concurrence with the state chemist, the Purdue University cooperative extension service shall organize and conduct programs of instruction and training in areas of knowledge required in this chapter. Where appropriate and feasible, the Purdue University cooperative extension service shall draw upon the resources and expertise of other educational institutions and the private sector in this effort.

Sec. 44. (a) The board may adopt rules under IC 4-22-2 prescribing policies and procedures relating to:

(1) the use and application of pesticides; and

(2) diagnostic inspections and reports for wood destroying pests.

(b) For the purpose of uniformity and in order to enter into both cooperative and reciprocal agreements, the board may adopt

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restricted use pesticide classifications as determined by the United States Environmental Protection Agency. The state chemist may adopt additional rules under IC 4-22-2 as required to accomplish the purpose of this chapter.

(c) Rules adopted under this chapter may not permit any pesticide use that is prohibited by federal law and regulations or orders issued under federal law.

Sec. 45. (a) The state chemist shall adopt rules to establish categories and qualifications to certify and license persons to use pesticides and to make diagnostic inspections and reports for wood destroying pests under this chapter. Each category is subject to separate testing procedures and requirements. A person is not required to pay an additional license fee if the person desires to be licensed in more than one (1) of the license categories provided for by the state chemist under this section.

(b) The state chemist, in adopting rules under this section, shall establish standards for the certification of persons who use pesticides or who make diagnostic inspections and reports for wood destroying pests. The standards must relate to the use and handling of pesticides, or to the use and handling of the pesticide or class of pesticides covered by the individual's certification and must be relative to the hazards involved. In determining standards, the state chemist shall consider the characteristics of the pesticide formulation, including the acute dermal and inhalation toxicity, the persistence, mobility, and susceptibility to biological concentration, the use experience that may reflect an inherent misuse or an unexpected good safety record that does not always follow laboratory toxicological information, the relative hazards of patterns of use, including granular soil applications, ultra-low volume or dust aerial applications, or air blast sprayer applications, and the extent of the intended use. The state chemist shall observe the relevant regulations of Section 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 135 et seq.).

(c) The state chemist may require a person certified under this chapter as a commercial applicator or a private applicator to renew the person's certification, under requirements and standards established by the state chemist, to assure that the person maintains a level of competence and ability to use pesticides safely and properly.

Sec. 46. A person required to be certified or registered under this chapter may not:

(1) use or supervise the use of any pesticide; or

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(2) make diagnostic inspections or reports to determine infestations of wood destroying pests;

unless the person complies with the certification or registration requirements under this chapter and any other requirements determined by the state chemist to be necessary to prevent unreasonable adverse effects on the environment.

Sec. 47. (a) A license issued under this chapter is not transferable except in the event of disability or death of the licensee. The state chemist may transfer a license by issuing a temporary permit to provide for the operation of the business until the expiration of the permanent license.

(b) A certificate issued under this chapter is not transferable.

Sec. 48. (a) Subject to section 55 of this chapter, a person may not engage in or profess to engage in the business of:

(1) using a pesticide; or

(2) making diagnostic inspections or reports to determine infestations of wood destroying pests;

on the property of another for hire at any time without a pesticide business license issued by the state chemist. The state chemist shall require an annual license fee of forty-five dollars ($45) for each pesticide business license that is issued.

(b) A pesticide business license must be obtained for each business location from which pesticide use or application is conducted.

(c) The application for a license must be on a form provided by the state chemist. Each application must contain information necessary for the administration of this chapter.

(d) The state chemist may not issue a pesticide business license until the applicant or a pesticide applicator in the applicant's hire who uses or supervises the use of a pesticide on the property of another is certified by passing an examination to demonstrate to the state chemist the applicant's or applicator's knowledge of the:

(1) use of pesticides under the category for which the applicant or applicator has applied; and

(2) nature and effect of pesticides the applicant or applicator may apply under the categories.

At least one (1) licensed applicator for hire must be associated with each location from which pesticides are used for hire.

(e) The state chemist may renew any pesticide business license.

(f) Subject to section 65 of this chapter, if:

(1) the state chemist finds the applicant qualified to engage in the business of using pesticides on the property of another;

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(2) the applicant files evidence of financial responsibility required under section 58 of this chapter; and

(3) the applicant applying for a license involving aerial application of pesticides has met all of the requirements of:

(A) the Federal Aviation Administration;

(B) the Indiana department of transportation; and

(C) any other applicable federal or state statutes or regulations to operate the equipment described in the application;

the state chemist shall issue a pesticide business license limited to the categories for which the applicant or a pesticide applicator in the applicant's hire is qualified. The license expires January 1 of the year following issue unless it has been invalidated, revoked, or suspended earlier by the state chemist. A surety bond or certificate of liability insurance in force or certificate of financial responsibility required under section 58 of this chapter must be maintained and in effect on a continuing basis.

(g) The state chemist may limit a license or the operation of a business to the use of certain pesticides, or to certain areas, or to certain types of equipment if the applicant is only so qualified.

(h) If a license is not issued as applied for, the state chemist shall inform the applicant in writing of the reasons the license was not issued.

Sec. 49. A person may not:

(1) act as an employee of a licensed pesticide business and use or supervise the use of a pesticide on another person's property; or

(2) make diagnostic inspections or reports to determine infestations of wood destroying pests on another person's property;

without having obtained a license to act as a licensed applicator for hire or a licensed pest inspector from the state chemist. However, a competent person who is not a licensed applicator for hire may use a pesticide under the direct supervision of a licensed applicator. An applicator's license and a pest inspector's license does not relieve the person from the responsibility of obtaining any other license or permit required for the operation or use of any equipment.

Sec. 50. (a) Except as provided in subsection (b), a person may not act as a licensed applicator not for hire unless the person has obtained a license from the state chemist.

(b) A person who is not a licensed applicator not for hire may

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use a pesticide if the person is under the direct supervision of a licensed applicator not for hire.

Sec. 51. (a) All state agencies, municipal corporations, and other governmental agencies are subject to this chapter and rules adopted under this chapter concerning the application of pesticides.

(b) Except as provided in subsection (c), a person may not act as a licensed public applicator unless the person has obtained a license from the state chemist.

(c) A person who is not a licensed public applicator may use a pesticide if the person is under the direct supervision of a licensed public applicator.

(d) The public applicator's license is valid only when the applicator is using or supervising the use of pesticides by public agencies. Government research personnel are not exempt from the licensing requirement when using pesticides.

Sec. 52. (a) A person applying for a license described under section 49, 50, or 51 of this chapter must:

(1) submit an application to the state chemist on a form provided by the state chemist;

(2) pass the appropriate examination provided under section 45 of this chapter;

(3) except for a person applying for a licensed public applicator's license, submit a fee of forty-five dollars ($45) to the state chemist; and

(4) if the person will engage in the aerial application of pesticides, submit proof to the state chemist that the person has satisfied aerial application requirements under applicable state and federal laws.

(b) Subject to section 65 of this chapter, if a person meets the requirements under subsection (a), the state chemist shall issue the appropriate license to the person.

(c) If the state chemist does not issue a license to a person who applied for a license described under subsection (a), the state chemist shall inform the person in writing of the reason the license was not issued.

(d) A person who has been issued a license under subsection (b):

(1) shall notify the state chemist in writing within ten (10) days after a change in or termination of the person's employment as a licensed applicator for hire, a licensed applicator not for hire, or a licensed public applicator; and

(2) may apply to the state chemist to transfer or amend the

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person's license by submitting an updated application form described under subsection (a)(1).

(e) A license issued under subsection (b):

(1) expires January 1 of each year; and

(2) may be renewed by the person holding the license if the person:

(A) submits a renewal application on a form provided by the state chemist; and

(B) except for a person renewing a licensed public applicator's license, pays a forty-five dollar ($45) renewal fee;

before January 1.

Sec. 53. (a) A person may not act as a pesticide consultant unless the person has registered with the state chemist.

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

(1) submit an application on a form approved by the state chemist; and

(2) pay an annual fee of forty-five dollars ($45) to the state chemist.

Sec. 54. (a) A private applicator may not be issued a permit to use a restricted use pesticide without first complying with the certification requirements, including passing an examination, determined by the state chemist necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons.

(b) Certification standards to determine a person's competency with respect to the use and handling of the pesticide or class of pesticides that the private applicator is to be certified to use must be relative to hazards as described in section 45 of this chapter. In determining these standards, the state chemist shall observe those standards for private applicator certification provided by the U.S. Environmental Protection Agency.

(c) A fee of twenty dollars ($20) must be paid to the state chemist by each person applying for a certification as a private applicator under this section.

(d) If the state chemist does not certify the private applicator under this section, the state chemist shall inform the applicant of the reasons the applicant was not certified and return the applicant's application fee.

(e) The state chemist may require additional knowledge to ensure that applicators continue to meet the requirements of

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changing technology and to assure a continuing level of competence and ability to use pesticides safely and properly.

Sec. 55. Section 48 of this chapter relating to licenses and requirements for their issuance does not apply to the following:

(1) A farmer who applies pesticides for the farmer's own use or with ground equipment or manually for the farmer's neighbors if:

(A) the farmer operates farm property and operates and maintains pesticide application equipment primarily for the farmer's own use;

(B) the farmer is not engaged in the business of applying pesticides for hire and the farmer does not publicly profess to be a pesticide business;

(C) the farmer operates the farmer's pesticide application equipment only in the vicinity of the farmer's own property and for the accommodation of the farmer's neighbors; and

(D) the farmer is certified as a private applicator if the farmer uses restricted use pesticides.

(2) A veterinarian who uses pesticides as an incidental part of the veterinarian's practice, if the veterinarian is not regularly engaged in or does not profess to be engaged in the business of using pesticides for hire.

(3) Research personnel applying pesticides only to bona fide experimental plots.

Sec. 56. The state chemist shall establish and administer a program to register individuals as registered technicians.

Sec. 57. (a) Each person who is a restricted use pesticide dealer shall register with the state chemist. Registration shall be required for each business location distributing restricted use pesticides and shall be accomplished on a form to be provided by the state chemist. A registration expires January 1 following issuance unless the registration is renewed annually. A registration fee of forty-five dollars ($45) must accompany the application.

(b) This section does not apply to:

(1) a licensed pesticide business that sells pesticides only as an integral part of its pesticide application service when the pesticides are dispensed only through equipment used for this pesticide application;

(2) any federal, state, county, or municipal agency that provides pesticides only for its own programs; or

(3) any person who is the final purchaser of a pesticide for

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application to property or property rights owned, leased, or acquired by the person.

(c) Each registered pesticide dealer is responsible for the acts of each person employed by the dealer in the solicitation and sale of restricted use pesticides and all claims and recommendations for use of pesticides. The dealer's registration is subject to sections 65 and 66 of this chapter for any violation of this chapter whether committed by the dealer or by the dealer's officer, agent, or employee.

Sec. 58. (a) The state chemist may not issue a pesticide business license or a pest inspector license until the applicant for the license has furnished a surety bond, a certificate of liability insurance in force, or a certificate of financial responsibility to protect persons who may suffer legal damages as a result of the pesticide operations or pest inspections of the applicant. If the surety bond, liability insurance, or financial responsibility is not maintained at all times during the licensing period, the pesticide business license, pest inspector license, and any associated commercial applicator licenses are invalid. The applicant may not engage in or profess to be engaged in the business of using pesticides or pest inspection until the financial responsibility is in compliance and the applicant's license is reinstated by the state chemist.

(b) This chapter does not relieve any person from liability for any damage to the person or property of another caused by the use of pesticides even though the use conforms to the rules adopted under this chapter.

Sec. 59. (a) Commercial applicators and licensed pest inspectors shall maintain records concerning:

(1) the application of restricted use pesticides;

(2) diagnostic inspections to determine infestations of wood destroying pests; and

(3) any relevant information that the state chemist determines by rule is necessary for purposes of this chapter.

(b) The state chemist may require certified applicators to maintain records related to applications of state restricted pesticide uses.

(c) Records required under this section must be kept for two (2) years after the date of the application of the pesticide, and the state chemist shall be provided access to the records by the commercial applicator.

Sec. 60. A person who:

(1) is required to pay a fee under this chapter to the state

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chemist; and

(2) does not pay the fee before the date the fee is due;

shall pay a penalty fee to the state chemist equal to one hundred percent (100%) of the required fee when the person pays the required fee.

Sec. 61. (a) All fees collected by the state chemist under this chapter shall be paid to Purdue University and deposited in a special restricted account designated by the treasurer of the board of trustees of Purdue University.

(b) From the account described in subsection (a), the treasurer shall pay from the special restricted account the expenses incurred in administering this chapter, including expenses for the following:

(1) The employment of:

(A) inspectors;

(B) investigators;

(C) researchers;

(D) analysts;

(E) administrators; and

(F) clerical and service staff.

(2) Conducting and reporting inspections and investigations.

(3) Purchasing supplies and services.

(4) Providing necessary facilities and remodeling.

(5) Any other expense of the office of the state chemist.

The treasurer is not required to use any other funds, except those collected under this chapter, to defray any expenses incurred in the administration of this chapter.

(c) The dean of agriculture of Purdue University shall make an annual financial report to the governor showing total receipts and expenditures of all fees received under this chapter.

Sec. 62. The state chemist may adopt rules to require the reporting of significant pesticide accidents or incidents. Any person claiming damages from a pesticide accident shall file a claim on a form provided by the state chemist. This report must be filed within sixty (60) days after the date that damages occurred. If a growing crop is alleged to have been damaged, the report must be filed before twenty-five percent (25%) of the crop has been harvested. The state chemist shall, not later than seven (7) days after the receipt of such statement, notify the licensee and the owner or lessee of the property or other persons who may be charged with the responsibility for the damages claimed, and furnish copies of such statements as may be requested.

Sec. 63. The state chemist may cooperate with, and enter into

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agreements with, any other agency of the state, any federal agency, or any other state agency or nongovernmental organization to carry out this chapter to:

(1) secure uniformity of rules;

(2) cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel and facilities and to implement cooperative enforcement programs;

(3) develop and administer state plans for certification of applicators consistent with federal standards;

(4) contract or cooperate with agencies or organizations for the purpose of training applicators;

(5) contract for monitoring pesticides for the national plan;

(6) prepare and submit state plans to meet federal certification standards;

(7) regulate certified applicators; and

(8) make reports to the United States Environmental Protection Agency as the agency requires.

Sec. 64. (a) A person may not transport, store, or dispose of any pesticide or pesticide containers in a manner as to:

(1) cause injury to:

(A) humans;

(B) beneficial vegetation;

(C) crops;

(D) livestock;

(E) wildlife; or

(F) beneficial insects; or

(2) pollute any waterway in a way harmful to any wildlife in a waterway.

(b) The board may adopt rules governing the storage and disposal of pesticides or pesticide containers. In determining these standards, the board shall take into consideration any regulations issued by the United States Environmental Protection Agency.

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 through any media

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misrepresenting the effect of pesticides or methods to be used.
(2) Recommended, used, or supervised the use of any registered pesticide 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.
(3) Used known ineffective or improper 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.
(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports and supply information when required.
(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
(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.
(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.
(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit, registration, or certification.
(13) Aided or abetted a person to evade this chapter, conspired with a person to evade this chapter, or allowed a license, permit, registration, or certification to be used by another person.
(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests.
(15) Impersonated any federal, state, county, or city inspector, investigator, or official.
(16) Knowingly purchased or used a pesticide that was not

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registered under IC 15-16-4.

(17) Failed to continuously maintain financial responsibility required under section 58 of this chapter.

Sec. 66. (a) The state chemist may impose civil penalties only in accordance with the schedule of civil penalties adopted by the board.

(b) The board shall establish a schedule of civil penalties that may be imposed under section 65 of this chapter by rule adopted under IC 4-22-2. The rule adopted under this subsection may not provide for a civil penalty that exceeds the following:

(1) For a violation committed by a person who is required to be certified as a private applicator, one hundred dollars ($100).

(2) For a violation by a person who is not described in subdivision (1), the following:

(A) Two hundred fifty dollars ($250) for a person's first violation.

(B) Five hundred dollars ($500) for a person's second violation.

(C) One thousand dollars ($1,000) for a person's third violation and each subsequent violation.

(c) If a violation is of a continuing nature, the state chemist may impose a civil penalty for each day that the violation occurred.

(d) A proceeding under IC 4-21.5-3 that involves a civil penalty may be consolidated with any other proceeding commenced under IC 4-21.5 to enforce this chapter or the rules adopted under this chapter.

(e) Money collected for civil penalties imposed under section 65 of this chapter shall be credited to the office of Purdue pesticide programs. The money may be used only to provide education about pesticides.

Sec. 67. (a) A person who is:

(1) regulated under section 65, 66, or 70 of this chapter; and

(2) aggrieved by any decision by the state chemist;

may obtain a review by the board, if the person files a written petition with the board not later than thirty (30) days after the state chemist's decision.

(b) The board shall provide a copy of a petition filed under subsection (a) to the state chemist not later than seven (7) days after receiving the petition.

(c) Not more than fifteen (15) days after receiving a petition under subsection (b), the state chemist shall certify and file with

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the board a transcript of any record related to the petition, including a transcript of any evidence received.

(d) Whenever a hearing is held under this section, the board may designate one (1) or more persons as the board's agent or representative to conduct the hearing. The agent or representative shall conduct the hearing in the manner provided by IC 4-21.5-3.

(e) After hearing the appeal, the board shall affirm, set aside, or modify the action of the state chemist. However, the state chemist's finding of facts that are supported by the substantial evidence is considered conclusive.

(f) A person aggrieved by any action of the board may obtain judicial review under IC 4-21.5-5.

Sec. 68. The state chemist may request a court to issue subpoenas to compel:

(1) the attendance of witnesses; or

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

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

Sec. 69. (a) The state chemist may enter upon any public or private property at reasonable times to do the following:

(1) Observe the use and application of a pesticide.

(2) Inspect equipment subject to this chapter.

(3) Inspect and sample property actually or reported to be exposed to pesticides.

(4) Inspect storage or disposal areas.

(5) Inspect or investigate complaints of injury to humans or property.

(6) Sample pesticides being used or to be used.

(7) Inspect and obtain copies of pesticide sale, distribution, purchase, use, storage, and disposal records.

(b) If the state chemist is denied access to any property for a purpose under subsection (a), the state chemist may, upon showing a need, apply to any court with jurisdiction for a search warrant authorizing access to the property. The court may, after receiving the application and finding a need, issue the search warrant for the purposes requested.

(c) A prosecuting attorney to whom a violation of this chapter is reported may institute and prosecute the violation in a court with jurisdiction of that county without delay. The state chemist may apply for and the court may grant a temporary or permanent injunction restraining any person from violating or continuing to

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violate this chapter or any rule adopted under this chapter notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

Sec. 70. (a) A person who recklessly, knowingly, or intentionally:

(1) violates this chapter, except as provided in subsection (b); or

(2) impedes or prevents the state chemist or the state chemist's agent from performing a duty of the state chemist;

commits a Class C misdemeanor.

(b) A person who knowingly or intentionally violates section 65(9) of this chapter after the state chemist has issued written notification to that person regarding a previous violation of section 65(9) of this chapter commits a Class A misdemeanor.

(c) The state chemist may bring an action to enjoin the violation or threatened violation of this chapter or a rule under this chapter. A court may not allow the recovery of damages for an administrative action taken under this subsection if the court finds that there was probable cause for the action.

Sec. 71. (a) A political subdivision (as defined in IC 36-1-2-13) does not have authority to regulate by ordinance the use or application of pesticides.

(b) A political subdivision may, by resolution, petition the board for a hearing to allow a variance from a rule of the board because of special circumstances relating to the use or application of a pesticide. If a petition is received, the board shall hold a public hearing to consider allowing the variance requested. The public hearing shall be conducted in an informal manner. IC 4-21.5 does not apply to the public hearing under this section.

(c) The board may grant a variance requested under this section with or without changes.

Chapter 6. Organization of Horticultural and Quarantine Districts

Sec. 1. (a) Horticultural and quarantine districts may be organized under this chapter for any or all of the following purposes:

(1) To prevent the spread of contagious diseases among fruit, fruit trees, and fruit bearing plants.

(2) To provide for the prevention, treatment, cure, and extirpation of:

(A) fruit pests; and

(B) diseases of fruit, fruit trees, and fruit bearing plants.

(3) To:

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(A) provide for the purchase and maintenance of spraying machines, wagons, or other necessary apparatus to adequately spray fruit trees or other fruit bearing plants;
(B) hire workers and teams to perform the required labor; and
(C) incur the necessary expense to carry out the purposes of this chapter.
(4) To hire experts to:
(A) inspect fruit trees and fruit bearing plants found within a horticultural and quarantine district; and
(B) prescribe the proper methods of treatment of diseases of fruit trees or fruit bearing plants.
(b) A horticultural and quarantine district shall be administered by a voluntary association that has three (3) elected directors.
Sec. 2. (a) At least ten (10) persons who are owners of land:
(1) constituting a contiguous area; and
(2) upon which are situated orchards, fruit trees, or other fruit bearing plants;
may establish a horticultural and quarantine district.
(b) The articles of association must be in writing and signed and acknowledged by each person who desires to become a member of the organization. The articles of association must specify the following:
(1) The corporate name of the association.
(2) The objectives of the association, generally.
(3) The name and residence of each incorporating member.
(4) The term of existence of the association. However, the term may not exceed ten (10) years.
(5) That three (3) directors shall manage the affairs of the association.
(c) An association may not have capital stock. The articles of association may be amended at any time by supplementary and amended articles:
(1) signed and acknowledged by a majority of the members of the association at the time of amendment; and
(2) recorded in the same manner as the original articles.
Sec. 3. (a) At least three (3) members of the association may give notice of an election of the board of directors of the association.
(b) The notice must contain the following information:
(1) The date and time of the election.
(2) The place where the election will be held. The election must be held at a place:

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(A) convenient to voters; and

(B) located within or near the proposed horticultural and quarantine district.

(c) The notice must be:

(1) published in one (1) newspaper:

(A) in the county; and

(B) of general circulation among the members of the association; or

(2) delivered in person.

Sec. 4. (a) If a majority of the members of the association are present at the time and place specified in the notice described in section 3 of this chapter, the members shall elect, by ballot, three (3) directors from among the membership of the association.

(b) The directors shall immediately determine by lot the directors' initial terms of office, which are as follows:

(1) One (1) director shall serve a term of one (1) year.

(2) One (1) director shall serve a term of two (2) years.

(3) One (1) director shall serve a term of three (3) years.

(c) Except as provided in subsection (b), the term of a director is three (3) years. A director shall serve until a successor is elected and qualified.

(d) The directors shall call an annual meeting of the association members to elect a director. The directors shall provide notice of the meeting under section 3 of this chapter. The members shall meet at the time and place fixed by the directors.

Sec. 5. If a vacancy occurs in the office of a director, the remaining directors shall fill the vacancy by appointing a temporary director. The temporary director shall be appointed from among the members of the association and shall hold office until the next annual election.

Sec. 6. (a) Before or after the election of directors, the association shall:

(1) file the articles of association in the office of the secretary of state; and

(2) record in the recorder's office of each county in which any part of the proposed horticultural and quarantine district is situated a duplicate copy of the articles of association.

(b) After the articles of association are filed and recorded, the association is a body politic and corporate, by the name and style adopted. The association has all the rights, powers, and privileges given to corporations to:

(1) sue and be sued, plead and be pleaded, answer and be

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answered, in any court with jurisdiction;

(2) borrow money and levy assessments upon the owners of lands, orchards, trees, and other fruit bearing plants situated in the district; and

(3) rent, lease, purchase, hold, sell, and convey personal property as is necessary and proper for the purposes and objectives of the corporation.

(c) A majority of the members of the association may:

(1) adopt bylaws for the government of the horticultural and quarantine district; and

(2) make rules as may be necessary to carry the bylaws into force and effect.

Sec. 7. (a) The boundary of a horticultural and quarantine district shall coincide with a line enclosing the lands owned by the association members.

(b) A person who is the owner of lands contiguous to a horticultural and quarantine district is entitled to become a member of the association at any time by signing the articles of association.

(c) Horticultural and quarantine districts may be increased in size to not more than twenty (20) square miles of territory by annexing contiguous territory under this section.

(d) Contiguous horticultural and quarantine districts may be consolidated if the combined area of the consolidating districts does not exceed twenty (20) square miles. The question of consolidation may be submitted to the members of the respective associations at a joint meeting called for that purpose. If a majority of members entitled to vote under section 8 of this chapter vote in favor of consolidation:

(1) a new district comprised of the consolidating districts is formed; and

(2) the articles of association of the new district shall be filed and recorded as prescribed in section 6 of this chapter.

(e) Directors of the new district may be chosen at the meeting called to determine the question of consolidation or at a subsequent meeting.

Sec. 8. All persons who have:

(1) signed the articles of association; and

(2) paid the assessments levied against them;

are entitled to vote at any meeting of the members of the association on any question that lawfully comes before the association. Each member is entitled to one (1) vote on any

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question.

Sec. 9. (a) The directors shall elect one (1) director to serve as president and one (1) director to serve as secretary.

(b) The secretary shall also serve as treasurer of the association and have custody of the the association's money. The secretary shall execute a bond, with good freehold surety, for double the amount of money that will probably be received by the secretary at any time during the secretary's term of office.

(c) The secretary shall:

(1) keep a record of the transactions of the association, including:

(A) brief minutes of meetings;

(B) the results of elections; and

(C) an itemized account of all receipts and expenditures; and

(2) present a report of the transactions of the association to the members of the association at the annual meeting.

Sec. 10. Money may be drawn from the treasury of an association only upon the order of a majority of the board of directors. A warrant must be:

(1) signed by the president of the board of directors; and

(2) attested by the treasurer.

Sec. 11. (a) A special meeting of the members of the association may be called at any time by:

(1) a majority of the board of directors; or

(2) five (5) members of the association.

(b) A majority of the members constitute a quorum to transact ordinary business not required by law to be transacted at the regular meeting prescribed by law.

Sec. 12. (a) The board of directors of any association shall administer the affairs of an association under this chapter for any or all the following purposes:

(1) To prevent the spread of contagious diseases among fruit, fruit trees, and fruit bearing plants.

(2) To provide for the prevention, treatment, cure, and extirpation of:

(A) fruit pests; and

(B) diseases of fruit and fruit bearing plants.

(3) To:

(A) provide for the purchase and maintenance of spraying machines, wagons, or other necessary apparatus;

(B) adequately spray fruit trees or other fruit bearing

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plants;

(C) hire workers and teams to perform the required labor; and

(D) incur the necessary expense to carry out the purposes of this chapter.

(4) To hire experts to:

(A) inspect fruit trees and fruit bearing plants found within the horticultural and quarantine district; and

(B) prescribe the proper methods of treating a disease of the trees or plants.

(5) To periodically levy assessments on the members as necessary to administer this chapter and the purposes of the association.

(6) To actively cooperate with the state entomologist and the county agents in precautionary measures to prevent the spread of injurious insects and plant diseases within the district.

(7) To advise, direct, and encourage the activities of the association.

(b) If directed by a majority vote of the members at any special or regular meeting, the board of directors of an association may hire experts to:

(1) inspect fruit trees and fruit bearing plants; and

(2) prescribe the proper methods of treating diseases of fruit trees or fruit bearing plants.

Sec. 13. The state entomologist shall:

(1) cooperate with a horticultural or quarantine association in the state in efforts to prevent, locate, check, or eradicate injurious insects or fruit disease; and

(2) periodically or upon request send all available information relating to injurious insects and plant diseases, including methods of detection and treatment, to the board of directors of a horticultural or quarantine association.

Sec. 14. (a) In counties having a county agricultural extension educator, the county agricultural extension educator shall be an ex officio deputy state entomologist for the county and shall:

(1) carry out the instructions of the state entomologist; and

(2) under the direction of the state entomologist, cooperate with a local horticultural association or society in efforts to prevent, locate, check, or eradicate injurious insects or fruit diseases.

(b) A county agricultural extension educator may not receive

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additional compensation for performing the duties of the deputy state entomologist.

Sec. 15. To raise money necessary to meet the expenses of horticultural and quarantine associations, the board of directors shall assess the individual members of the association in proportion to the service derived, procured, or obtained by the members from the association. The assessment must be based on the acreage or number of trees, plants, vines, or other herbaceous plants in equitable proportion as the directors consider just.

Chapter 7. Weed Control Board

Sec. 1. As used in this chapter, "authorizing body" means the body that has the power to adopt ordinances under IC 36-1-3-6.

Sec. 2. As used in this chapter, "noxious weed" refers to the following:

(1) Canada thistle (Cirsium arvense).

(2) Johnson grass (Sorghum halepense).

(3) Columbus grass (Sorghum almum).

(4) Bur cucumber (Sicyos angulatus).

(5) Shattercane (Sorghum bicolor (L.) Moench spp. drummondii (Steud.) deWet).

Sec. 3. The authorizing body of any county may establish a weed control board by adopting an ordinance:

(1) on the authorizing body's own initiative; or

(2) after receiving a petition signed by five percent (5%) of the registered voters of the county.

Sec. 4. (a) The weed control board consists of the following members to be appointed by the authorizing body:

(1) One (1) township trustee of the county.

(2) One (1) soil and water conservation district supervisor.

(3) One (1) representative from the agricultural community of the county.

(4) One (1) representative from the county highway department or an appointee of the county commissioners.

(5) One (1) cooperative extension service agent from the county to serve in a nonvoting advisory capacity.

(b) Each board member shall be appointed for a term of four (4) years. All vacancies in the membership of the board shall be filled for the unexpired term in the same manner as initial appointments.

(c) The board shall elect a chairperson and a secretary. The members of the board are not entitled to receive any compensation, but are entitled to any traveling and other expenses that are necessary in the discharge of the members' duties.

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Sec. 5. The weed control board may:

(1) appoint an executive director; and

(2) employ necessary technical, professional, and other assistants.

The board shall fix the qualifications, duties, and salaries of these employees subject to the approval of the county council.

Sec. 6. The county highway supervisor and the soil and water conservation district supervisor or employee serving the county shall:

(1) serve as inspectors for the weed control board;

(2) make periodic inspections; and

(3) report their findings to the board and the executive director, if any.

Sec. 7. The powers and duties of the weed control board include the following:

(1) Taking all necessary and proper steps to control and contain noxious weeds that have adverse significance on agricultural production in Indiana.

(2) Entering upon any land, public or private, at any reasonable time after giving forty-eight (48) hours notice to the person in possession of the land to inspect for noxious weeds, unless permission is granted to enter earlier.

(3) Purchasing supplies, material, and equipment.

(4) Acquiring by gift or purchase, holding, or disposing of, any real property in the name of the board, to include facilities as offices, laboratories, operational buildings, rights-of-way, and easements.

(5) Making contracts to carry out the duties of the board.

(6) Entering into cooperative agreements with appropriate organizations to assure technical assistance in developing and carrying out the purposes of the board.

(7) Identifying problems determined to be of importance to the public welfare and developing control programs appropriate to a situation.

(8) Undertaking investigations to determine the extent of infestation of noxious weed species, along with the effect of the infestation on agricultural production in the county.

(9) Employing the latest technological advances to control and contain noxious weeds in the county.

(10) Accepting gifts, grants of money, services, or property for any use consistent with the objectives of the board.

(11) Exercising all other powers necessary to carry out the

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purposes of this chapter.

(12) Performing additional duties as the authorizing body may prescribe.

Sec. 8. In addition to the weed control board's powers and duties under section 7 of this chapter, the weed control board may establish a marijuana eradication program to eliminate and destroy wild marijuana plants within the county. The program is funded by amounts appropriated by the county:

(1) under IC 33-37-8; and

(2) from the county general fund.

Sec. 9. (a) The weed control board shall require persons who own:

(1) real estate; or

(2) easements, rights-of-way, or other similar interests in real estate;

in the county to control and contain noxious weeds growing on the real estate.

(b) A five (5) day written notice to remove any noxious weeds shall be issued by the board. The notice may be served:

(1) by certified or registered mail addressed to the latest address of the person or to the person's resident agent; or

(2) personally by the sheriff.

(c) The weed control board shall notify the township trustee when the board has sent a notice to a person to remove noxious weeds growing on real estate in the township.

Sec. 10. (a) If a person fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed in section 9 of this chapter, the weed control board may pay the following costs incurred in cutting or destroying noxious weeds under this chapter:

(1) Chemicals.

(2) Equipment.

(3) Labor at a rate per hour to be fixed by the weed control board commensurate with local hourly wages.

(b) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the weed control board. When the bill has been approved, the weed control board shall pay the bill from the county general fund unless the county has established a separate fund for the weed control board. The weed control board shall certify the cost of the work, adding to the bill twenty dollars ($20) per day for each day that a member of the weed control board or the board's agent supervises the

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performance of the services required under this chapter as compensation for services. The certified statement of costs must include a description of the real estate on which the labor was performed.

(c) The certified statement of costs prepared under subsection (b) must be provided:

(1) to the owner or person possessing the real estate by:

(A) certified mail; or

(B) personal service; and

(2) by mail to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

The statement must request that the person pay the cost of performing the service under subsection (b) to the weed control board.

Sec. 11. (a) If the owner or person in possession of the property does not pay the amount set forth in the statement under section 10(b) of this chapter within ten (10) days after receiving the certified statement under section 10(c) of this chapter, the weed control board shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 12 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds must be deposited in the weed control board fund, if one has been established by the county, for use at the discretion of the weed control board. If a weed control board fund has not been established by the county, the funds collected must be deposited in the county general fund.

Sec. 12. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 10(b) of this chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16). The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the weed control board the amount set

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forth in the certified statement under section 10(b) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 10(b) of this chapter for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

Sec. 13. Except as provided in section 12 of this chapter, the county auditor, upon receiving and filing the weed control board's certified statement as prescribed in this chapter, shall:

(1) immediately place the amounts on the tax duplicate of the county;

(2) collect the amounts at the next tax paying time, in the same manner as other state, county, or township taxes are collected, including penalties, forfeitures, and sales; and

(3) after the amount has been collected, place the amount in the proper fund.

Sec. 14. The Purdue University cooperative extension service shall provide technical assistance to any weed control board in order to control and contain the growth and spread of noxious weeds.

Sec. 15. Any person who fails to begin a program recommended by the weed control board to control and contain noxious weeds within the time prescribed under section 9 of this chapter commits a Class C infraction.

Chapter 8. Destruction of Detrimental Plants

Sec. 1. As used in this chapter, "detrimental plant" includes the following:

(1) Canada thistle (Cirsium arvense).

(2) Johnson grass (Sorghum halrphense).

(3) Columbus grass (Sorghum almum).

(4) Bur cucumber (Sicyos angulatus).

(5) Shattercane (Sorghum bicolor Moench spp. drummondii deWet).

(6) In residential areas only, noxious weeds and rank vegetation.

The term does not include agricultural crops.

Sec. 2. As used in this chapter, "person" means:

(1) an individual;

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(2) an incorporated or unincorporated organization or association;

(3) a trustee or legal representative;

(4) the state or an agency of the state;

(5) a political subdivision (as defined in IC 36-1-2-13) or an agency of a political subdivision; or

(6) any combination of persons listed under subdivisions (1) through (5) acting in concert.

Sec. 3. A person owning or possessing real estate in Indiana shall destroy detrimental plants by:

(1) cutting or mowing and, if necessary, by plowing, cultivating, or smothering; or

(2) using chemicals in the bud stage of growth or earlier, to prevent detrimental plants from maturing on the person's real estate.

Sec. 4. (a) If a township trustee:

(1) has reason to believe that detrimental plants may be on real estate; and

(2) gives the owner or person in possession of the real estate forty-eight (48) hours notice under subsection (e);

the township trustee may enter the real estate to investigate whether there are detrimental plants on the real estate.

(b) Except as provided in subsection (d), if the township trustee determines by:

(1) investigating real estate located in the trustee's township; or

(2) visual inspection without entering real estate located in the trustee's township;

that a person has detrimental plants growing on real estate, the trustee shall give written notice under subsection (e) to the owner or person in possession of the real estate to destroy the detrimental plants. The owner or person in possession of the real estate shall destroy the plants in a manner provided in section 3 of this chapter not more than five (5) days after the notice is received under subsection (f).

(c) If the detrimental plants are not destroyed as provided in subsection (b), the trustee shall cause the detrimental plants to be destroyed in a manner most practical to the trustee not more than eight (8) days after notice is received by the owner or person in possession of the real estate under subsection (f). The trustee may hire a person to destroy the detrimental plants. The trustee or the person employed to destroy the detrimental plants may enter upon

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the real estate where the detrimental plants are growing to destroy the detrimental plants and are not civilly or criminally liable for damage to crops, livestock, or other property occurring while carrying out the work, except for gross negligence or willful or wanton destruction.

(d) If the county has established a county weed control board under IC 15-16-7, the township trustee may notify the county weed control board of the real estate containing detrimental plants, and the board shall either assume jurisdiction to control the detrimental plants or decline jurisdiction and refer the matter back to the township trustee. The county weed control board shall notify the township trustee of the board's decision.

(e) Notice required in subsection (a) or (b) may be given by:

(1) certified mail; or

(2) personal service.

(f) Notice under subsection (e) is considered received by the owner or person in possession of the real estate:

(1) if sent by mail, on the earlier of:

(A) the date of signature of receipt of the mailing; or

(B) three (3) business days after the date of mailing; or

(2) if served personally, on the date of delivery.

Sec. 5. (a) The township trustee may pay the following costs incurred in cutting or destroying detrimental plants under this chapter:

(1) Chemicals.

(2) Work.

(3) Labor, at a rate per hour to be fixed by the township trustee commensurate with local hourly wages.

(b) If the trustee believes the infestation of the real estate with detrimental plants is so great and widespread that cutting or eradication by hand methods is impractical, the trustee shall use the necessary power machinery or equipment. The trustee may pay for the work at a rate per hour fixed by the township trustee commensurate with the local hourly rate.

(c) When the work has been performed, the person doing the work shall file an itemized bill for the work in the office of the township trustee. When the bill has been approved, the trustee shall pay the bill out of the township fund. If there is no money available in the township fund for that purpose, the township board, upon finding an emergency exists, shall act under IC 36-6-6-14(b) or IC 36-6-6-15 to borrow money sufficient to meet the emergency.

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(d) The trustee, when submitting estimates to the township board for action, shall include in the estimates an item sufficient to cover those expenditures.

Sec. 6. (a) The township trustee shall prepare a statement that contains the following:

(1) A certification of the following costs:

(A) The cost or expense of the work.

(B) The cost of the chemicals.

(C) Twenty dollars ($20) per day for each day that the trustee or the trustee's agent supervises the performance of the services required under this chapter as compensation for services.

(2) A description of the real estate on which the labor was performed.

(3) A request that the owner or person in possession of the real estate pay the costs under subdivision (1) to the township trustee.

(b) The certified statement prepared under subsection (a) shall be provided:

(1) to the owner or person possessing the real estate by:

(A) mail, using a certificate of mailing; or

(B) personal service; or

(2) by mailing the certified statement to the auditor of state for any real estate owned by the state or to the fiscal officer of another municipality (as defined in IC 5-11-1-16) for real estate owned by the municipality.

Sec. 7. (a) If the owner or person in possession of the property does not pay the amount set forth in the certified statement under section 6(a) of this chapter within ten (10) days after receiving the notice under section 6(b) of this chapter, the township trustee shall file a copy of the certified statement in the office of the county auditor of the county where the real estate is located.

(b) The auditor shall place the amount claimed in the certified statement on the tax duplicate of the real estate. Except as provided in section 8 of this chapter, the amount claimed shall be collected as taxes are collected.

(c) After an amount described in subsection (b) is collected, the funds shall be deposited in the trustee's township funds for use at the discretion of the trustee.

Sec. 8. (a) This subsection applies to real estate owned by the state. The auditor of state shall issue a warrant to pay the amount set forth in the certified statement under section 6(a) of this

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chapter for real estate owned by the state and shall charge the appropriate fund for the amount.

(b) This subsection applies to real estate owned by a municipality (as defined in IC 5-11-1-16) other than the township. The fiscal officer of the municipality shall make the necessary appropriation from the appropriate fund to pay the township the amount set forth in the certified statement under section 6(a) of this chapter for real estate owned by the municipality.

(c) This subsection applies to real estate that is exempt from property taxation. The owner of the tax exempt real estate shall pay the amount set forth in the certified statement under section 6(a) of this chapter for the tax exempt real estate. If the owner of the tax exempt real estate fails to pay the amount required by this chapter, the owner is ineligible for the property tax exemption, and the department of local government finance shall deny the property tax exemption for the real estate.

Sec. 9. Except as provided in sections 5 through 8 of this chapter, the county auditor, upon receiving and filing a certified statement under section 7(a) of this chapter, shall:

(1) immediately place the amounts on the certified statement on the tax duplicate of the county; and

(2) collect the amounts at the next tax paying time for the proper township or townships, the same as other state, county, or township taxes are collected, including penalties, forfeitures, and sales.

After the amounts are collected, the amounts shall be paid to the proper trustee and placed in the township fund.

Sec. 10. When the annual township budget is prepared, a sufficient amount shall be appropriated to enable the township officials to comply with this chapter.

Sec. 11. The director of the department of natural resources or the dean of agriculture of Purdue University may totally or partially exempt land that is subject to a program of the department or station from this chapter or any other statute concerning the destruction of detrimental plants.

Sec. 12. (a) The Purdue University cooperative extension service shall provide technical assistance to township trustees for the control of detrimental plants.

(b) All law enforcement agencies having jurisdiction in a township shall assist the township trustee in carrying out the duties imposed on the trustee under this chapter.

Sec. 13. A township trustee who fails to perform the duties

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required of the trustee by this chapter commits a Class C infraction.

Sec. 14. (a) A person who:

(1) knowingly allows detrimental plants to grow and mature on land owned or possessed by the person;

(2) knowing of the existence of detrimental plants on land owned or possessed by the person, fails to cut them down or eradicate the plants by chemicals each year, as prescribed in this chapter;

(3) having charge of or control over any highway:

(A) knowingly allows detrimental plants to grow or mature on the right-of-way of the highway; or

(B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter;

(4) having charge of or control over the right-of-way of a railroad or interurban company:

(A) knowingly allows detrimental plants to grow and mature on the right-of-way; or

(B) knowing of the existence of the detrimental plants, fails to cut the plants down or eradicate the plants by using chemicals, as prescribed in this chapter; or

(5) knowingly sells Canada thistle (cirsium arvense) seed;

commits a Class C infraction. Each day this section is violated constitutes a separate infraction.

(b) All judgments collected under this section shall be paid to the trustee and placed in the trustee's township funds for use at the discretion of the trustee.

Chapter 9. Control of Johnson Grass

Sec. 1. Between July 1 and September 15:

(1) the Indiana department of transportation;

(2) railroads;

(3) drainage districts;

(4) township boards;

(5) public utilities; and

(6) other public and quasi-public corporations;

shall do anything possible to restrict the growth and seed production of all Johnson grass growing on lands for which they are responsible in a municipality or township of Indiana.

Sec. 2. The Purdue University cooperative extension service shall provide technical assistance to property owners to control the growth or spread of Johnson grass.

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Sec. 3. (a) Except as provided in subsection (b), a person who knowingly:

(1) contaminates uninfested land with Johnson grass; or

(2) transports Johnson grass in any form capable of germination;

commits a Class C infraction.

(b) A person does not violate this section if the person has written approval of the dean of agriculture of Purdue University or the dean's designee before performing an act described in subsection (a).

SECTION 8. IC 15-17 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 17. ANIMAL HEALTH AND ANIMAL PRODUCTS

Chapter 1. Purpose

Sec. 1. The following are the purposes of this article:

(1) To promote, encourage, and advance the prevention, detection, control, and eradication of diseases and pests affecting:

(A) the health of animals within Indiana; and

(B) trade in animals and animal products in and from Indiana.

(2) To protect the agricultural public and all other persons who might be damaged through the purchase, sale, or exchange of animals by means of fraud, deception, dishonesty, or discrimination arising out of the marketing of animals.

(3) To safeguard the public health and welfare of the citizens of Indiana against health hazards, annoyances, and nuisances that might arise from the collection, transportation, and cooking of garbage to be fed to swine.

(4) To control and regulate the transportation over the highways of Indiana and the disposal of:

(A) the carcasses of dead animals not slaughtered and intended for human foods; and

(B) the nonedible byproducts from the slaughtering of animals and poultry for human foods;

to the end that the spread of animal diseases in Indiana is controlled and that the public health and welfare of the citizens of Indiana is conserved and protected against dangers, annoyances, and nuisances that might arise from carcasses and byproducts of slaughtering and from the transportation and disposal of carcasses and the byproducts

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of slaughtering if these activities were not regulated by laws designed to effectuate these purposes and public policy.

(5) To control and regulate the sanitary and health conditions under which animals are brought upon, consigned to, sold, bartered, or exchanged through, or removed from, the premises of livestock auction markets or community sales, to the end that the spread of diseases and pests of animals in Indiana is controlled and that the public health and welfare of the citizens of Indiana is conserved and protected.

(6) To regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten the public health and welfare of the citizens of Indiana or threaten trade in animals and animal products in and from Indiana.

Sec. 2. This article shall be liberally construed to effect and promote the purposes of this article.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "Adulterated" means a food product that meets any of the following descriptions:

(1) The product bears or contains a poisonous or deleterious substance that may make the product injurious to health. However, if the substance is not an added substance, the product is not considered adulterated under this subdivision if the quantity of the substance in or on the product does not ordinarily make the product injurious to health.

(2) The product bears or contains any of the following:

(A) Any added poisonous or added deleterious substance that is unsafe within the meaning of Section 406 of the federal Food, Drug, and Cosmetic Act and the regulations adopted under that act.

(B) A pesticide chemical that is unsafe within the meaning of Section 408 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(C) A food additive that is unsafe under Section 409 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(D) A color additive that is unsafe under Section 721 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

(E) A new animal drug (or conversion product of a new

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animal drug) that is unsafe within the meaning of Section 512 of the federal Food, Drug, and Cosmetic Act or the regulations adopted under that act.

However, a product that is not considered adulterated under clause (A), (B), (C), (D), or (E) is considered adulterated if use of the pesticide chemical, food additive, or color additive in or on the product is prohibited by rules of the board in food processing establishments.

(3) The product consists in whole or in part of a filthy, putrid, or decomposed substance or is for any other reason unsound, unhealthful, unwholesome, or unfit for human food.

(4) The product has been prepared, packed, or held under unsanitary conditions under which the product may have:

(A) become contaminated with filth; or

(B) been made injurious to health.

(5) The product is in whole or in part the product of an animal, including poultry, that has died from a cause other than slaughter.

(6) The product's container consists in whole or in part of a poisonous or deleterious substance that may make the contents injurious to health.

(7) The product has been intentionally subjected to radiation, unless the use of the radiation was in conformity with a regulation or an exemption in effect under the federal Food, Drug, and Cosmetic Act.

(8) The product is altered because:

(A) a valuable constituent has been in whole or in part omitted or removed from the product;

(B) a substance has been substituted wholly or in part for the product;

(C) damage or inferiority has been concealed in any manner; or

(D) a substance has been added to the product or mixed or packed with the product to increase the product's bulk or weight, reduce the product's quality or strength, or make the product appear better or of greater value than the product is.

(9) The product is oleomargarine or margarine containing animal fat and any of the raw material used in the product consisted in whole or in part of a filthy, putrid, or decomposed substance or is unfit for human food.

Sec. 3. "Animal" means a member of the animal kingdom,

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except humans.

Sec. 4. "Antemortem inspection" means the inspection of all livestock or poultry before slaughter on the day of slaughter at an official establishment.

Sec. 5. "Approved certificate of veterinary inspection" means an official certificate of veterinary inspection that contains the approval of the chief livestock sanitary official of the state of origin.

Sec. 6. "Approved slaughtering establishment" means an establishment operating under:

(1) the federal Meat Inspection Act (21 U.S.C. 601 et seq.);

(2) the federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.); or

(3) IC 15-17-5.

Sec. 7. "Baby chick" means any domestic fowl under the age of six (6) weeks.

Sec. 8. "Board" means the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 9. "Brucellosis" (commonly known as abortion disease or Bang's disease) means a dangerous, communicable, and infectious disease in animals caused by brucella organisms.

Sec. 10. "Bulk milk hauler/sampler" means a person who does the following:

(1) Collects official samples.

(2) May transport raw milk in bulk form.

(3) Transports milk to or from a milk plant, receiving station, or transfer station.

Sec. 11. "Bulk milk pickup tanker" means a vehicle, including the truck, tank, and associated equipment necessary for its use, used by a bulk milk hauler/sampler to transport bulk raw milk for pasteurization from a dairy farm to a milk plant, receiving station, or transfer station.

Sec. 12. "Bulk milk route" means a group of dairy farms from which milk is collected in a bulk milk pickup tanker and transported to a milk plant, receiving station, or transfer station.

Sec. 13. "Can milk hauler" or "cream hauler" means a person who transports raw fluid milk in cans to a milk plant, receiving station, or transfer station.

Sec. 14. "Can milk route" means a group of dairy farms from which milk is collected in milk cans and transported to a milk plant, receiving station, or transfer station.

Sec. 15. "Capable of use as human food" means any livestock or

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poultry carcass or part or product of a livestock or poultry carcass, unless the carcass or part or product of the carcass is:

(1) denatured or identified as not for human food as required by rules adopted by the board to deter its use as human food; or

(2) naturally inedible by humans.

Sec. 16. "Certificate" and "certificate of veterinary inspection" means an official document issued by a state or federal representative or an accredited veterinarian that records a veterinary inspection of an animal, statements about the health of an animal, tests conducted on an animal, vaccinations given an animal, and other information about an animal and the animal's movement that is required by a state or the United States to be recorded.

Sec. 17. "Certified brucellosis free herd" means a herd that is certified as free from brucellosis as defined by rules of the board and regulations of the United States Department of Agriculture made under any cooperative agreement authorized by this article.

Sec. 18. "Color additive" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 19. "Commerce" means commerce within Indiana.

Sec. 20. "Concentration point" means a licensed place of business under IC 15-17-14 where only feeder pigs, to which the licensee has taken title, are assembled for resale.

Sec. 21. (a) "Consignor" means any person consigning, shipping, or delivering animals for sale, resale, or exchange.

(b) The term includes any person who causes animals to be transported or who delivers animals to a livestock auction market for the purpose of sale.

Sec. 22. "Container" means any box, can, tin, cloth, package, plastic, or other receptacle, wrapper, or cover.

Sec. 23. "Dairy farm" means a place:

(1) where at least one (1) lactating cow, sheep, goat, water buffalo, or other hoofed mammal is kept; and

(2) from which a part or all of the milk or milk products that are produced are provided, sold, or offered for sale to a milk plant, transfer station, or receiving station.

Sec. 24. (a) Except as specifically exempted or excluded by this article, "dealer" means any person who is engaged in the business of buying, selling, or negotiating the transfer of livestock:

(1) for processing into meat products in conjunction with the operation of a business enterprise; or

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(2) for resale, transfer, or final disposition in any other manner.

(b) The term includes the following:

(1) Market agencies.

(2) Stockyards.

(3) Livestock auction markets.

(4) Auction markets.

(5) Buying stations.

(6) Concentration points.

(c) For purposes of IC 15-17-5, the term means a person engaged in the business of buying or selling livestock products or poultry products on commission or negotiating purchases or sales of livestock products or poultry products other than for the person's own account or as an employee of another person.

Sec. 25. (a) "Disposal plant" means any plant and all associated equipment that is constructed or intended to be operated for the disposal of the following:

(1) The bodies of dead animals not slaughtered and intended for human food.

(2) The nonedible byproducts from the slaughtering of animals for human food, including the disposal of the body of any animal slaughtered for human food that has become unsuitable for use as human food.

(3) The disposal of the bodies of dead poultry not suitable for human food and of poultry byproducts, including the viscera, heads, feet, and poultry feathers.

(b) The term includes all substations of any plant that are used in connection with a disposal business for the temporary deposit of animal bodies and nonedible byproducts pending final delivery to any disposal plant, including all vehicles and equipment used for the transportation of the bodies and nonedible byproducts.

Sec. 26. (a) "Domestic animal" means an animal that is not wild.

(b) The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, emus, or other birds;

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, avian, camelid, cervidae, or bison species; or

(3) an aquatic animal that may be the subject of aquaculture (as defined in IC 15-11-7-1).

Sec. 27. "Employee" means a person employed by the board, including the state veterinarian, assistant state veterinarian, deputies, and assistants.

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Sec. 28. "Establishment", for purposes of IC 15-17-5, means a building, part of a building, or other location used for:

(1) slaughtering livestock or poultry; or

(2) preparing meat, poultry, meat food products, and meat byproducts capable of use as human food.

Sec. 29. "Federal acts", for purposes of IC 15-17-5, means the following:

(1) The federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(2) The federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.).

Sec. 30. "Federal Food, Drug, and Cosmetic Act" means the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 31. "Feeder pig" means swine of any breed weighing not more than one hundred eighty (180) pounds.

Sec. 32. "Food" means the following:

(1) All articles used for food, drink, confectionary, or condiment whether simple, mixed, or compound.

(2) All substances or ingredients used in the preparation of the items described in subdivision (1).

Sec. 33. "Food additive" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 34. (a) "Garbage" means:

(1) any waste material derived in whole or in part from any animal, including fish and poultry; or

(2) refuse from the handling, preparation, cooking, or consumption of food that has been associated with waste material derived in whole or in part from any animal, including fish and poultry.

(b) The term does not include:

(1) bakery waste;

(2) candy waste;

(3) eggs;

(4) domestic dairy products; or

(5) waste from ordinary household operations that is fed directly to swine on the same premises where the household is located.

Sec. 35. "Grade A dry milk and whey products" means milk products that have been:

(1) produced for use in Grade A pasteurized or aseptically processed milk products; and

(2) manufactured under the federal Food and Drug Administration "Grade A Condensed and Dry Milk Products

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– Condensed and Dry Whey Supplement I to the Grade A Pasteurized Milk Ordinance".

Sec. 36. "Grade A milk and milk products" means milk and milk products that meet the requirements for Grade A in IC 15-18-1 and in the rules adopted under IC 15-18-1.

Sec. 37. "Herd", except as provided in IC 15-17-3-22(a), means a group or groups of animals that are:

(1) maintained on common ground; or

(2) geographically separated but under common ownership, supervision, or control.

Sec. 38. (a) "Humane method" means a method by which livestock is made insensible to pain by mechanical, electrical, chemical, or other means that is rapid and effective, before being shackled, hoisted, thrown, cast, or cut.

(b) The term does not include the use of a manually operated hammer, sledge, or poleax.

Sec. 39. "Immediate container" means a container, receptacle, or other covering in which milk products, livestock products, or poultry products are directly contained or wholly or partially enclosed.

Sec. 40. (a) "Immediate slaughter" means any animal purchased or sold for:

(1) immediate slaughter; or

(2) slaughter and will be slaughtered by the purchaser not later than seven (7) days after purchase or will be consigned to an establishment or to a properly licensed market facility for reconsignment to a slaughtering establishment not later than seven (7) days after acquiring the animal.

(b) The term does not include an animal that is diverted for any other purpose or use besides immediate slaughter.

Sec. 41. "Inedible" means not suitable for human consumption.

Sec. 42. "Inspector" means an individual who is authorized by the board to perform any inspection functions under this article and who meets any of the following criteria:

(1) The person is authorized by the state veterinarian to do any work or perform any duty in connection with the inspection of animals and food products under this article.

(2) The person is an employee or official of the government of the county or other governmental subdivision of this state acting under an agreement between the state veterinarian and a governmental subdivision.

Sec. 43. "Label" means a display of written, printed, or graphic

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matter upon an article or the immediate container, excluding package liners, of an article.

Sec. 44. "Labeling" means all labels and other written, printed, or graphic matter:

(1) placed upon an article or any of the article's containers or wrappers; or

(2) accompanying an article.

Sec. 45. "Laboratory" means:

(1) the animal disease diagnostic laboratory established by IC 21-46-3-1; or

(2) any other laboratory approved by the board.

Sec. 46. "Licensed and accredited veterinarian" means a veterinarian:

(1) licensed by any state; and

(2) accredited by the United States Department of Agriculture under 9 CFR Subchapter J to perform official functions.

Sec. 47. (a) "Livestock", except as provided in subsection (b), means domestic animals, except the following:

(1) Aquatic animals.

(2) Fish.

(3) Dogs.

(4) Cats.

(5) Poultry and other birds; however, the term includes ratites that are domestic animals under section 26 of this chapter.

(b) "Livestock", for purposes of IC 15-17-5, means the following, whether live or dead:

(1) Cattle.

(2) Sheep.

(3) Swine.

(4) Goats.

(5) Bison.

(6) Farm raised cervidae.

(7) Ratitae.

(8) Horses, mules, or other equines.

Sec. 48. "Livestock auction market" means an established place of business and contiguous surroundings where animals are consigned to be sold at public auction by the operator of the business as an agent for the consignor in exchange for a commission paid by the consignor.

Sec. 49. "Livestock product" means:

(1) a carcass;

(2) part of a carcass;

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(3) meat; or

(4) a meat food product;

of livestock.

Sec. 50. "Livestock transaction", for purposes of IC 15-17-15, means the following:

(1) For market agencies selling livestock on commission, the dollar value of livestock sold on commission.

(2) For market agencies buying on commission and dealers buying livestock, the dollar value of livestock purchased.

(3) For market agencies acting as a clearing agency, the dollar value of livestock purchased by all persons for whom the market agency served as a clearer.

Sec. 51. "Manufacturing grade milk products" means dairy products that are not considered Grade A under IC 15-18-1 or under the rules adopted under IC 15-18-1.

Sec. 52. "Manufacturing grade raw milk" means milk produced on a dairy farm that does not have a valid permit issued by the board to sell Grade A raw milk for pasteurization.

Sec. 53. "Market agency" means a person who buys or sells livestock on a commission basis.

Sec. 54. (a) "Meat food product" and "meat product" means a product capable of use as human food that is made wholly or in part from meat or other part of the carcass of:

(1) cattle;

(2) sheep;

(3) swine;

(4) equines;

(5) bison;

(6) farm raised cervidae;

(7) ratitae; or

(8) goats.

(b) The term does not include products that:

(1) contain meat or other parts of such carcasses only in a relatively small proportion; or

(2) historically have not been considered by consumers as products of the meat food industry and that are exempted from definition as a meat food product by the state veterinarian under conditions the state veterinarian prescribes to ensure that the meat or other parts of the carcass contained in the product are not adulterated and that the products are not represented as meat food products.

Sec. 55. "Milk" means the lacteal secretion practically free from

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colostrum that:

(1) is obtained by the complete milking of healthy dairy animals; and

(2) meets a definition and standard of identity for milk adopted by the board under IC 4-22-2.

Sec. 56. (a) "Milk distributor" means a person that offers for sale or sells milk or milk products to another person.

(b) The term does not include the following:

(1) A store or market that receives and sells bottled or packaged milk and milk products in the original container or package to consumers.

(2) A restaurant, soda fountain, or similar establishment serving milk or milk products.

Sec. 57. (a) "Milk plant" means a place, a premises, or an establishment where milk or milk products are collected, handled, processed, stored, ultrapasteurized, bottled, aseptically processed, condensed, dried, packaged, or prepared for distribution.

(b) The term does not include soft ice cream dispensers in restaurants as defined by the board.

Sec. 58. "Milk producer" means a person that does the following:

(1) Operates a dairy farm.

(2) Provides, sells, or offers raw milk for sale to a milk plant, receiving station, or transfer station.

Sec. 59. "Milk products" means those products designated by the rules of the board as:

(1) being within IC 15-18-1; and

(2) conforming to the definitions and standards of identity specified in those rules.

Sec. 60. "Milk tank truck" means a bulk milk pickup tanker or a milk transport tank.

Sec. 61. "Milk tank truck cleaning facility" means any place, premises, or establishment that is separate from a milk plant, receiving station, or transfer station where a milk tank truck is cleaned and sanitized.

Sec. 62. "Milk transport tank" means a vehicle, including the truck and tank, used by a bulk milk hauler/sampler to transport bulk shipments of milk from a milk plant, receiving station, or transfer station to another milk plant, receiving station, or transfer station.

Sec. 63. "Milk transportation company" means a person that is responsible for a milk tank truck.

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Sec. 64. "Misbranded" means a food product that meets any of the following descriptions:

(1) The product's labeling is false or misleading in any way.

(2) The product is offered for sale under the name of another food.

(3) The product is an imitation of another food, unless the product's label bears, in type of uniform size and prominence, the word "imitation" and immediately afterward, the name of the food imitated.

(4) The product's container is made, formed, or filled in a manner that is misleading.

(5) Except as provided in IC 15-17-3-22(b), the product, if in packaged form, does not bear a label containing the following:

(A) The name and place of business of the manufacturer, packer, or distributor.

(B) Except as provided in IC 15-17-3-22(c), an accurate statement of the quantity of the product in terms of weight, measure, or numerical count.

(6) A word, statement, or other information required under this chapter or the rules adopted under this chapter to appear on a product's label or other labeling is not prominently placed on the label with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in terms making it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(7) The product purports to be or is represented as a food for which a definition and standard of identity or composition has been prescribed by the rules of the board unless:

(A) the product conforms to the definition and standard; and

(B) the product's label bears the name of the food specified in the definition and standard and, as required by rules of the board, the common names of optional ingredients other than spices, flavoring, and coloring present in the food.

(8) The product purports to be or is represented as a food for which a standard or standards of fill of container have been prescribed by rules of the board and the product falls below the applicable standard of fill of container unless the label bears, in a manner and form that the rules specify, a statement that the product falls below that standard.

(9) The product's label does not bear the following:

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(A) The common or usual name of the food, if any.

(B) Except as provided in IC 15-17-3-22(d), if the product is fabricated from at least two (2) ingredients, the common or usual name of each ingredient. However, spices, flavorings, and colorings may, when authorized by the state veterinarian, be designated as spices, flavorings, and colorings without naming each ingredient.

(10) The product purports to be or is represented for special dietary uses, unless the product's label bears information concerning the product's vitamin, mineral, and other dietary properties that the board determines to be necessary to fully inform purchasers of the product's value for the special dietary uses as set forth in rules adopted by the board.

(11) Except as provided in IC 15-17-3-22(e), the product contains artificial flavoring, artificial coloring, or a chemical preservative, unless the product bears labeling stating that fact.

(12) The product fails to bear directly on the product and on the product's containers information the board prescribes by rule, including an official mark, to ensure that the product will not have false or misleading labeling and that the public will be reasonably informed about the product.

Sec. 65. "Modified accredited or tuberculosis free area" means an area that meets the requirements established by the board and the United States department of agriculture under a cooperative agreement as provided for by this article.

Sec. 66. "Move" means the following:

(1) To carry, enter, import, mail, ship, or transport.

(2) To aid, abet, cause, or induce carrying, entering, importing, mailing, shipping, or transporting.

(3) To offer to carry, enter, import, mail, ship, or transport.

(4) To receive in order to carry, enter, import, mail, ship, or transport.

(5) To release into the environment.

(6) To allow any of the activities described in this section.

Sec. 67. "Nonedible" means not suitable for human consumption.

Sec. 68. "Oath" includes affirmation.

Sec. 69. "Object", for purposes of IC 15-17-1 through IC 15-17-17, means a pest or disease or a material or tangible thing that could harbor a pest or disease.

Sec. 70. "Official certificate", for purposes of IC 15-17-5, means

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a certificate prescribed by rules of the board for issuance by an inspector or other person performing official functions under IC 15-17-5.

Sec. 71. "Official device" means a device prescribed or authorized by the state veterinarian for use in applying an official mark.

Sec. 72. "Official establishment", for purposes of IC 15-17-5, means an establishment that has been granted inspection under IC 15-17-5.

Sec. 73. "Official health certificate" or "official certificate of veterinary inspection" means an official document issued by a state or federal representative or an accredited veterinarian who records a veterinary inspection of an animal, statements about the health of an animal, tests conducted on an animal, vaccinations given an animal, and other information about an animal and the animal's movement that is required by a state or by the United States to be recorded.

Sec. 74. "Official identification" means the method of identification recognized or required by the board for an animal or class of animals under a rule adopted by the board under IC 4-22-2.

Sec. 75. "Official inspection legend" means a symbol prescribed by rules of the board showing that an article was inspected and passed in accordance with IC 15-17-5.

Sec. 76. "Official laboratory" means a biological, chemical, or physical laboratory that meets the following conditions:

(1) The laboratory is under the direct supervision of the board or a state or local governmental agency designated by the board.

(2) The laboratory is authorized and certified by the board to do official work.

Sec. 77. "Official mark" means the official inspection legend or other symbol prescribed by rules of the board to identify the status of an article, livestock, or poultry under IC 15-17-5.

Sec. 78. "Officially designated laboratory" means:

(1) a commercial laboratory authorized and certified by the board to do official work; or

(2) an industry laboratory authorized and certified by the board to do official work.

Sec. 79. "Officially vaccinated calves" means calves that were vaccinated in accordance with the state rules and federal regulations existing at the time of vaccination.

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Sec. 80. "Packer" means any person engaged in the business of:

(1) buying livestock to be slaughtered for food;

(2) manufacturing or preparing meat or meat food products for sale or shipment in commerce; or

(3) marketing meat and meat food products acting as a wholesaler, broker, dealer, or distributor.

Sec. 81. "Packers and Stock Yards Act" means the act of Congress designated as the Packers and Stock Yards Act of 1921 (42 U.S. Statutes at Large, page 159), all statutes amending the act, and all regulations adopted under the act.

Sec. 82. "Pasteurization", "pasteurized", and similar terms mean the following:

(1) The process of heating every particle of milk or milk products (except ice cream, ice milk, and sherbet mixture) to:

(A) at least one hundred forty-five (145) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least thirty (30) minutes; or

(B) at least one hundred sixty-one (161) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least fifteen (15) seconds;

in equipment that is properly operated and approved by the board.

(2) The process of heating milk products that have higher milk fat content than milk or that contain added sweeteners to:

(A) at least one hundred fifty (150) degrees Fahrenheit and held continuously at or above this temperature for at least thirty (30) minutes; or

(B) at least one hundred sixty-six (166) degrees Fahrenheit and held continuously at or above this temperature for at least fifteen (15) seconds.

(3) The process of heating every particle of ice cream, ice milk, or sherbet mixture (except fruits, fruit juices, nuts, cocoa or chocolate, maple syrup, cakes, confections, or other flavoring or color) to:

(A) one hundred fifty-five degrees (155) Fahrenheit and holding the particle continuously at or above this temperature for at least thirty (30) minutes;

(B) at least one hundred seventy-five (175) degrees Fahrenheit and holding the particle continuously at or above this temperature for at least twenty-five (25) seconds; or

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(C) at least one hundred ninety-four (194) degrees Fahrenheit for at least one-half (1/2) second.

(4) Any other pasteurization process that is found to be equally efficient and that is approved by rule of the board.

Sec. 83. "Person" means any individual, trustee, receiver, corporation, limited liability company, partnership, and any other firm, organization, association, cooperative, or group of individuals or persons.

Sec. 84. "Pest" means any of the following that can directly or indirectly injure, cause damage to, or cause disease in animals:

(1) A protozoan.

(2) A plant.

(3) A bacterium.

(4) A fungus.

(5) A virus or viroid.

(6) An infectious agent or other pathogen.

(7) An arthropod.

(8) A parasite.

(9) A prion.

(10) A vector.

(11) An organism similar to or allied with any of the organisms described in this section.

Sec. 85. "Pesticide chemical" has the meaning set forth in the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

Sec. 86. "Postmortem inspection" means the inspection of livestock or poultry at the time of slaughter at an official establishment.

Sec. 87. "Poultry", for purposes of IC 15-17-5, means a domesticated bird, whether live or dead.

Sec. 88. (a) "Poultry product", for purposes of IC 15-17-5, means a poultry carcass, part of a poultry carcass, or a product that is made wholly or in part from a poultry carcass or part of a poultry carcass.

(b) The term does not include products that:

(1) contain poultry ingredients only in a relatively small proportion or historically have not been considered by consumers as products of the poultry food industry; and

(2) are exempted by the board.

Sec. 89. "Practice of veterinary medicine" has the meaning set forth in IC 25-38.1-1-12.

Sec. 90. "Prepared" means slaughtered, canned, cured, salted, smoked, stuffed, rendered, boned, cut up, frozen, dried, stored, or

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otherwise manufactured or processed.

Sec. 91. "Private sale" means any sale other than a public sale.

Sec. 92. "Public sale" means a sale where the general public is invited to participate whether held at an established place of business or at a place where sales are infrequently held.

Sec. 93. "Reactor" means an animal that has been tested for a certain disease and shows a positive reaction to an official test for the disease according to existing state rules or federal regulations at the time of the test.

Sec. 94. (a) "Receiving station" means a place, a premises, or an establishment where milk or milk products are collected, handled, stored, or cooled and prepared for distribution.

(b) The term does not include soft ice cream dispensers in restaurants as defined by the board.

Sec. 95. "Rendered product" means waste material derived in whole or in part from any animal, including fish and poultry, and refuse from the handling, preparation, cooking, or consumption of food that has been ground and heated to a minimum temperature of two hundred thirty (230) degrees Fahrenheit to make products such as animal, poultry, or fish protein meal, grease, or tallow.

Sec. 96. (a) "Renderer" means a person engaged in the business of operating a disposal plant for the rendering of livestock or poultry carcasses or parts or products of such carcasses.

(b) The term does not include rendering conducted under inspection or exemption under IC 15-17-5.

Sec. 97. (a) "Sale", "sell", or "selling" means sale, lease, donation, trade, barter, or exchange in any manner.

(b) The term includes the following:

(1) Manufacture, processing, transporting, handling, packing, canning, bottling, or any other productions, preparation, or putting up.

(2) Exposure, offer, or any other proffer.

(3) Holding, storing, or any other possession.

Sec. 98. (a) "Stockyards" means a place, an establishment, or a facility conducted, operated, or managed for profit or not for profit as a public market in which livestock is assembled for purchase or sale at competitive bidding, or purchase by the persons operating the stockyards.

(b) The term includes concentration points where livestock is assembled for redistribution or resale by means other than competitive bidding.

(c) The term does not include livestock auction markets.

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Sec. 99. "Transfer station" means a place, a premises, or an establishment where milk or milk products are transferred directly from one (1) milk tank truck to another.

Sec. 100. "Transport vehicle" means a vehicle used for transporting:

(1) dead animal bodies;

(2) nonedible byproducts from the slaughtering of animals and poultry; or

(3) restaurant grease.

Sec. 101. "Tuberculosis" means tuberculosis in an animal.

Sec. 102. "Veterinarian" means a person authorized by law to practice veterinary medicine.

Chapter 3. Board of Animal Health

Sec. 1. The Indiana state board of animal health is established.

Sec. 2. The board consists of eleven (11) members appointed by the governor as follows:

(1) One (1) member from the school of veterinary medicine of Purdue University upon the recommendation of the Purdue University board of trustees.

(2) Two (2) members, each of whom must:

(A) be a graduate of a veterinary college accredited by the American Veterinarian Medical Association and licensed and accredited to practice veterinary medicine and surgery in Indiana;

(B) have at least five (5) years experience in veterinary medicine; and

(C) actually be engaged in the general practice of veterinary medicine during the member's term on the board.

The members appointed under this subdivision may not belong to the same political party.

(3) Seven (7) members with the following qualifications:

(A) One (1) member must be engaged in poultry production.

(B) One (1) member must be engaged in dairying.

(C) One (1) member must be engaged in swine production.

(D) One (1) member must be engaged in beef-type cattle production.

(E) One (1) member must be engaged in horse production.

(F) One (1) member must be engaged in sheep production.

(G) One (1) member must be:

(i) engaged in small animal veterinary medical practice;

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and

(ii) a veterinarian licensed and accredited to practice veterinary medicine and surgery in Indiana who has been licensed and accredited for at least five (5) years.

The members appointed under clauses (A) through (F) must be producers of livestock or poultry who are engaged in livestock or poultry production during their service on the board. Not more than four (4) of the members appointed under this subdivision may belong to the same political party.

(4) One (1) member who is affiliated with a licensed livestock market.

Sec. 3. A member of the board may not be directly or indirectly interested as director, officer, salesman, or employee of a person engaged in the manufacture or sale of any commercial product, byproduct, or biological product affecting the livestock industry.

Sec. 4. A member of the board is entitled to a per diem and transportation expense as provided by law when engaged in the member's official duties.

Sec. 5. (a) The term of a member of the board is four (4) years beginning on April 1.

(b) A member serves until the member's successor is appointed and qualified.

(c) Except as provided in subsection (d), a person is not eligible to serve as a member of the board for more than two (2) consecutive full terms.

(d) Subsection (c) does not apply to the member appointed from the school of veterinary medicine at Purdue University under section 2(1) of this chapter.

Sec. 6. (a) The terms of:

(1) the member engaged in dairying; and

(2) the member engaged in swine production;

appointed under section 2(3) of this chapter expire March 31, 2008, and every four (4) years thereafter.

(b) The terms of:

(1) the members engaged in:

(A) poultry production; and

(B) sheep production;

appointed under section 2(3) of this chapter; and

(2) one (1) veterinarian member appointed under section 2(2) of this chapter;

expire March 31, 2009, and every four (4) years thereafter.

(c) The terms of:

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(1) the member engaged in horse production appointed under section 2(3) of this chapter; and

(2) the member affiliated with a licensed livestock market appointed under section 2(4) of this chapter;

expire March 31, 2010, and every four (4) years thereafter.

(d) The terms of:

(1) the members engaged in:

(A) beef-type cattle production; and

(B) small animal veterinary medical practice;

appointed under section 2(3) of this chapter; and

(2) one (1) veterinarian member appointed under section 2(2) of this chapter;

expire March 31, 2011, and every four (4) years thereafter.

Sec. 7. At least thirty (30) days before the expiration of the term of office of a member of the board, the governor shall appoint a successor.

Sec. 8. In the event of a vacancy, the governor shall immediately appoint a successor to complete the unexpired term.

Sec. 9. The board shall elect a chairperson and vice chairperson from the board's membership each year at the board's April meeting. The chairperson and vice chairperson each serve a term of one (1) year. The state veterinarian serves as secretary of the board.

Sec. 10. (a) The board:

(1) shall hold quarterly meetings at the board's office in Indianapolis, during January, April, July, and October of each year; and

(2) may hold special meetings upon the call of the chairperson or a majority of the members of the board.

(b) Six (6) members of the board constitute a quorum to transact business.

Sec. 11. The board has general supervision of:

(1) the prevention, detection, control, and eradication of diseases and pests affecting the health of animals within and in transit through Indiana; and

(2) the production, manufacture, processing, and distribution of products derived from animals;

to control health hazards that may threaten the public health and welfare of the citizens of Indiana.

Sec. 12. The board has all powers necessary to fulfill the board's duties under this article.

Sec. 13. In addition to the powers and duties given the board in

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this article and by law, the board has the powers and duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

(A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.

(B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.

(C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.

(3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.

(4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.

(5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.

(6) Control the use, sanitation, and disinfection of:

(A) public stockyards; and

(B) vehicles used to transport animals and objects into and within Indiana;

to accomplish the objectives of this article.

(7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.

(8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.

(9) Control the movement and disposal of carcasses of animals

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and objects.

(10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.

(11) Control and prescribe the means, methods, and procedures for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.

(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:

(A) of animals or objects that have been condemned under this article; and

(B) related to classification as to disease, testing, vaccination, or treatment status.

(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.

(14) Control the sale of baby chicks.

(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.

(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.

(17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.

(18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.

(19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and

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management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock producers with issues and programs related to the care of livestock.

Sec. 14. The board may delegate any of the board's duties to the state veterinarian, except the following:

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(1) The duty to supervise the state veterinarian.
(2) The duty to hold hearings under this article and IC 4-21.5.
(3) The duty to adopt rules.

Sec. 15. (a) The board or the board's agent:
(1) may make sanitary inspections and surveys; and
(2) may enter upon any public or private property where any animals or objects are at the time quartered, including the location of the carcass of any animal;

to inspect the property, examine the animals or objects, conduct tests in regard to the presence of diseases or pests of animals and the possible cause and sources of the disease or pest, and perform any other function authorized by this article.

(b) The board or the board's agent may hold, seize, quarantine, treat, destroy, dispose of, or take other remedial action with respect to any animal or progeny of any animal, object, or means of conveyance that the board or the board's agent:
(1) has reason to believe:
(A) may carry, may have carried, or may have been affected by or exposed to any disease or pest of animals; or
(B) violates this article or a rule adopted under this article;
(2) finds is not being maintained or has not been maintained in accordance with a quarantine or condition imposed under this article, a rule adopted under this article, or an order issued under this article; or
(3) determines must be acted upon to prevent the dissemination of a disease or pest of animals.

Sec. 16. The board, over the signature of the chairperson or another board member authorized by the board, may do the following to accomplish the board's objectives:
(1) Subpoena and bring before the board any person in this state to take testimony either orally or by deposition or by exhibit, with the same fees and mileage, and in the same manner as prescribed by law in judicial procedure in civil cases in the circuit courts of Indiana.
(2) Subpoena and order any person to provide to board personnel for inspection and copying records, photographs, and any other type of document or data compilation, or to allow access for inspection, copying, testing, sampling, analysis, or treatment to any tangible thing, including animals, carcasses of animals, animal feed, and meat, dairy, and other human food products.

Sec. 17. An agent of the board may administer oaths to

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witnesses at any hearing that the board is authorized by law to conduct.

Sec. 18. (a) The board may require, by general or special order, licensees and permittees under this article to file with the board in a prescribed form:

(1) annual, periodic, or special reports; or

(2) answers, in writing, to specific questions;

to provide information concerning the business conduct of the licensee or permittee and the practices and management of the business of the licensee or permittee as the practices and management relate to other persons in the same business.

(b) The board may require that the reports and answers under this section be made under oath and filed within a reasonable time if the requirements are determined to be essential by the board.

Sec. 19. The board may, on behalf of the state, accept or adopt, in whole or in part, federal laws, including regulations adopted by agencies of the United States that are necessary or helpful in fulfilling the board's duties under this article. The board may cooperate with the authorities of the United States government within Indiana in enforcing state and federal laws.

Sec. 20. The board may accept, use, and expend funds or other resources from sources other than the state if:

(1) the resources are awarded for the pursuit of a specific objective that the board is authorized to accomplish under this article or that the board is qualified to accomplish by reason of the board's jurisdiction or professional expertise;

(2) the resources are expended for the pursuit of the objective for which the resources are awarded;

(3) activities connected with or occasioned by the expenditure of the resources do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers and duties under this article;

(4) monetary resources are kept in separate accounts in the state treasury; and

(5) reports of the board's receipt and use of the resources are prepared periodically.

Sec. 21. The board shall adopt rules under IC 4-22-2 that are reasonable and necessary to discharge the duties imposed on the board by law and to implement this article, IC 15-18-1, and IC 15-19-6.

Sec. 22. (a) Notwithstanding IC 15-17-2-37, the board may adopt

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by rule a different definition of "herd" to advance a disease control program or objective.

(b) Notwithstanding IC 15-17-2-64(5), the board may adopt rules concerning livestock products that are not in containers to establish the circumstances under which those products are not considered misbranded.

(c) Notwithstanding IC 15-17-2-64(5)(B), the board may adopt rules concerning small containers to establish variations or exemptions from label quantity statements under which the containers are not considered misbranded.

(d) Notwithstanding IC 15-17-2-64(9)(B), the board shall adopt rules to establish exemptions for product labels that do not bear the common or usual name of each ingredient in a product fabricated from at least two (2) ingredients under which the products are not considered misbranded if listing the common or usual name of each ingredient is impracticable or results in deception or unfair competition.

(e) Notwithstanding IC 15-17-2-64(11), the board shall adopt rules to establish exemptions for products that contain artificial flavoring, artificial coloring, or a chemical preservative under which the products are not considered misbranded if the products do not bear a label stating that the products contain those substances if stating that fact is impracticable.

Chapter 4. Personnel

Sec. 1. (a) The state veterinarian shall be appointed by the board with the approval of the governor.

(b) The state veterinarian serves as the chief administrative officer of the board.

Sec. 2. The state veterinarian:

(1) must:

(A) be a graduate of a recognized veterinary college;

(B) be licensed and accredited to practice veterinary medicine in Indiana; and

(C) have at least five (5) years experience as a general practitioner of veterinary medicine or as a veterinary administrator, or both; and

(2) may not be a member of the board.

Sec. 3. The state veterinarian shall serve a term of four (4) years.

Sec. 4. A vacancy in the office of state veterinarian shall be filled for the unexpired term in the same manner as for a full term.

Sec. 5. The state veterinarian:

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(1) serves as secretary of the board;

(2) provides technical advice and assistance to the board of veterinary medical examiners; and

(3) performs the duties delegated by the board to the state veterinarian.

Sec. 6. The state veterinarian may, subject to the approval of the board:

(1) organize the personnel and functions of the board into divisions and subdivisions;

(2) delegate responsibilities to the divisions and employees; and

(3) consolidate, divide, or abolish the divisions and subdivisions;

as necessary to carry out the state veterinarian's powers and duties and the powers and duties of the board.

Sec. 7. The salary of the state veterinarian is fixed by the board with the approval of the governor.

Sec. 8. The board:

(1) may appoint one (1) assistant state veterinarian; and

(2) shall appoint other employees necessary to carry out this article.

Sec. 9. All employees of the board shall be selected on a nonpartisan basis and may not be discharged for political reasons.

Sec. 10. The salary of the employees of the board shall be fixed according to IC 4-12-2.

Sec. 11. Employees are entitled to receive necessary transportation and per diem expenses while away from the employees' official station and performing official duties.

Sec. 12. (a) An employee may not receive or collect any fee or other payment for any services provided as an employee.

(b) To learn professional skills and become familiar with new developments in the field of veterinary medicine, the state veterinarian or other veterinarians employed by the board may, in an individual capacity as a licensed veterinarian but not in an official capacity as a board employee, engage in the private practice of veterinary medicine if the private practice of veterinary medicine does not interfere with the employee's performance of duties as an employee of the board or does not violate state laws governing ethics and conflicts of interest.

(c) The board may impose conditions or restrictions on the practice of veterinary medicine by the board's employees to facilitate the performance of board duties and compliance with

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state ethics laws.

(d) The state is not liable for any act performed by the state veterinarian or a board employee performed in the private practice of veterinary medicine.

Sec. 13. (a) The state veterinarian and any other nonmerit employee may be removed for cause by a majority vote of the entire membership of the board.

(b) If the board votes to remove a nonmerit employee, that employee must be notified of that decision in writing. Before the removal of a nonmerit employee becomes effective, the employee has ten (10) days after receiving written notification to make a written request for a public hearing regarding the removal. However, the board is not required to hold a hearing unless requested to do so by the nonmerit employee. If a request for a hearing is not made, the removal is effective upon the expiration of the ten (10) day period. If a request for a hearing is made, a public hearing shall be held at the office of the board not later than ten (10) days after the request is received by the board, and the employee may not be removed until after the hearing has been held and the board has made a decision.

(c) A merit employee may be removed under IC 4-15-2.

Chapter 5. Meat and Poultry Inspection; Humane Slaughter Act

Sec. 1. The purpose of this chapter is to do the following:

(1) Safeguard the public health and promote public welfare by:

(A) preventing the slaughter of dead, dying, disabled, or diseased livestock or poultry for human food purposes; and

(B) preventing the manufacture, processing, storage, transportation, and sale of adulterated meat and poultry products for human food purposes.

(2) Eliminate the manufacture, processing, distribution, and sale of fraudulent, misbranded, or deceptive products of livestock and poultry origin.

(3) Prohibit the use of nonhumane methods in the slaughter of livestock and poultry.

(4) Provide for humane slaughter of livestock and poultry and for meat and poultry products inspection programs that will impose and enforce requirements with respect to intrastate operations and commerce that are at least equal to those imposed and enforced under the federal Humane Slaughter Act (7 U.S.C. 1901 et seq.), the federal Meat Inspection Act

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(21 U.S.C. 601 et seq.), and the federal Poultry Products Inspection Act (21 U.S.C. 451 et seq.) with respect to operations and transactions in interstate commerce.

(5) Aid in the control of livestock and poultry diseases by discovering the origins of diseased livestock and poultry found in antemortem inspections and obtaining samples of blood and tissue specimens as considered necessary for the control of livestock and poultry diseases.

Sec. 2. The state veterinarian shall administer this chapter to accomplish the purposes set forth in section 1 of this chapter.

Sec. 3. The board is designated as the appropriate state agency to cooperate with the Secretary of Agriculture of the United States in the administration of this chapter.

Sec. 4. To accomplish the objectives of this chapter, the board or an agent of the board may do the following:

(1) Require by rules the following:

(A) Antemortem inspection and postmortem inspection of livestock and poultry slaughtered for distribution as human food.

(B) Except for the operations of establishments exempt under section 11 of this chapter, the quarantine, segregation, and inspection of livestock and poultry slaughtered, and of livestock products and poultry products processed or prepared for distribution at all establishments in Indiana.

(2) Require by rules the following:

(A) The identification of livestock and poultry for inspection purposes.

(B) The marking and labeling of livestock products, poultry products, livestock and poultry product containers, or both the product and containers as:

(i) "Indiana Inspected and Passed" if the products are found upon inspection to be not adulterated;

(ii) "Indiana Inspected and Condemned" if the products are found upon inspection to be adulterated; or

(iii) "Not for Sale" if the products are produced under an exemption from inspection.

(C) The destruction for food purposes of all condemned products under the supervision of an inspector.

(3) Prohibit the entry into official establishments of livestock products and poultry products not prepared under federal inspection or inspection under this chapter and further limit

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the entry of the products and other materials into official establishments under conditions that the board considers necessary to effectuate the purposes of this chapter.

(4) Require by rules that when livestock products and poultry products leave official establishments, the products bear directly on the products or on the containers, or both, as the board requires, all information necessary to prevent a product from being misbranded, and that all labeling and containers to be used for the products when sold or transported in commerce be approved by the board to ensure that the products comply with this chapter.

(5) Investigate the sanitary conditions of each establishment and withdraw or refuse to provide inspection service at an establishment where the sanitary conditions are such as to make adulterated any livestock products or poultry products prepared or handled at the establishment.

(6) Adopt rules concerning sanitation for all establishments, including custom slaughterers or processors, engaged in the slaughtering of livestock or poultry or preparing meat food products or poultry products capable of use as human food.

(7) Require by rules that the following persons keep records that fully and correctly disclose all transactions involving meat food products and poultry products:

(A) Persons in the business of slaughtering livestock or poultry or preparing, freezing, packaging, labeling, buying, selling (as dealers, wholesalers, or other similar persons), transporting, or storing any livestock products or poultry products for human or animal food.

(B) Persons in business as renderers or in the business of buying, selling, or transporting dead, dying, disabled, or diseased livestock or poultry, or parts of the carcasses of animals, including poultry, that died other than by slaughter.

The board shall adopt rules that require persons described under clauses (A) and (B) to give the state veterinarian access to the places of business, an opportunity at all reasonable times to examine the facilities, inventory, and records, an opportunity to copy the records, and an opportunity to take reasonable samples of the inventory.

(8) If necessary to permit interstate shipment, enter into reciprocal agreements with states adjoining Indiana and the United States Department of Agriculture concerning the

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inspection of livestock, poultry, and other animals.

Sec. 5. To accomplish the purposes in section 1 of this chapter, the board or state veterinarian may do the following:

(1) Remove inspectors from an establishment that:

(A) fails to destroy condemned products as required under this chapter; or

(B) repeatedly violates this chapter.

(2) Refuse to provide inspection service under this chapter with respect to an establishment for violations of this chapter and causes specified in Section 401 of the Federal Meat Inspection Act or Section 18 of the Federal Poultry Products Inspection Act.

(3) Order labeling and containers to be withheld from use if the state veterinarian determines that the:

(A) labeling is false or misleading; or

(B) containers are unsafe or of a misleading size or form.

(4) Adopt rules, after consultation with the Secretary of Agriculture of the United States, to prescribe the sizes and style of type to be used for labeling information required under this chapter and definitions and standards of identity or composition or standards of fill of container identical with federal standards when the board considers this action appropriate for the protection of the public.

(5) Adopt rules to prescribe conditions of storage and handling of livestock products and poultry products by persons engaged in the business of buying, selling, freezing, storing, or transporting the products in commerce to ensure that the products will not be adulterated or misbranded when delivered to the consumer.

(6) Require that equines be slaughtered and prepared in separate establishments from where other livestock are slaughtered or the products of other livestock are prepared.

(7) Adopt rules to require that every person who is engaged in business in commerce as a dealer, a renderer, a manufacturer of food for animals derived from livestock or poultry carcasses, or a wholesaler or public warehouseman of livestock products or poultry products, or who is engaged in the business of buying, selling, or transporting in commerce dead, dying, disabled, or diseased livestock or poultry or parts of the carcasses of such animals, including poultry, that died other than by slaughter shall register with the board the person's name and the address of each place of business and

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all trade names under which the person conducts the person's business.

(8) Adopt rules adopting provisions of federal regulations with changes the board considers appropriate to make the regulations applicable to operations and transactions subject to this chapter.

(9) Adopt other rules the board considers necessary for the efficient execution of this chapter, including rules of practice providing an opportunity for a hearing in connection with issuance of rules or orders under this chapter and prescribing procedure for proceedings as provided in IC 4-21.5 and this article. This subdivision and subdivision (8) do not preclude a requirement that a label or container be withheld from use or a requirement for a refusal of inspection under this chapter pending issuance of a final order in a proceeding.

(10) Appoint and prescribe the duties of inspectors and other personnel as the state veterinarian considers necessary for the efficient execution of this chapter.

(11) Cooperate with the Secretary of Agriculture of the United States in the administration of this chapter to effectuate the purposes of this chapter, accept federal assistance for that purpose, and spend state public funds appropriated for the administration of this chapter to pay not more than fifty percent (50%) of the estimated total cost of the cooperative program.

(12) Recommend to the Secretary of Agriculture of the United States for appointment to the advisory committees provided for in the federal acts the officials or employees of the board that the board designates.

(13) Serve at the pleasure of the governor as the representative for consultation with the Secretary of Agriculture of the United States under Section 301(c) of the federal Meat Inspection Act and Section 5(c) of the federal Poultry Products Inspection Act.

(14) Negotiate agreements with the state or local governmental agencies providing meat inspections as necessary in the opinion of the board to further the provisions provided in this section for the proper administration of this chapter.

Sec. 6. (a) A person may not do the following:

(1) Slaughter livestock or poultry or prepare any meat products or poultry products that are capable of use as

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human food for commerce, except in compliance with this chapter.

(2) Sell, transport, offer for sale or transportation, or receive for transportation in commerce any meat products or poultry products that are:

(A) capable of use as human food and are adulterated or misbranded; or

(B) required to be inspected under this chapter unless the products have been inspected and passed.

(3) With respect to articles that are capable of use as human food, perform an act:

(A) while the articles are being transported in commerce or held for sale after transportation in commerce; and

(B) that is intended to cause or has the effect of causing the articles to be adulterated or misbranded.

(b) A person may not sell, transport, offer for sale or transportation, or receive for transportation, in commerce, or from an official establishment, slaughtered poultry from which the blood, feathers, feet, head, or viscera have not been removed in accordance with rules adopted by the board except as authorized by rule.

Sec. 7. (a) A person may not sell, transport, offer for sale or transportation, or receive for transportation, in commerce, carcasses or parts of carcasses of horses, mules, or other equines or the meat or meat food products of equines, unless the carcasses are plainly and conspicuously marked or labeled or identified as required by rules adopted by the board to show the kinds of animals from which the carcasses were derived.

(b) A person may not buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, livestock products or poultry products that are not intended for use as human food unless the products are denatured or identified as required by the rules of the board or are naturally inedible by humans.

(c) A person engaged in the business of buying, selling, or transporting in commerce, dead, dying, disabled, or diseased animals, or any parts of the carcasses of any animals that died other than by slaughter, may not buy, sell, transport, offer for sale or transportation, or receive for transportation, in commerce, dead, dying, disabled, or diseased livestock or poultry or the products of such animals that died other than by slaughter unless the transaction or transportation is made in accordance with rules

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adopted by the board to ensure that the animals, or the unwholesome parts or products of the animals, will be prevented from being used for human food purposes.

Sec. 8. The board shall adopt rules governing humane methods to make livestock or poultry insensible to pain before incision of an instrument for severance of the carotid arteries. The rules must conform to the extent applicable to the regulations promulgated under the federal Humane Slaughter Act, as amended.

Sec. 9. (a) Before a person may engage in slaughtering livestock or poultry or processing meat or poultry, meat food products, or poultry products for commerce, the person must apply for, and upon compliance with this chapter and the rules adopted under this chapter, shall receive from the state veterinarian, inauguration of inspection service in the establishment where the:

(1) livestock or poultry are to be slaughtered for human consumption; or

(2) meat or poultry, meat food products, or poultry products are processed or manufactured.

(b) The board shall adopt rules governing the granting of inspection to the establishments that trade in commerce.

Sec. 10. (a) An inspection of products placed in a container at an official establishment is not complete until the products are sealed or enclosed in the container under the supervision of an inspector.

(b) For purposes of an inspection of products required by this chapter, inspectors authorized by the state veterinarian shall have access at reasonable times, by day or night, to every part of every establishment required to have inspection under this chapter, whether or not the establishment is operating.

Sec. 11. (a) The board shall exempt the operations of a person from antemortem inspection and postmortem inspection and other requirements of this chapter if any of the following conditions exist:

(1) To the extent the operations would be exempt from the corresponding requirements under the federal Meat Inspection Act, Section 23 (21 U.S.C. 623), or the Poultry Products Inspection Act, Section 14 (21 U.S.C. 464), if the operations were conducted in or for interstate commerce.

(2) The state is designated under the federal acts as one in which the federal requirements apply to commerce in Indiana.

(b) When the operation of an establishment that is exempt under subsection (a) appears to be a detriment to health and public

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welfare, the establishment may be brought under this chapter by executive order of the state veterinarian issued in compliance with IC 4-21.5.

(c) Livestock and poultry slaughtered according to the ritual requirements of a religious faith that prescribes a method of slaughter by which the livestock or poultry suffers loss of consciousness by anemia of the brain caused by the simultaneous and instantaneous severance of the carotid arteries with a sharp instrument is a humane method under this chapter. However, livestock must be slaughtered immediately following total suspension from the floor.

(d) Except as required in an agreement between the United States Department of Agriculture and the board, a person operating under the inspection program of the federal acts, as amended, is exempt from this chapter.

Sec. 12. (a) Except as provided in subsection (b), the board is not required to furnish meat or poultry inspection under this chapter:

(1) for more than eight (8) hours in one (1) day;

(2) for more than forty (40) hours in one (1) calendar week; or

(3) on Saturdays, Sundays, or the following legal holidays:

(A) New Year's Day.

(B) Washington's Birthday.

(C) Memorial Day.

(D) Martin Luther King, Jr. Day.

(E) Columbus Day.

(F) Independence Day.

(G) Labor Day.

(H) Veterans Day.

(I) Thanksgiving Day.

(J) Christmas.

(b) If the operator of an establishment under inspection pays to the board an hourly fee for each hour of state meat or poultry inspection furnished:

(1) more than eight (8) hours in one (1) day;

(2) more than forty (40) hours in one (1) calendar week; or

(3) on Saturdays, Sundays, and legal holidays;

the board shall furnish the inspection service.

(c) Subject to the approval of the budget agency, the board shall establish an hourly rate for overtime at an amount sufficient to defray the cost of the inspection service. The establishment shall reimburse the board not later than thirty (30) days after assessment for overtime or legal overtime fees collected under this

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chapter. The fees must be deposited with the treasurer of state. All overtime fees deposited with the treasurer of state under this subsection are appropriated to the budget agency for allotment to the board for the administration and enforcement of this chapter.

(d) The board may assign inspection personnel to more than one (1) establishment in order to efficiently use board personnel and resources.

Sec. 13. Inspection may not be provided under this chapter at an establishment for the slaughter of livestock or poultry or the preparation of livestock products or poultry products that are not intended for use as human food. However, the articles must, before being offered for sale or transportation in commerce, unless naturally inedible by humans, be denatured or identified as prescribed by rules of the board to deter use for human food.

Sec. 14. (a) After passing the postmortem inspection and upon request by the owner of a bison, farm raised cervidae, or ratitae, an establishment shall immediately upon slaughter return to the owner the head, hide, horns, and hooves.

(b) The board shall conduct field antemortem inspections of bison, farm raised cervidae, and ratitae only if a means of expeditious delivery of the exsanguinated carcass to an establishment is available.

Sec. 15. The board may establish a schedule of fees for inspection services provided under this chapter. The fees must be reasonable but are not required to be equal to the costs of the inspection services.

Sec. 16. (a) A brand manufacturer, printer, or other person may not cast, print, lithograph, or otherwise make:

(1) a device containing an official mark or a simulation of an official mark or a label bearing the mark or simulation; or

(2) any form of official certificate or simulation of an official certificate;

except as authorized by the board.

(b) A person may not do any of the following:

(1) Forge an official device, mark, or certificate.

(2) Use an official device, mark, certificate, or a simulation of an official device, mark, or certificate or alter, detach, deface, or destroy an official device, mark, or certificate without authorization from the board.

(3) Contrary to the rules adopted by the board, fail to use or detach, deface, or destroy an official device, mark, or certificate.

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(4) Knowingly possess, without promptly notifying the state veterinarian or the state veterinarian's representative, any of the following:

(A) An official device.

(B) A counterfeit, simulated, forged, or improperly altered official certificate.

(C) A device or label on a carcass of an animal, including poultry, or part or product of a carcass, bearing a counterfeit, simulated, forged, or improperly altered official mark.

(5) Knowingly make a false statement in a shipper's certificate or other nonofficial or official certificate provided for in the rules adopted by the board.

(6) Knowingly represent that an article has been inspected and passed or exempted under this chapter when the article has not been inspected and passed or exempted.

Sec. 17. (a) A person subject to this chapter that has not been approved for inspection may not offer for sale meat or poultry, a meat food product, or a poultry product in commerce in Indiana.

(b) The board may take the following actions for a violation of this section:

(1) Issue an order of compliance under IC 4-21.5-3-6, IC 4-21.5-3-8, or IC 4-21.5-4.

(2) Levy a civil penalty under IC 4-21.5-3-6.

(3) Both of the actions listed in subdivisions (1) and (2).

(c) The board may, by rules adopted under IC 4-22-2, adopt a schedule of civil penalties that may be levied for violations of this section. A penalty included in the schedule of civil penalties may not exceed one thousand dollars ($1,000) per violation for each day of the violation.

Sec. 18. If an establishment conducts operations that require an inspection for less than eight (8) hours a day, fewer than five (5) days a week, or for a period that is different from a normal Monday through Friday, eight (8) hours per day, five (5) days per week work week, the state veterinarian shall arrange a schedule of slaughter for each establishment so that proper and efficient antemortem inspection and postmortem inspection of livestock or poultry is provided in each establishment while efficiently using inspection resources among the establishments. The schedule must be arranged in conference with the recognized establishments involved.

Sec. 19. (a) For purposes of this section, references in IC 16-42-1

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through IC 16-42-4 to:

(1) "state health commissioner" refer to the state veterinarian; and

(2) "department" refer to the board.

(b) An establishment operating under this chapter shall do the following:

(1) Provide information considered necessary by the state veterinarian to enforce this chapter.

(2) Supply samples of ingredients used in the formulation of products.

(3) Supply samples of products manufactured, processed, or prepared in the establishment for laboratory examination or other examination required by the board to ensure that the products comply with this chapter and IC 16-42-1 through IC 16-42-4.

Sec. 20. (a) For purposes of this section, references in IC 16-42-1 through IC 16-42-4 to:

(1) "state health commissioner" refer to the state veterinarian; and

(2) "department" refer to the board.

(b) Whenever:

(1) a:

(A) livestock product;

(B) poultry product;

(C) product exempted from the definition of a livestock product and from the definition of a poultry product; or

(D) dead, dying, disabled, or diseased livestock or poultry;

is found by an authorized representative of the board upon any premises where the product or animal is held for purposes of or during or after distribution in commerce or is subject to this chapter; and

(2) there is reason to believe that:

(A) the product or animal is adulterated or misbranded and is capable of use as human food;

(B) the product or animal has not been inspected in violation of this chapter, IC 16-42-1 through IC 16-42-4, the federal Meat Inspection Act (21 U.S.C. 601 et seq.), or the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.); or

(C) the product or animal has been or is intended to be distributed in violation of a law listed under clause (B);

the product or animal may be detained by the representative for

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not more than twenty (20) days, pending action under section 21 of this chapter or notification of federal authorities having jurisdiction over the product or animal, and may not be moved by a person from the place at which the product or animal is located when the product or animal is detained until released by the representative.

(c) All official marks may be required by the representative to be removed from the product or animal before the product or animal is released unless it appears to the satisfaction of the state veterinarian that the product or animal is eligible to retain the official marks.

Sec. 21. (a) A livestock product, a poultry product, or dead, dying, disabled, or diseased livestock or poultry:

(1) that is:

(A) being transported in commerce;

(B) subject to this chapter; or

(C) held for sale in Indiana after transportation in commerce; and

(2) that:

(A) is or has been prepared, sold, transported, or distributed or offered or received for distribution in violation of this chapter;

(B) is capable of use as human food and is adulterated or misbranded; or

(C) in any other way is in violation of this chapter;

may be seized and condemned, at any time, on furnishing evidence of a violation of this chapter in any proper court as provided in section 28 of this chapter within whose jurisdiction the article or animal is found.

(b) After entry of a decree condemning an article or animal, the article or animal must be disposed of by destruction or sale, as the court directs.

(c) If the article or animal is sold, the proceeds from the sale, less:

(1) court costs and fees; and

(2) storage and other proper expenses;

must be paid into the state treasury.

(d) The article or animal may not be sold contrary to any of the following:

(1) This chapter.

(2) The federal Meat Inspection Act (21 U.S.C. 601 et seq.).

(3) The federal Poultry Products Inspection Act (21 U.S.C.

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451 et seq.).

(4) The federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.).

However, upon the execution and delivery of a sufficient agreement conditioned that the article or animal will not be sold or disposed of contrary to this chapter, the article or animal may be delivered to the owner of the article or animal subject to supervision by authorized representatives of the board necessary to ensure compliance with the applicable laws.

(e) When a decree of condemnation is entered against the article or animal and the article or animal is released under the agreement or destroyed, court costs, fees, storage, and other proper expenses must be awarded against the person, if any, intervening as claimant of the article or animal.

(f) The proceedings in cases for condemnation of an article or animal must conform, as much as possible, to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in any case and all of the proceedings must be at the suit of and in the name of the state of Indiana.

(g) This section does not derogate from authority for condemnation or seizure conferred by this chapter or other laws.

Sec. 22. (a) The state veterinarian may do the following:

(1) Investigate, gather, and compile information concerning the organization, business, conduct, practices, and management of a person engaged in commerce and the relation of the person to other persons.

(2) Require, by general or special orders, that a person engaged in commerce file with the state veterinarian, in a form prescribed by the state veterinarian, annual or special, or both, reports or answers in writing to specific questions. The person shall furnish to the state veterinarian the information required by the state veterinarian concerning the organization, business, conduct, practices, management, and relation to other persons. The reports and answers must be made under oath or affirmation as the state veterinarian prescribes. The reports and answers must be filed with the state veterinarian within a reasonable period prescribed by the state veterinarian, unless the state veterinarian grants additional time.

(b) For purposes of this chapter, the state veterinarian has, at all reasonable times, for the purpose of examination:

(1) access to; and

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(2) the right to copy;

any documentary evidence of a person being investigated or proceeded against. The state veterinarian may require by subpoena the attendance and testimony of witnesses and the production of all documentary evidence of a person relating to a matter under investigation. The state veterinarian may sign subpoenas. The board may sign subpoenas, administer oaths and affirmations, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of documentary evidence may be required at a designated place of hearing. In case of disobedience to a subpoena, the state veterinarian or board may invoke the aid of any court in requiring the attendance and testimony of witnesses and the production of documentary evidence.

(d) A court may, in case of contumacy or refusal to obey a subpoena issued to a person, issue an order requiring the person to:

(1) appear before the state veterinarian or board;

(2) produce documentary evidence; or

(3) give evidence concerning the matter in question.

A failure to obey an order of the court issued under this subsection may be punished by the court for contempt.

(e) Upon the application of the attorney general at the request of the state veterinarian or board, a court has jurisdiction to issue writs of mandamus commanding a person to comply with this chapter or any order of the state veterinarian or board under this chapter.

(f) The state veterinarian may order testimony to be taken by deposition in a proceeding or investigation pending under this chapter at any stage of the proceeding or investigation. The deposition may be taken before a person who:

(1) is designated by the state veterinarian; and

(2) has power to administer oaths.

The testimony must be reduced to writing by the person taking the deposition or under the person's direction and must be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as a witness may be compelled to appear and testify and produce documentary evidence before the state veterinarian or board.

(g) Witnesses summoned before the state veterinarian or board shall be paid the same fees and mileage that are paid witnesses in Indiana courts. Witnesses whose depositions are taken and the

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persons taking the depositions are entitled to the same fees paid for similar services in the courts.

Sec. 23. (a) A person may not be excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence:

(1) before the state veterinarian or board, or in obedience to a subpoena of the state veterinarian or board, regardless of whether the subpoena was signed or issued by the state veterinarian, the state veterinarian delegate, or board; or

(2) in a cause or proceeding, criminal or civil, based upon or growing out of an alleged violation of this chapter;

on the ground that the testimony, evidence, documents, or other evidence required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(b) A person may not be prosecuted or subjected to a penalty or forfeiture for or on account of a transaction, matter, or thing concerning which the person is compelled to testify or produce testimony, evidence, documents, or other evidence after having claimed the person's privilege against self-incrimination. However, a person testifying is not exempt from prosecution and punishment for perjury.

Sec. 24. A person who recklessly, knowingly, or intentionally fails to:

(1) attend and testify;

(2) answer a lawful inquiry; or

(3) produce documentary evidence if in the person's power to do so;

in obedience to a subpoena or lawful requirement of the state veterinarian or board commits a Class A misdemeanor.

Sec. 25. A person who knowingly:

(1) makes a false entry or statement of fact in a report required to be made under this chapter or in any account, record, or memorandum kept by a person subject to this chapter;

(2) fails to make full, true, and correct entries in the accounts, records, or memoranda of all facts and transactions pertaining to the person's business;

(3) removes out of Indiana or damages, alters, or falsifies documentary evidence of a person subject to this chapter; or

(4) refuses to submit to the state veterinarian or board or to the state veterinarian's or board's authorized agent for the purpose of inspection and taking copies of documentary

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evidence of a person subject to this chapter in the person's possession or within the person's control;

commits a Class D felony.

Sec. 26. (a) A person who fails to file an annual or a special report as required by this chapter within the time fixed by the state veterinarian for filing the report and for thirty (30) days after notice of default shall forfeit to the state one hundred dollars ($100) for each day of the continuance of the failure beginning thirty-one (31) days after the notice of default. The forfeiture is payable into the state treasury and is recoverable in a civil suit in the name of the state of Indiana brought in the circuit court where the person has the person's principal office or in any county in which the person does business.

(b) The prosecuting attorneys, under the direction of the attorney general, shall prosecute for the recovery of forfeitures. The costs and expenses of prosecution must be paid out of the appropriation for the expenses of the courts.

Sec. 27. (a) If a condition exists in an official establishment that may adversely affect the wholesomeness of meat, poultry, meat food products, or meat byproducts prepared or processed in the official establishment, the state veterinarian may suspend state meat or poultry inspection until the condition is remedied.

(b) After notice and hearing in compliance with IC 4-21.5, the board may revoke state meat and poultry inspection from an official establishment if the person in authority at the establishment repeatedly and persistently fails to comply with this chapter and the rules adopted under this chapter.

Sec. 28. (a) This section applies if, upon inspection of an establishment, the state veterinarian or board finds a condition that meets any of the following conditions:

(1) May affect adversely the wholesomeness of meat, poultry, meat food products, meat byproducts, or poultry products.

(2) Is in violation of this chapter or rules adopted under this chapter.

(b) The state veterinarian or board may do either of the following:

(1) Furnish evidence of the violation to the prosecuting attorney of the judicial circuit in which the violation occurs.

(2) Issue an order to the person in authority at the offending establishment to abate the condition or violation within five (5) days or other reasonable time required to abate the condition or violation. The proceedings to abate must be in

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accordance with IC 4-21.5.

Sec. 29. (a) Before a violation of this chapter is reported by the state veterinarian or board to a prosecuting attorney for institution of a criminal proceeding, the person against whom the proceeding is contemplated must be given an opportunity to be heard and may be represented by legal counsel.

(b) The state veterinarian or board shall give the person ten (10) days notice in writing. The notice must do the following:

(1) Specify the charges for the action.

(2) Set the date, time, and place where the hearing is to be held.

(c) The board or the board's designee shall hold the hearing in Indianapolis.

Sec. 30. A person who knowingly and forcibly resists, obstructs, or interferes with another person while the other person is engaged in or on account of the performance of the person's official duties under this chapter commits a Class D felony. However, the offense is a Class C felony if, while committing the offense, the person draws or uses a deadly weapon or inflicts bodily injury on any other person.

Sec. 31. (a) Except as otherwise provided, a person who recklessly violates this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

Chapter 6. Rabies

Sec. 1. (a) When an animal is vaccinated for rabies in Indiana, the veterinarian vaccinating the animal shall:

(1) make and keep a record of the vaccination; and

(2) give one (1) copy of the record to the owner of the animal.

(b) The vaccinated animal must be identified as vaccinated according to rules adopted by the board. The board may adopt additional rules for documenting rabies vaccinations and for the identification of animals that have been vaccinated for rabies.

Sec. 2. (a) The state veterinarian may declare a quarantine against rabies in any county, township, city, or town, or a designated part of any county, township, city, or town whenever the state veterinarian finds that rabies exist in the area to the extent that the health or lives of individuals or domestic animals are endangered.

(b) If a quarantine has been declared, the owner or caretaker of an animal in the quarantine area shall confine the animal:

(1) on the premises of the owner; or

(2) in a suitable place, subject to the approval of the state

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veterinarian, for the impounding and care of animals as provided in this chapter.

(c) A quarantine order may specify the circumstances and conditions under which an owner may remove animals from the owner's premises or an impoundment facility.

Sec. 3. (a) If a quarantine has been declared, the state veterinarian may order any animal, species of animal, or group of animals in the quarantined area vaccinated within a period stipulated in the order. The owner of the animal shall pay the cost of the antirabies immunization. However, local health departments or political subdivisions of government may furnish antirabies immunization without charge to owners who are unable to pay for the immunization.

(b) If an order for a rabies vaccination is made, any animal within the quarantined area whose owner refuses to have the owner's animal vaccinated shall be seized and disposed of by the state veterinarian, the state veterinarian's representative, or any person having police power within the quarantined area.

Sec. 4. (a) If the state veterinarian issues an order under section 3 of this chapter:

(1) the state veterinarian shall give notice of the order to the county health officer of the county within which the quarantined area is located; and

(2) the county health officer shall:

(A) publish notice of the order as provided in IC 5-3-1; and

(B) deliver a copy of the order to the sheriff of the county.

(b) The sheriff shall assist in the enforcement of this chapter.

Sec. 5. The board of county commissioners of each county containing an area quarantined under section 2 of this chapter shall furnish a suitable area or quarters:

(1) for the impounding and care of animals that may be impounded under this chapter; and

(2) that comply with the rules adopted by the board.

Sec. 6. If a quarantine has been declared under this chapter, the state veterinarian shall send an agent or employee into the area to assist the local health officers in the development of a program to control rabies in that area and assist the local law enforcement officers in the enforcement of the quarantine requirements.

Sec. 7. (a) An animal found running at large in violation of a quarantine declared under section 2 of this chapter may be impounded as provided in the quarantine order, in the area or quarters provided by the board of county commissioners. During

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the quarantine period the owner may obtain possession of the animal by doing all of the following:

(1) Paying the expenses of the animal's board and all tax or license fees that are due and unpaid on the animal.

(2) Having the animal vaccinated and paying for the vaccination or furnishing evidence that the animal was vaccinated during the previous twelve (12) months.

(3) Paying the impounding fee fixed by the board of county commissioners.

(b) An animal not redeemed under subsection (a) shall be disposed of in a manner prescribed by the local health officer having jurisdiction.

Sec. 8. Whenever a quarantine is declared by the state veterinarian under section 2 of this chapter, the expense of operating a pound, including food for animals impounded and expense of personnel, shall be paid from the general fund of the county without appropriation unless there are funds regularly appropriated to operate the pound.

Sec. 9. Whenever a quarantine is declared under section 2 of this chapter, all animals brought into a quarantined area, except for exhibition purposes where animals are confined and not permitted to run at large, are subject to the same requirements as animals already located within the quarantined area.

Sec. 10. (a) A law enforcement officer shall impound or destroy an animal found running at large:

(1) during a quarantine ordered under section 2 of this chapter; or

(2) that is the subject of an order of confinement under section 11 of this chapter.

(b) A law enforcement officer or other authorized individual shall impound an animal that is subject to quarantine or confinement under this chapter if a statement is provided to the officer or authorized individual that states that the animal has broken quarantine or confinement. The statement must:

(1) be in writing;

(2) be given under oath;

(3) be signed by at least two (2) individuals; and

(4) include the name and address of the owner or suspected owner of the animal, if known.

(c) When possible, the authorized individual or agency contacted under this section shall give written notice to the owner or suspected owner of the animal upon impounding and before

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destroying the animal.

(d) All costs incurred by a local government relating to the impoundment of an animal under subsection (b) shall be paid by the owner of the animal.

Sec. 11. (a) If an order has not been issued under section 2 of this chapter, the state veterinarian, the local health officer having jurisdiction, or an individual designated by the state veterinarian or the local health officer having jurisdiction may do the following:

(1) Order the confinement and destruction of an animal showing clinical symptoms of rabies for laboratory diagnosis.

(2) Order the confinement of an animal suspected of having rabies.

(3) Order the confinement of an animal that has potentially exposed an individual to rabies.

(4) Order the confinement and destruction of an animal that has potentially exposed an individual to rabies.

(b) Whenever possible, the state veterinarian or local health officer exercising authority under this section shall give written notice to the owner or suspected owner of an animal:

(1) upon impounding; and

(2) before destroying;

the animal.

(c) The period of confinement ordered under subsection (a) must be:

(1) of at least ten (10) days duration;

(2) under the supervision of:

(A) the state veterinarian; or

(B) a licensed accredited veterinarian or a person designated by the official exercising authority under this chapter; and

(3) at the expense of the owner.

(d) Any animal that has been bitten by a domestic or feral animal suspected or known to have rabies may be:

(1) confined for not more than twelve (12) months at the owner's expense; or

(2) destroyed.

(e) Whenever informed that an animal subject to an order of quarantine or an order of destruction or confinement under subsection (a) is running at large, the official who issued the order or the official's designee shall investigate the status of the animal. If the investigating official is given a statement that complies with section 10(b) of this chapter, the investigating official may order

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the animal impounded and, if necessary, provide the statement to a law enforcement officer for action under section 10 of this chapter.

Sec. 12. (a) For purposes of IC 4-21.5, an order issued under this chapter is an emergency order.

(b) Notwithstanding IC 4-21.5-4-5(a)(3), an emergency order issued under this chapter does not expire.

Sec. 13. The state department of health and the local health officers shall cooperate with the state veterinarian in the rabies control program.

Sec. 14. This chapter may not be construed as repealing or prohibiting municipal ordinances on rabies control or divesting municipalities of existing rights or powers related to rabies control that are not in conflict with this chapter.

Chapter 7. Bovine Tuberculosis

Sec. 1. (a) If the board determines that the cattle within an accredited county must be tested for bovine tuberculosis to conform with federal regulations governing the reaccreditation of the county, the county council shall appropriate a sufficient amount of money to perform the testing. The board shall determine the amount of the appropriation based on the most reliable source of information.

(b) The appropriation under subsection (a) must reflect the number of cattle within the county, but may not exceed a tax levy of seventy-five ten-thousandths (0.0075) per dollar of assessed valuation.

(c) The board, before July 1 of the year in which the appropriation under subsection (a) is made, shall notify the county auditor to include the appropriation in the county budget for the year in which the testing of cattle for reaccreditation purposes will be done.

(d) If the funds appropriated by the county council under this section are insufficient to complete the testing or any necessary retesting, the board shall provide from its appropriation additional funds as needed to carry out the testing program.

Sec. 2. (a) After a county council makes an appropriation under section 1 of this chapter, the commissioners of the county shall enter into a contract with the board concerning the testing in the county required under section 1 of this chapter and the expenses paid by the county.

(b) The board shall prescribe a standard contract for all counties concerning expenditures for incidental items and the

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employment of veterinary inspectors.

Sec. 3. (a) A sufficient number of veterinary inspectors must be employed to meet the requirements of this chapter.

(b) A veterinary inspector must:

(1) satisfy the qualifications set forth in IC 25-38.1; and

(2) be licensed or eligible for licensure to practice in Indiana and accredited by the United States Department of Agriculture to do tuberculin testing.

(c) The board shall supervise and control the veterinary inspectors.

Sec. 4. (a) The board shall determine the salaries of full-time and part-time veterinary inspectors.

(b) In addition to the salary determined under subsection (a), a full-time veterinary inspector is entitled to reimbursement of necessary expenses incurred in performing official duties.

(c) Each month, a veterinary inspector shall file with the auditor of the county in which the veterinary inspector is employed a sworn statement of the following:

(1) The number of days during the month that the veterinary inspector performed official duties.

(2) The amount of necessary expenses the veterinary inspector incurred in the performance of official duties.

(d) The county auditor shall submit a claim based on the statement filed under subsection (c) to the board of county commissioners for approval. Upon approval, the county auditor shall draw a warrant on the county treasurer in the amount approved by the board of county commissioners. The county treasurer shall pay the warrant.

Sec. 5. (a) Cattle, goats, and cervids that react positively to a tuberculin test must be marked immediately using a method of identification approved by the board.

(b) All animals marked under this section shall be appraised by an authorized agent of the board or the United States Department of Agriculture.

(c) An identification mark on reactor cattle may not be tampered with or altered.

Sec. 6. (a) Cattle, goats, and cervids that react positively to a tuberculin test are condemned and designated for:

(1) further testing at a laboratory approved by the board; or

(2) slaughter;

not more than fifteen (15) days after appraisal under section 5 of this chapter.

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(b) Animals designated for slaughter under subsection (a)(2) shall be slaughtered at an establishment that is:

(1) subject to federal or state inspection; and

(2) under the direction of an inspector employed by the United States Department of Agriculture or the board.

Sec. 7. (a) Owners of cattle, goats, or cervids that are destroyed because they have:

(1) reacted positively to a tuberculin test administered by:

(A) the state veterinarian or the state veterinarian's agent; or

(B) an agent of the United States Department of Agriculture; or

(2) been exposed to tubercular animals;

are entitled to be indemnified for the cattle, goats, or cervids under the rules of the board and the United States Department of Agriculture, as applicable.

(b) Indemnification by the state may not exceed the per animal limit set in the rules of the board.

(c) Joint federal-state indemnity, plus salvage, may not exceed the appraised value of each animal.

(d) State indemnity may not exceed federal indemnity on each animal.

Sec. 8. A herd of:

(1) cattle;

(2) goats; or

(3) cervids;

in which any animal reacts positively to a tuberculin test is under quarantine.

Chapter 8. Bovine Brucellosis

Sec. 1. (a) If the board requires a testing program in which cattle within a certified county are tested for bovine brucellosis to conform with rules governing the recertification of a county, the county council shall appropriate a sufficient amount of money to conduct the testing program. The board shall determine the amount of the appropriation based on the most reliable source of information.

(b) The appropriation under subsection (a) must reflect the number of cattle within a county, but may not exceed a tax levy of seventy-five ten-thousandths (0.0075) per dollar of assessed valuation.

(c) Not later than July 1 of the year in which the appropriation under subsection (a) is made, the board shall notify the county

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auditor to include the appropriation in the county budget for the year in which the testing of cattle for recertification purposes will be done.

Sec. 2. (a) After a county council makes an appropriation to conduct a testing program under this chapter, the board of county commissioners of the county shall enter into a contract with the board concerning the work to be done in the county and the expenses paid by the county.

(b) The board shall prescribe a standard contract for all counties concerning expenditures for incidental items and the employment of veterinary inspectors.

Sec. 3. (a) A sufficient number of veterinarians shall be employed to meet the requirements of this chapter. The veterinarians must:

(1) satisfy the requirements for an applicant to practice veterinary medicine set forth under IC 25-38.1;

(2) be licensed to practice in Indiana; and

(3) be accredited by the United States Department of Agriculture.

(b) The board shall supervise the veterinarians employed under this chapter.

Sec. 4. Upon receipt of a budgetary request under this chapter, the county council shall appropriate a sufficient amount of money to conduct the testing program.

Sec. 5. After the county council makes an appropriation under section 4 of this chapter, the board of county commissioners shall contract with the board to cover the expenditures involved in the testing program, including funds to assist the board in the employment of inspectors and quarantine officers and the necessary expenses incurred in carrying out the testing program.

Sec. 6. If:

(1) a county council appropriates money for a testing program; and

(2) the testing program begins in the year of the appropriation;

the county council shall annually appropriate money to continue the program until the incidence of brucellosis in cattle has been reduced in accordance with rules and federal regulations.

Sec. 7. Any unused part of an appropriation under this chapter is available for use in the following year.

Sec. 8. The county council of a county that is certified as a modified-certified brucellosis area shall continue to appropriate

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sufficient funds to maintain the county upon a certified basis as required by state and federal laws.

Sec. 9. After a program for the control and eradication of brucellosis has begun in a county, each cattle owner in the county shall:

(1) comply with all existing rules and federal regulations to maintain the county's certification;

(2) upon notice by a representative of a local, state, or federal cooperating agency, confine the owner's cattle in suitable quarters for testing; and

(3) render reasonable assistance in testing.

Sec. 10. Each herd in which brucellosis infection is revealed shall be placed under quarantine by the board until:

(1) all cattle that react positively to a bovine brucellosis test have been sold for slaughter; and

(2) the remainder of the herd tests negative for brucellosis under the rules of the board.

Sec. 11. All necessary expenses for carrying out the program under this chapter shall be paid equally by the state and the county. However, any federal funds that are available for the program shall be used, and the expenses paid by the state and county shall be reduced pro rata.

Sec. 12. All cattle that:

(1) react positively to a brucellosis test; or

(2) are officially vaccinated;

shall be permanently identified as prescribed by the board.

Sec. 13. Persons required by the board shall send complete reports of:

(1) tests for brucellosis; and

(2) calfhood vaccination;

to the state veterinarian and as otherwise required by the board not more than seven (7) days after the completion of testing or vaccination.

Chapter 9. Swine Brucellosis

Sec. 1. (a) This section applies to swine that are:

(1) moved into Indiana; or

(2) sold in a public or private sale in Indiana.

(b) The board may adopt rules that require that swine must be accompanied by:

(1) an official certificate of veterinary inspection; or

(2) a sanction on a form prescribed by the board showing that the swine have been:

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(A) tested for diseases; and

(B) found to be negative;

under rule of the board before the date of sale.

Sec. 2. Copies of the official certificate of veterinary inspection shall be issued and distributed as prescribed by the board.

Sec. 3. (a) Tests required under this chapter must be conducted by a veterinarian who is:

(1) licensed or legally able to practice in Indiana; and

(2) accredited by the United States Department of Agriculture.

The form on which the test results are reported must include the veterinarian's name.

(b) Tests required under this chapter must be conducted by:

(1) either:

(A) the animal disease diagnostic laboratory at Purdue University; or

(B) a laboratory designated or established by the board; or

(2) in the case of swine imported from another state, a state federally approved laboratory.

Chapter 10. Dangerous and Diseased Animals

Sec. 1. (a) The owner of an animal affected with a dangerous or contagious disease shall report the disease to the state veterinarian not later than forty-eight (48) hours after discovering the existence of the disease.

(b) A person who is not the owner of an animal who knows or has reason to suspect that a dangerous, contagious, or infectious disease exists among animals shall report the existence of disease to the state veterinarian or local health officer not later than forty-eight (48) hours after discovering the disease exists.

(c) A local health officer who receives a report from a person under this section shall report the disease within twenty-four (24) hours to the state veterinarian.

Sec. 2. An owner or a caretaker of an animal and the owner's or a caretaker's agents shall provide reasonable assistance that is required to enable the state veterinarian, the state veterinarian's authorized agent, or an agent of the United States Department of Agriculture to perform the state veterinarian's or agent's duties.

Sec. 3. The state veterinarian or the state veterinarian's agent shall make an examination of animals and objects suspected to be dangerous or diseased and shall enforce related laws, rules, and orders.

Sec. 4. An agent of the United States Department of Agriculture

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may do the following:

(1) Inspect, test, quarantine, and condemn animals and objects in Indiana that are affected with any disease or pest of animals, are suspected to be affected, or may have been exposed to any disease or pest of animals.

(2) Enter the grounds or premises to carry out the duties under subdivision (1).

(3) Request that a law enforcement officer provide assistance in discharging the duties under subdivision (1). A law enforcement officer shall assist an agent when requested. An agent has the same power and protection as a law enforcement officer when engaged in the discharge of the agent's duties. However, the state is not liable for any damages or expenses caused or made by an agent.

Sec. 5. If the governor has good reason to believe that:

(1) any disease or pest of animals has been discovered; and

(2) the importation of animals or objects from another state, or the movement of animals or objects within Indiana, would be injurious to the health of the citizens or the animals of Indiana;

the governor may, on the recommendation of the board, issue a proclamation to prohibit the entry into or other movement within Indiana of animals and objects or stipulate the conditions under which animals and objects may enter or move within Indiana.

Sec. 6. (a) Except as provided in subsection (b), the owner of any animal or object condemned by the board shall be indemnified as provided in this article and regulations governing the payment of indemnity by the state or by the state in cooperation with the federal government. The length of time that a condemned animal has been in Indiana may not be considered when determining the payment of indemnity. The board or the board's agent shall determine indemnity amounts based on appraisals or other determinations of value made according to:

(1) rules and policies adopted by the board; or

(2) laws and policies of the federal government;

that govern indemnity payments.

(b) The board is not required to indemnify objects that are adulterated, misbranded, or condemned under IC 15-17-5, IC 15-18-1, or IC 16-42.

(c) The board may pay the cost of transporting, testing, treating, euthanizing, destroying, and disposing of infected, exposed, or suspect animals and objects.

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(d) The board may pay the cost of cleaning and disinfecting for purposes allowed under this article.

Sec. 7. (a) Except as provided in subsection (b), an indemnity payment may not be made for the following:

(1) Animals or objects belonging to the United States.

(2) Animals or objects belonging to the state.

(3) Animals or objects brought into the state or moved in violation of this article, the rules of the board, or an agreement for the control of diseases or pests.

(4) Animals that were previously affected by any other disease or pest, which, from its nature and development, caused an incurable condition and was necessarily fatal.

(5) Animals or objects affected with disease or pest of animals that the owner purchased, knowing that the animals or objects were infected with or exposed to a disease or pest of animals, including animals or objects purchased from a place where a contagious disease or pest of animals was known to exist.

(6) Any animal or object that the owner or the owner's agent intentionally infects with or exposes to a disease or pest of animals.

(7) Any animal or object for which the owner received indemnity or reimbursement from any other source.

(b) The board may pay indemnity for animals or objects described in subsection (a)(3) through (a)(5) if the board finds that payment of indemnity is necessary to accomplish the purposes of this article.

Sec. 8. (a) The board or the board's agent may condemn and control the disposition of any animal or object infected with or exposed to, or suspected to be infected with or exposed to, foot and mouth disease, glanders, or other diseases or pests of animals that, in the opinion of the board, are a health hazard to the livestock industry, other animals, or the citizens of Indiana.

(b) Objects infected with, exposed to, or suspected to be infected with or exposed to a disease or pests of animals described in subsection (a) may be condemned and shall be destroyed or disposed of in a manner as directed by the board.

Sec. 9. If the board determines that a disease or pest of animals presents a health hazard to the citizens or animals of Indiana, the following action may be taken:

(1) The board may adopt emergency rules under IC 4-22-2-37.1 that facilitate the prevention, detection,

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control, and eradication of the disease or pest of animals, including the following to:

(A) Prohibit or impose conditions on importing animals and objects into Indiana.

(B) Require testing of animals and objects.

(C) Require vaccination or other treatment of animals and objects.

(D) Prohibit or impose conditions on moving animals and objects within Indiana.

(E) Govern the disposition of animals and objects.

(F) Impose other measures governing animals and objects to protect the citizens and animals of Indiana from diseases and pests of animals.

(2) The state veterinarian may issue emergency orders under IC 4-21.5-4 governing animals and objects in order to protect the citizens and animals of the state from diseases and pests of animals.

Sec. 10. If the board determines that a disease or pest of animals has or is imminently likely to result in a large number of dead animals, the board may facilitate the prompt disposal of the dead animals by adopting an emergency rule under IC 4-22-2-37.1 that amends or suspends any of the following:

(1) IC 15-17-11.

(2) A rule adopted by the board that governs the disposal of dead animals.

Sec. 11. If the board determines that a disease or pest of animals presents a hazard to the citizens or animals of Indiana, the board may:

(1) use funds appropriated to the board by the general assembly for indemnity or any other purpose; and

(2) submit to the budget agency a request for additional funds under IC 4-12-1-15 or any other prescribed procedure and use any funds received;

to address the hazard.

Sec. 12. The board may purchase an animal or object to prevent, detect, control, and eradicate diseases and pests of animals.

Sec. 13. The board shall prescribe and furnish upon request all forms to be used in conjunction with applications and reports required under this article.

Sec. 14. All money received by the state veterinarian under this chapter shall be reported to the auditor of state at the end of each

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month or at another time prescribed by law, and at the same time the state veterinarian shall deposit the entire amount of the receipts with the treasurer of state for deposit in the state general fund.

Sec. 15. The Indiana State Poultry Association is designated as the official state agency to cooperate with the United States Department of Agriculture and the board in administering the national poultry improvement plan.

Sec. 16. A person may not feed or permit the feeding of garbage to swine, except for rendered products.

Chapter 11. Disposal of Dead Animals

Sec. 1. This chapter does not apply to or affect the following:

(1) Any person:

(A) slaughtering, butchering, manufacturing, or selling in any manner any animal flesh or products, or any poultry flesh or poultry products, where the animals or poultry are killed for the sole purpose of being used for human consumption;

(B) engaged in transporting and disposing of the bodies of the animals killed for human consumption; or

(C) engaged in the transportation and disposing of poultry or of any parts or products of animals or poultry to any person solely for human consumption.

(2) Any person transporting, disposing of, or selling the hides or skins of animals or tanning the hides or skins for the person's own use or the use of other persons, if the person does not engage in any other byproducts operation.

(3) Any bodies of dead fish, reptiles, or small animals of any kind, including dogs, cats, and small game.

(4) Any governmental agency collecting, transporting, or disposing of the bodies of dead animals or poultry in any manner.

(5) Any person collecting, transporting, or disposing of dead animals or poultry in any manner for educational or research purposes under a permit and approval of the board.

(6) Any livestock owner transporting the owner's dead livestock to a rendering plant or to a diagnostic facility.

Sec. 2. A person may not do the following:

(1) Engage in the business of operating a disposal plant without first obtaining a license for each disposal plant operated and any vehicle certificates required by this chapter.

(2) Transport over the roads the body of a dead animal not

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slaughtered for human food unless the person:

(A) holds a license to operate a disposal plant or collection service in Indiana or is acting for a licensee; or

(B) is exempt under this article.

Sec. 3. To obtain a license required under this chapter, a person must file an application for the license with the state veterinarian. The application must include the following information:

(1) The name and address of the applicant.

(2) The location of the place of business.

(3) The number and location of all substations.

(4) The number and kind of vehicles to be used.

(5) Any other information required under this article or by rules adopted by the board.

The application must be accompanied by the license fees required under this chapter.

Sec. 4. (a) On receipt of an application for a license under this chapter, the state veterinarian or a designee of the state veterinarian shall:

(1) inspect the disposal plant and the locality where the applicant is conducting or proposes to conduct business; and

(2) determine whether the applicant has fulfilled and complied with this chapter and the rules relating to the business.

(b) An inspection under this section must be conducted not later than thirty (30) days after the application is received by the state veterinarian.

Sec. 5. (a) A license issued under this chapter is valid until:

(1) a licensee voluntarily surrenders a license;

(2) the board suspends or revokes the license, as provided in this chapter; or

(3) the license period expires, as determined by the board under IC 15-17-16-3.

(b) The board may adopt rules to implement this chapter, including the following:

(1) Procedures for issuing, suspending, revoking, and updating licenses and certificates.

(2) Requiring annual or other regular reports from licensees to:

(A) determine the vehicle certificates required;

(B) determine the current status of facilities and equipment licensed under this chapter; or

(C) update other information used to administer this chapter.

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Sec. 6. (a) If an applicant for a disposal plant license complies with this chapter and any rules adopted under this chapter, the state veterinarian shall issue a disposal plant license to the applicant and a transport vehicle license certificate for each transport vehicle listed in the license application.

(b) A truck or trailer that is to be used as a transport vehicle must bear a license certificate issued by the state veterinarian.

(c) A transport vehicle license issued under this section entitles the licensee to operate a transport vehicle in Indiana.

Sec. 7. Subject to section 8 of this chapter, the fees for licenses issued under this chapter are as follows:

(1) The base license fee for each disposal plant, including transport vehicle certificates, is one hundred fifty dollars ($150).

(2) The license fee for each substation is twenty dollars ($20).

(3) The collection service license fee, including transport vehicle certificates, is one hundred fifty dollars ($150).

Sec. 8. The full amount of the fees specified in section 7 of this chapter must be paid for licenses and transport vehicle certificates issued before one-half (1/2) of the license period has expired. However, one-half (1/2) of the fee must be paid for licenses and certificates issued after at least one-half (1/2) of the license period has expired.

Sec. 9. If an applicant under this chapter is refused a license, the applicant's fees may not be refunded but must be deposited into the state general fund.

Sec. 10. (a) If the state veterinarian determines that an applicant for a disposal plant license has not complied with this chapter and the rules adopted under this chapter, the state veterinarian shall promptly mail the applicant the state veterinarian's written specific findings. The applicant may request in writing delivered to the state veterinarian a reinspection or reconsideration of the state veterinarian's findings. The state veterinarian shall not later than ten (10) days after the applicant's request make a similar second inspection, but is not required to make more than two (2) inspections of the same plant under one (1) application and the original payment of fees. However, the state veterinarian may make more than two (2) inspections if circumstances warrant additional inspections.

(b) If an application for a disposal plant license is denied, the applicant may reapply for a license by following the appropriate procedures and paying the required fees.

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Sec. 11. (a) A person desiring to construct a new disposal plant or reconstruct and reopen a disposal plant previously closed must submit to the state veterinarian a written request for a permit that includes the following information:

(1) A general statement of the applicant's proposed plan.

(2) The method of operating the business and disposal plant.

(3) Proof the disposal plant is located or will continue to be located at a site allowed by this chapter.

(4) Any other information required by the state veterinarian.

(b) In addition to the information required under subsection (a), the state veterinarian may require the applicant to submit detailed plans and specifications for the proposed disposal plant. The state veterinarian may submit the plans, specifications, and other information to any:

(1) qualified architects and engineers employed in any department of the state government; or

(2) qualified person not employed by the state;

to obtain advice concerning the proposed plant's compliance with this chapter and any rules adopted under this chapter.

Sec. 12. (a) If the state veterinarian finds that an applicant under section 11 of this chapter has complied with all of the relevant requirements of this article and any rules adopted under this article, the state veterinarian shall issue a permit to construct or reconstruct the disposal plant.

(b) After the disposal plant is completed and before it begins operations, the applicant shall notify the state veterinarian. After receiving notification, the state veterinarian shall:

(1) make the inspections that are required for an existing, established plant;

(2) use the procedures established for inspections and issuance of licenses;

(3) require the applicant to pay the license fees and any additional required fees;

(4) issue or deny the disposal plant's license; and

(5) comply with and require the applicant to comply with this chapter.

For each subsequent year, the annual license and other fees must be the same as for similar existing licensed plants.

Sec. 13. A:

(1) new disposal plant may not be located or constructed; and

(2) discontinued plant may not be reconstructed or reopened;

at any place where the location and operation of that plant is

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prohibited by law or ordinance.

Sec. 14. (a) This section does not apply to a disposal plant destroyed during a war.

(b) If:

(1) at least two-thirds (2/3) of the operating part of the disposal plant is destroyed; and

(2) the disposal plant is located on a site where constructing a new disposal plant under section 13 of this chapter would be prohibited;

the disposal plant may not be reconstructed and the site may not be used again for a disposal plant.

Sec. 15. Except as provided in this chapter, a person may not haul or transport over the highways the bodies of any dead animals, except those that have been slaughtered and are intended for human food, unless:

(1) the person has a valid disposal plant or collection service license issued under this chapter; and

(2) the bodies are being transported to a licensed disposal plant.

Sec. 16. (a) A license may not be issued to a person for the sole purpose of transporting the bodies of dead animals unless the person meets the requirements for a collection service under this chapter.

(b) A public official with a legal duty to protect the public health and welfare may remove or supervise the removal of the dead bodies of animals and the disposal of the dead bodies by any method provided for by this chapter.

Sec. 17. A transport vehicle must be constructed:

(1) in a manner that is practically watertight so that drippings or seepage from dead bodies does not escape from the vehicles if the drippings or seepage can be prevented;

(2) with an endgate designed to prevent drippings and seepage from escaping from the vehicle while transporting dead bodies; and

(3) in a manner that completely conceals the dead bodies in the transport vehicle from view of persons using the highways and any public nuisance is prevented during transport.

Sec. 18. After the bodies of dead animals have been unloaded from a transport vehicle, the transport vehicle and all parts of the transport vehicle must be thoroughly:

(1) washed out with steam or hot water; and

(2) cleansed and disinfected in a manner and with a solution

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as the state veterinarian may prescribe by rule.

Sec. 19. (a) If a transport vehicle is loaded with the body of an animal that has died of a disease, the vehicle must be driven directly to the place of disposal or to a substation maintained for the temporary storage of the animal body. However, the vehicle may stop along the highway to load other dead animal bodies.

(b) A driver of a transport vehicle may not do the following:

(1) Drive a transport vehicle upon the premises of any person unless the driver obtains the permission of the other person.

(2) Create a nuisance during the transportation of dead animal bodies.

(c) If any drippings or seepage escapes from a transport vehicle, the driver shall clean up the drippings or seepage and correct the escape, if possible to do so.

Sec. 20. (a) A person who owns or cares for an animal that has died from any cause shall dispose of the animal's body not later than twenty-four (24) hours after knowledge of death so as not to produce a nuisance. Subject to subsection (b), the disposal of the animal's body must be by one (1) of the following methods:

(1) At an approved disposal plant.

(2) Burial upon the owner's premises to such a depth that every part of the animal's body is at least four (4) feet below the natural surface of the ground and every part of the animal's body is covered with at least four (4) feet of earth in addition to any other material that may be used as cover.

(3) Thorough and complete incineration according to standards established by an appropriate governmental agency.

(4) Composting according to standards approved by the board.

(b) The board may adopt rules to allow alternate methods for the safe, orderly, and efficient disposal of dead animals.

(c) The board may adopt rules and issue orders restricting the use of the disposal methods described in subsection (a) to control disease.

Sec. 21. A person who owns or controls a dead animal that has not died of a contagious disease may remove the hide or skin of the animal on the person's own premises before burying the body as required under this chapter. However, the skinning and disposition of the hide, skin, and body must be made in a manner that will avoid the creation of a nuisance.

Sec. 22. A person may not bury the body of any animal within

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the corporate limits of a city or town if the burial is prohibited by law or ordinance.

Sec. 23. (a) A disposal plant is not considered a suitable or sanitary place for disposing of the bodies of dead animals by any process of cooking unless it conforms to the following minimum specifications:

(1) The building must have four (4) walls complete and be provided with concrete or cement floors and be thoroughly sanitary in construction and maintenance. Any sewage, drainage, or waste water of any kind that has an offensive or obnoxious character or odor, is detrimental to human, animal, agricultural, or aquatic life, or may constitute a public nuisance must be discharged into a public sewer. If a public sewer is not available, the sewage, drainage, or waste water must be disposed of according to the requirements of water pollution control laws (as defined in IC 13-11-2-261).

(2) All disposal plants where a rendering process is conducted must be properly equipped, operated, and designed to:

(A) minimize the escape of vapors during processing; and

(B) expose the material being processed to conditions that will kill all pathogenic organisms.

The board may adopt rules specifying conditions that a rendering process must meet in order to protect the public health.

(3) If the owner or operator of a disposal plant wishes to sell any part or parts of any animal carcasses taken to the owner's or operator's disposal plant for use in the manufacture of pet food or for feeding mink and other animals, the disposal plant must have a separate room where the animal bodies that are considered suitable for animal food are taken. The processing and boning of carcasses must be done promptly, and the boned meat shall be ground or cut into small pieces not more than four (4) inches in diameter. While the meat is being ground or cut, a sufficient quantity of dye, charcoal, malodorous fish oil, or other denaturant approved by the state veterinarian must be applied to unequivocally preclude the meat's use in human food. Meat that is not immediately shipped must be refrigerated in a cooler storage room that prevents decomposition. Meat, before being shipped from a disposal plant, must be packed in a container approved by the state veterinarian. The container must be clearly marked or stamped with the legend "Unfit for Human Consumption".

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Lettering used in the legend must be at least as large as any other lettering on the container, and not smaller than one-half (1/2) inch in height or less than one-half (1/2) inch in width. The meat may be hauled to the plant of a manufacturer of pet food or to the place of feeding to animals at places approved by the state veterinarian. If, after the skinning and dismemberment of an animal body it is determined that the body is not suitable for pet food or animal feeding, the body must be taken to the processing area of the disposal plant and processed in the same manner as other animal bodies.

(4) The skinning and dismembering of bodies must be done within the disposal plant and in a manner that prevents unnecessary annoyance to other persons caused by the conditions or unsightly appearance of the bodies or any parts and contents of the bodies. All animal material transported to a disposal plant for disposal, except that disposed of under subdivision (3), must be disposed of within twenty-four (24) hours after delivery to the disposal plant, by a method allowed under this chapter, except where rendered impossible by accident or other casualty preventing the operation of the disposal plant, or where an epidemic or act of God has caused more bodies to be accumulated than can be reasonably disposed of within twenty-four (24) hours by the continuous operation of the plant, in which case the plant shall be placed in operation as soon as possible and operated continuously until all bodies are disposed of.

(b) A disposal plant may not be situated, constructed, maintained, or operated in a manner that creates or unnecessarily continues a public nuisance.

Sec. 24. (a) A disposal plant must maintain the following complete and accurate records concerning the disposal plant's nonedible meats:

(1) The amount denatured.

(2) The amount sold.

(3) To whom the meat was sold.

(4) The address of the consignee.

(5) How and by whom the meat was hauled.

(b) The records under subsection (a) must be open for inspection during the disposal plant's normal working hours to the state veterinarian, the commissioner of the state department of health, or the state veterinarian's or commissioner's agent.

Sec. 25. (a) Nonedible meat may be sold when properly

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decharacterized for shipment to a plant producing pet food or to a person for use in feeding mink and other animals as allowed by the state veterinarian.

(b) A disposal plant may not sell nonedible meats until after the following conditions have been met:

(1) The disposal plant has applied to the state veterinarian for a permit to sell nonedible meats.

(2) The state veterinarian has:

(A) inspected the disposal plant;

(B) determined that the disposal plant is adequate to process and handle nonedible meats; and

(C) issued to the disposal plant a permit to sell nonedible meat.

(c) An additional fee may not be charged for a permit issued under this section.

Sec. 26. (a) A person that does not operate a disposal plant licensed under this chapter may not operate a business to transport:

(1) dead animals;

(2) nonedible byproducts from the slaughtering of animals, including poultry; or

(3) restaurant grease;

for delivery to a disposal plant unless the person has a collection service license.

(b) A person desiring a collection service license must submit an application to the state veterinarian with payment of the license fee required under this chapter.

Sec. 27. (a) The owner or operator of a disposal plant in a state other than Indiana may apply to the state veterinarian for a collection service license as required by section 26 of this chapter.

(b) The collection service license application must include the following:

(1) The name of the applicant.

(2) The location of any proposed substation in Indiana to be used as a concentration site for the temporary deposit or storage of rendering materials pending final delivery to a disposal plant.

(3) The location of the applicant's disposal plant outside Indiana.

(4) The number and kind of vehicles that will be operated in Indiana.

(5) Other essential information required by rules adopted by

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the board.

(6) The license fee required under this chapter.

Sec. 28. The state veterinarian shall determine if an applicant for a collection service license meets the requirements for a collection service license within ninety (90) days after an application is filed.

Sec. 29. (a) If an applicant's application to operate a collection service under section 26 of this chapter does not comply with this chapter, the state veterinarian shall notify the applicant that the applicant's application does not comply with the requirements of this chapter and specifically indicate why the application does not comply. An application that does not comply with this chapter must be placed on hold for not more than sixty (60) days during which time the applicant may provide additional information showing the deficiencies have been corrected.

(b) After notification by the applicant that the deficiencies have been corrected, the state veterinarian shall promptly determine if the applicant is entitled to a license.

(c) If the state veterinarian again determines the applicant is not entitled to a license, the state veterinarian may deny the request for a license. If an application is denied, an applicant may reapply by submitting the information and fees required under this chapter.

Sec. 30. An application for a collection service license must include the fees required under section 7 of this chapter for a collections service license, including the appropriate fees for vehicle certificates and substations.

Sec. 31. A transport vehicle used by a collection service must meet the requirements for transport vehicles under this chapter.

Sec. 32. A substation maintained by a licensee under this chapter must meet the requirements under section 23(a) of this chapter.

Sec. 33. (a) The state veterinarian or the state veterinarian's authorized agent:

(1) shall inspect each plant and substation licensed under this chapter at least once each year; and

(2) may inspect plants and substations as often as is necessary to ensure compliance with this chapter.

(b) The state veterinarian shall enforce compliance with this chapter and the rules adopted under this chapter.

Sec. 34. (a) The state veterinarian may suspend or revoke a license issued under this chapter after receiving written certification of specific charges from the state department of health

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that allege:

(1) a particular disposal plant;

(2) the operation of a particular disposal plant; or

(3) the operator of a byproducts collection service;

is a menace to the public health.

(b) If a hearing on the license suspension or revocation is requested under this section, the hearing must be held not later than thirty (30) days after the charges of the state department of health are filed.

Chapter 12. Biological Products

Sec. 1. (a) A person may not use, offer for sale or exchange, or distribute any substance for the prevention or treatment of a contagious or infectious disease that:

(1) contains living germs in a virulent or attenuated state; and

(2) may at any time cause an outbreak of a contagious or infectious disease;

unless the person has submitted a notice to the state veterinarian describing the substance. The state veterinarian may require that a sample of the substance be submitted to the state veterinarian for examination.

(b) The state veterinarian may forbid the use of a substance that in the state veterinarian's judgment:

(1) jeopardizes the health of domestic animals; or

(2) causes the masking of a diagnosis of a contagious or infectious disease.

Sec. 2. (a) A person may not manufacture, sell, offer for sale, or distribute within Indiana a biological product for use on an animal unless the biological product is produced at an establishment that is:

(1) licensed by the United States Department of Agriculture, as provided in 21 U.S.C. 151 through 21 U.S.C. 158, as amended; or

(2) located in Indiana and approved by and issued permits by the board.

(b) The permitee shall pay the expenses related to the required tests for biological products approved under this section.

Sec. 3. A serum, virus, vaccine, or other remedy may not be produced at an establishment that is within four thousand (4,000) feet from any of the following:

(1) A public stockyard where a public livestock market is maintained.

(2) A garbage disposal or rendering plant where garbage or

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dead animals are hauled over a public street or highway.

Sec. 4. (a) Only vaccines produced at establishments:

(1) licensed under the federal Virus-Serum-Toxin Act (21 U.S.C. 151 through 21 U.S.C. 158); or

(2) in Indiana and approved by the board;

may be administered to animals in Indiana.

(b) The serial number and the date of expiration of a vaccine administered to animals must be affixed to the vaccine container.

Chapter 13. Feeder Pigs

Sec. 1. A livestock dealer's license is required to engage in business as a feeder pig dealer.

Sec. 2. Before issuing a feeder pig dealer a license under this chapter, the board shall inspect and approve the concentration point or points used by the feeder pig dealer.

Sec. 3. The board may do the following:

(1) Exempt from this chapter a farmer that moves feeder pigs into Indiana for the farmer's feeding program.

(2) Require a farmer described in subdivision (1) to obtain a special permit from the board for each shipment of feeder pigs moved into Indiana.

Sec. 4. The board shall establish standards for construction and maintenance of concentration points to assure adequate facilities for washing and disinfecting swine pens and maintaining sanitary conditions. Concentration points must meet the standards before approval.

Sec. 5. Pigs sold through:

(1) stockyards;

(2) livestock auction markets; or

(3) places of business where pigs are assembled for resale, other than pigs sold for immediate slaughter;

must be identified using an identification approved by the board before being moved from the point of sale.

Sec. 6. Except as provided in section 3 of this chapter, a person may not import, move, or introduce into Indiana any feeder pigs unless the feeder pigs are:

(1) identified using an identification approved by the board;

(2) accompanied by a permit issued by the board; and

(3) accompanied by an official certificate of veterinary inspection issued and signed by a veterinarian who is:

(A) licensed or legally able to practice in Indiana; and

(B) accredited by the United States Department of Agriculture or another sanctioning body approved by the

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board.

Sec. 7. All pigs must be vaccinated, treated, or inspected before sale or being offered for sale, as required by the board.

Sec. 8. Feeder pigs that are imported, moved, or introduced into Indiana in violation of this chapter shall be immediately placed under quarantine and unloaded at a facility designated by the board. The truck or conveyance used to transport the quarantined feeder pigs must be impounded until compliance with this chapter is determined. The consignor or shipper shall pay the costs of feeding and caring for the quarantined feeder pigs.

Chapter 14. Livestock Dealers

Sec. 1. This chapter does not apply to the following:

(1) The purchase of livestock by an individual for the individual's own use other than resale on the livestock market.

(2) The distribution of livestock in connection with programs dedicated to improvement of breeding practices or experimental procedures in which the ownership of the livestock remains vested, in whole or in part, in the distributor or breeder.

(3) The purchase or sale of livestock by a producer or farmer that buys or sells livestock in connection with a business of raising, feeding, grazing, or breeding livestock as a part of a farming enterprise and does not follow a definite or routine pattern of disposing of acquired livestock through channels of trade in less than sixty (60) days after the date of acquisition as part of a farming enterprise as distinguished from that of a dealer or trader.

(4) The purchase of livestock by slaughtering establishments, meat processors, restaurants, grocery stores, meat markets, and similar businesses if:

(A) the livestock is purchased solely for the purpose of being processed into meat products for use or sale in connection with the business; and

(B) the total number of livestock purchased for the use or sale does not exceed twenty (20) in any one (1) week.

Sec. 2. Unless specifically exempted in this chapter, a person must obtain a license under this chapter to act as a dealer in livestock in Indiana. A person may not deal in livestock after the expiration, suspension, or revocation of the person's license.

Sec. 3. The board shall classify dealers required to be licensed under this chapter based on the enterprise in which each dealer is engaged. The classifications must be consistent with the definitions

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set forth in this article and must be based on the facts in the dealer's license application and any supporting papers or any inquiry or investigation made in conjunction with the application.

Sec. 4. (a) Licenses are issued under the following classifications:

(1) A market facility dealer license issued to livestock auction markets, stockyards, packers, or concentration points.

(2) An individual dealer license issued to individual dealers and market agencies not operating a market facility.

(b) A separate license is required for each location at which stockyards, packing plants, market agencies, or livestock auction markets are operated. More than one (1) license may not be required of individual dealers other than those operating as market agencies at different locations.

(c) A license issued under this chapter continues in effect until the licensee ceases operating as a livestock dealer in Indiana or the board revokes the license.

(d) The board may adopt rules to implement this chapter, including the following:

(1) Procedures for issuing, suspending, revoking, and updating licenses.

(2) Requiring annual or other regular reports from licensees to:

(A) determine the required amount of bond coverage under this chapter or the current status of agents or other personnel acting under the license; or

(B) update other information used in administering the requirements of this chapter.

Sec. 5. (a) Subject to subsection (b), a livestock dealer may designate agents subject to the liabilities that ordinarily attach under a contract of agency. An agent may deal in livestock for the principal under the principal's livestock dealer license. An agent dealing in livestock may deal only as an agent for the principal unless the agent has obtained a separate license under this chapter.

(b) A livestock dealer may not designate an individual as an agent if the individual's dealer's license was suspended or revoked in any state or by the United States Department of Agriculture, Grain Inspection, Packers and Stockyards Administration during the two (2) years preceding the proposed designation.

Sec. 6. (a) Except as provided under sections 7 and 8 of this chapter, before operating a livestock dealer business, a person must execute and maintain a bond or bond equivalent that meets

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the requirements of this section.

(b) The form of the bond or bond equivalent shall be prescribed by the board and must meet the following minimum requirements:

(1) The instrument must be payable to the state of Indiana, as obligee, for any person who may be damaged as a result of a breach of the conditions of the instrument.

(2) The terms of the instrument must secure the performance of the licensee's obligations under this chapter. The instrument must specifically provide that the dealer will pay all legal claims that may accrue in favor of any seller of livestock in Indiana.

(3) The surety on any livestock dealer bond or bond equivalent must be a surety company authorized to do business in Indiana.

(4) The bond or bond equivalent is considered to be continuous unless otherwise specified. The instrument must contain a provision requiring that, before terminating the instrument, the terminating party must serve to the board either:

(A) written notice of termination at least thirty (30) days before the effective date of the termination; or

(B) notice of a valid replacement bond or bond equivalent that provides continuous coverage.

(c) The livestock dealer bond or bond equivalent required under this section must be an amount that is not less than the next highest multiple of five thousand dollars ($5,000) above the quotient of:

(1) the dollar amount of livestock transactions conducted by the license applicant during the preceding twelve (12) months, or in that part of the year in which the applicant did business; divided by

(2) the number of days on which business was conducted.

(d) The following apply to the calculation set forth in subsection (c):

(1) The number of days on which business was conducted in a year may not exceed one hundred thirty (130).

(2) The amount of the bond or bond equivalent may not be less than ten thousand dollars ($10,000), and when the requirements exceed fifty thousand dollars ($50,000) under the calculations as specified in subsection (c), the amount of the instrument need not exceed fifty thousand dollars ($50,000) plus ten percent (10%) of the excess raised to the next multiple of five thousand dollars ($5,000).

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(e) If the gross amount of business transacted during a twelve (12) month period changes and warrants an increase in the amount of bond or bond equivalent coverage required under this chapter, the dealer shall have the bond or bond equivalent adjusted to comply with this chapter. If the gross amount of business changes to warrant a decrease in the amount of bond or bond equivalent required under this chapter, the dealer may have the bond or bond equivalent adjusted accordingly.

(f) A licensee may furnish a blanket bond or bond equivalent, based upon the gross amount of business transacted on an annual basis for each enterprise operated under the same ownership, instead of individual instruments for each enterprise operated.

Sec. 7. If a licensee under this chapter has a valid bond or bond equivalent on file with the United States Department of Agriculture, Grain Inspection and Packers and Stockyards Administration, and the bond or bond equivalent is an adequate amount and conditioned upon terms that provide at least as much protection to sellers of livestock as a state bond under this chapter, additional coverage by bond or bond equivalent under this chapter is not required.

Sec. 8. A packer, other than a packer operating stockyards in Indiana, is not required to furnish security under section 6 of this chapter if a bond or bond equivalent is not required of the packers under the federal Packers and Stock Yards Act of 1921 (7 U.S.C. 181 through 7 U.S.C. 229).

Sec. 9. A dealer required to be licensed under this chapter shall keep records, accounts, and memoranda fully and correctly disclosing all purchases, sales, or transfers involving completed livestock transactions in connection with the dealer's business. The records concerning the business must disclose all persons with an ownership interest in the business, including stockholders. If the board finds that the accounts, records, memoranda, and ownership interest do not fully disclose all the transactions involved in the dealer's business, the board may prescribe the record keeping procedures that the dealer must follow.

Sec. 10. (a) Scales used by a dealer licensed under this chapter are subject to inspection and testing by a scale inspector who may be any weights and measures inspector appointed by the state department of health. Scales are subject to the applicable requirements of the code of specifications, tolerances, and rules for scales adopted by the state department of health.

(b) If, after proper inspection and testing, a scale fails to meet

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the applicable requirements of subsection (a), the scale inspector may condemn the scale to prevent its further use until the scale is brought into conformance with the requirements.

(c) A dealer licensed under this chapter, after a hearing under this chapter, shall have the dealer's license revoked if the hearing establishes that the dealer is guilty of fraudulent, deceptive, or dishonest practices in the weighing of livestock.

Sec. 11. (a) A person who knowingly or intentionally allows a scale to be used in a business transaction involving the purchase, sale, or exchange of livestock:

(1) after the scale has been condemned; and

(2) before it has been repaired to the satisfaction of the scale inspector;

commits a Class D felony.

(b) In addition to any criminal penalties imposed, a person who violates subsection (a) may be subject to a civil penalty of fifty dollars ($50) for each day the defective scale is used. If a civil penalty is assessed under this subsection and not paid, the prosecuting attorney of the county where the proceeding was brought may enforce the collection of the civil penalty. Civil penalties collected under this section must be deposited in the state general fund.

Chapter 15. Sales, Shipments, and Exhibitions

Sec. 1. A person may not sell an animal that the person knows or suspects has an infectious or contagious disease except:

(1) to an approved slaughtering establishment;

(2) to a licensed marketing facility; or

(3) as the state veterinarian directs.

Sec. 2. (a) A person that operates or conducts a sale of livestock shall keep an accurate and complete record of all sales, including the following:

(1) The kind of animals received for sale.

(2) The name and address of the person from whom the animals were received.

(3) The date on which the animals were received.

(4) The name and address of the person to whom the animals were sold.

(5) The kind and number of animals sold to each person.

(6) The price paid for the animals.

(7) The record of individual ear tags, ear notches, back tags, tattoos, or brands for each animal.

(8) If tested, individual test records, health records, and

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health certificates for each animal.

(9) Any other information required by the board.

(b) The record must be available for inspection by authorized personnel of the board.

Sec. 3. (a) The board may adopt rules requiring that:

(1) all dairy or breeding cattle and bison sold through any public or private sale must be accompanied with an official health certificate; and

(2) the cattle and bison test negative for brucellosis and tuberculosis.

However, a special form prescribed by the board may be used for this purpose instead of the certificate of veterinary inspection.

(b) The board may adopt rules exempting animals from testing for brucellosis and tuberculosis within Indiana or other states or areas.

(c) The board may not adopt rules exempting animals presenting little risk of spreading disease from brucellosis and tuberculosis testing requirements. However, the state veterinarian may order cattle of any age to be tested to determine the disease status of the animal.

Sec. 4. Cattle that react positively to a brucellosis test may not be sold for any purpose other than immediate slaughter. If cattle first react positively to a brucellosis test at a livestock auction market, community sale, or public stockyard, the owner or consignor of the cattle may remove the cattle to the owner's or consignor's premises, subject to quarantine laws and restrictions prescribed by the board. If a retest is negative, the animal may be sold in the same manner as any other animal that reacts negatively.

Sec. 5. A person owning, operating, or controlling a livestock auction market, livestock show, or public stockyard in Indiana shall thoroughly clean and disinfect all the premises and enclosures according to rules adopted by the board. All disinfecting agents used for disinfecting swine, crates, cars, and other conveyances and the methods of disinfecting must meet the approval of the state veterinarian.

Sec. 6. A person operating or conducting a livestock auction market, community sale, or public stockyard may not sell or offer for sale any swine unless the swine have been:

(1) vaccinated;

(2) treated;

(3) vaccinated and treated; or

(4) inspected;

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according to rules adopted by the board.

Sec. 7. (a) An animal may be sold for immediate slaughter at a livestock auction market, community sale, or public stockyard.

(b) A person may not knowingly resell or divert for any purpose, other than immediate slaughter to an approved slaughtering establishment, an animal sold for immediate slaughter.

Sec. 8. An injured or a diseased animal and its products are unfit for human consumption and may not be:

(1) sold or offered for sale; or

(2) purchased or offered for purchase;

for food purposes.

Sec. 9. The sale, exhibit, or display of animals at a fair or livestock show is subject to rules adopted by the board.

Sec. 10. The operator of a livestock auction market or community sale and the operator's agents and employees shall provide reasonable assistance to the personnel engaged in state inspection as required to enable the inspectors to perform their duties. The operator shall furnish the facilities and assistance necessary to restrain animals to allow state inspection. The operator shall furnish the facilities necessary to allow the inspector to conduct tests and fill out all papers and forms required for the inspector's duties.

Sec. 11. Animals moving in trade or market channels within Indiana must be identified to the extent and in a manner considered necessary and prescribed by the board.

Sec. 12. The official health certificates, tests, charts, or other prescribed documents that are required by law or by rule must:

(1) accompany animals when they are transported, shipped, or moved;

(2) be present in the truck or other vehicle of transport used in shipping the animals; and

(3) be available for inspection by authorized personnel of the board.

Chapter 16. Licenses

Sec. 1. (a) An application for a license under this article must be made on forms prescribed by the board. The board may adopt a rule that requires:

(1) the information on the application to be subscribed and sworn to or affirmed before a notary public by the applicant or the applicant's authorized representative; and

(2) that the affidavit is a component of the application.

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(b) The application must include the information required by this article. The board shall use the information from the application and other information as the board considers pertinent to determine whether a license should be issued, suspended, revoked, or denied.

Sec. 2. (a) Except for an applicant that is a foreign corporation, a nonresident applicant for a license under this article must file with the board an irrevocable consent that specifies the following:

(1) The proceedings against the applicant may be filed in any appropriate court of any county or municipality in Indiana where:

(A) the plaintiff resides; or

(B) any part of the transaction occurred out of which the alleged cause of action arose.

(2) The process in any action may be served on the applicant by leaving with the board two (2) copies of the complaint or pleadings that have been filed in an Indiana court.

(3) That the service of process in subdivision (2) is valid and binding for all purposes.

(b) The board shall promptly forward, by registered mail, one (1) copy of any service of process to the applicant at the address shown on the records of the board.

(c) A foreign corporation may not receive a license under this chapter until it is authorized by the secretary of state to do business in Indiana.

Sec. 3. (a) The board may adopt rules concerning the following:

(1) Annual or biannual renewal of any class of license issued under this article.

(2) A common renewal date for each class of license.

(b) The state veterinarian or the state veterinarian's authorized agent shall sign each license issued by the board.

Sec. 4. The board may not refuse to issue a license without cause.

Sec. 5. The board may refuse to issue or reissue and may suspend or revoke a license issued under this article for any of the following reasons relating to the licensee or applicant for a license:

(1) Material misstatement in the application for original license, or in the application for any reissue of a license, under this article.

(2) Violation of this article or of a rule or order of the board.

(3) Abetting another in the violation of this article or of a rule or order of the board.

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(4) Allowing a license issued under this article to be used by an unlicensed person.

(5) Conviction of a crime, an essential element of which is misstatement, fraud, or dishonesty.

(6) Conviction for violating a law or regulation of another state or of the United States that is materially similar to a substantive provision of this article or a rule of the board.

(7) Suspension or other disciplinary action taken by the Secretary of the United States Department of Agriculture under the Packers and Stock Yards Acts of 1921 (7 U.S.C. 181 through 7 U.S.C. 229), as amended, if it appears that the applicant or licensee committed or participated in the violation covered by the disciplinary action.

(8) Material misrepresentation or false promises of a character likely to influence, persuade, or induce to action, in connection with any business subject to this article.

(9) Failure to possess the qualifications determined by the board to be necessary or to meet the requirements of this article for the issuance or holding of a license.

Sec. 6. Pending:

(1) a proceeding to suspend or revoke a license issued under this article; or

(2) an appeal from a decision to suspend or revoke a license issued under this article;

each person affected by the proceeding or appeal shall continue to comply with this article.

Sec. 7. The board:

(1) may upon its own motion; and

(2) shall upon a verified written complaint that alleges facts that would constitute grounds for refusal, suspension, or revocation of a license under this article;

investigate the actions of an applicant or person holding or claiming to hold a license under this article.

Sec. 8. After the revocation or suspension of a license, the licensee must surrender the license to the board. If the licensee fails to surrender the license, the board may seize the license.

Sec. 9. A person who recklessly, knowingly, or intentionally engages in an activity without a license required for the activity under this article commits a Class D felony.

Chapter 17. Administrative Hearings

Sec. 1. The board may conduct any hearings that the board considers necessary for the performance of the board's duties

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under this article, IC 15-18-1, or IC 15-19-6.

Sec. 2. If a hearing is provided for or authorized to be held by the board, the board may designate a person as the board's agent to conduct the hearing.

Sec. 3. All hearings for the purpose of agency action shall be conducted under IC 4-21.5, unless the procedure is waived by the parties concerned after due notice of the right to a hearing under IC 4-21.5 has been given. Waiver of a hearing may be made in writing or by failure to request in writing a hearing under IC 4-21.5, within fifteen (15) days after receipt of the notice.

Sec. 4. Before:

(1) any license is denied, suspended, or revoked;

(2) any disciplinary action is taken; or

(3) the rights of any persons are adversely affected;

under this article, IC 15-18-1, or IC 15-19-6, notice must be given to the person affected by the agency action. The notice must contain a statement of the person's right to adjudication of the action under IC 4-21.5.

Sec. 5. Any notice required by this article, IC 15-18-1, or IC 15-19-6, including notice required under IC 4-21.5-3, may be served by:

(1) personal delivery to the person concerned, by leaving the notice at the place of business or residence last specified by the person concerned or the person's last notification to the board; or

(2) mailing the notice by registered or certified mail to the place of business or residence last specified by the person concerned in the person's last notification to the board.

Sec. 6. Any person who is aggrieved by the enforcement of any rule adopted by the board or any order of the state veterinarian or the board may appeal to the board for a review of the enforcement or order. The board may review the enforcement or order on appeal and affirm, modify, or reverse the enforcement or order appealed from.

Sec. 7. An aggrieved person may seek judicial review of a final determination of the board under IC 4-21.5-5.

Chapter 18. Crimes and Infractions

Sec. 1. A person who knowingly or intentionally:

(1) treats a bovine animal with a material, substance, or biologic to interfere with the brucellosis test or with a reaction to a brucellosis test;

(2) fraudulently makes an animal react to a brucellosis test;

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or

(3) interferes with the inspector who is making the test;

commits a Class D felony.

Sec. 2. A person who knowingly or intentionally:

(1) alters or changes an animal's official identification to conceal the identity of an animal;

(2) interferes with the official identification of a diseased domestic animal;

(3) removes, without permission of the board, except as provided in this article, any animal from a herd placed under quarantine; or

(4) alters or changes the official identification of any domestic animal;

commits a Class D felony.

Sec. 3. A person who knowingly or intentionally:

(1) sells;

(2) keeps, with intent to sell; or

(3) disposes of to another person, with intent to conceal, except for immediate slaughter;

an animal classified as a reactor, or suspected of being affected with any disease as disclosed by a test recognized by the board, commits a Class D felony.

Sec. 4. A person who knowingly or intentionally:

(1) delivers for transportation;

(2) drives on foot;

(3) removes from the premises where they are located; or

(4) receives for transportation;

any cattle classified as a reactor or suspected of being affected with brucellosis as disclosed by a test recognized by the board, except for immediate slaughter or by special permit from the board, commits a Class D felony.

Sec. 5. A person who knowingly or intentionally transports a domestic animal identified as a reactor with other domestic animals, except where the other domestic animals are being transported for immediate slaughter, commits a Class D felony.

Sec. 6. A person who knowingly or intentionally imports a domestic animal into Indiana without taking suitable precautions to prevent the introduction and spread of contagious or infectious disease, in conformance with the rules adopted by the board, commits a Class D felony.

Sec. 7. A person who knowingly or intentionally moves, from the property on which the domestic animal is confined, a domestic

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animal that has an infectious or a contagious disease, except under rules adopted by the board, commits a Class D felony.

Sec. 8. (a) Except as provided in subsection (b), a person responsible for livestock or poultry who knowingly or intentionally permits the livestock or poultry to run at large commits a Class B misdemeanor.

(b) Subsection (a) does not apply to a person who keeps livestock on property by means of a cattle guard or another device under IC 8-17-1-2.1.

Sec. 9. (a) This section does not apply to IC 15-17-5 or IC 15-18-1.

(b) A person who knowingly or intentionally violates or fails to comply with this article commits a Class D felony.

(c) A person who knowingly or intentionally violates or fails to comply with a rule adopted under this article commits a Class A infraction.

Sec. 10. A person may not import to or export from Indiana for the purpose of sale any dog under the age of eight (8) weeks unless the dog is transported with its dam. However, research facilities licensed under the federal Laboratory Animals Welfare Act, 7 U.S.C. 2131 et seq., are exempted from this prohibition.

Sec. 11. (a) A person who sells:

(1) a bird under the age of three (3) weeks; or

(2) a rabbit under the age of two (2) months;

commits a Class B misdemeanor. This subsection does not apply to commercial breeders or distributors whose facilities are adequately equipped for the care of young birds or rabbits.

(b) A person who dyes, stains, or alters the natural coloring of a bird or rabbit commits a Class B misdemeanor.

Sec. 12. (a) This section does not apply to IC 15-17-5 or IC 15-18-1.

(b) A person who violates this article, a rule adopted under this article, or a determination or order of the board or an agency made under this article is liable for a penalty not to exceed twenty-five thousand dollars ($25,000) for each day of the violation, plus payment to the board for the costs incurred by the board as a direct consequence of prosecution for the violation. These penalties and costs may be recovered in a civil action commenced in any court of competent jurisdiction by the board or an agency. In addition, in an action to recover the penalty, a request may be made that the person be enjoined from continuing the violation.

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Sec. 13. Official health certificates, official certificates of veterinary inspection, and official certificates of vaccination, tests, and other prescribed documents that are required by this article or by rule constitute written instruments for purposes of IC 35-43-5.

Chapter 19. Enforcement

Sec. 1. All law enforcement officers and law enforcement agencies within Indiana shall provide assistance as is necessary to the board, the state veterinarian, a county veterinarian, or an agent of the United States Department of Agriculture in enforcing this article.

Sec. 2. This article may be enforced by any appropriate action in the name of the state of Indiana, filed and conducted by the attorney general or the appropriate prosecuting attorney.

Sec. 3. (a) If a person engages in the business of a livestock dealer, including employing an individual to act on the person's behalf, without a license required under this article:

(1) the attorney general;

(2) the board or the board's representative;

(3) the prosecuting attorney; or

(4) a resident of the county in which the person engaged in the business of dealing without a license;

may maintain an action in the name of the state to enjoin the person from continuing the violation.

(b) An injunction granted under this section does not relieve a person from any criminal prosecution allowed for the person's violation of this article.

(c) A complaint for an injunction is sufficient if it alleges that:

(1) on a certain date; and

(2) in a specific county;

the person engaged in business as a livestock dealer and did not have a valid license required under this article.

(d) If an injunction is granted in an action brought by a resident of the county, the court shall order the defendant to pay reasonable attorney's fees to the plaintiff's attorney.

SECTION 9. IC 15-18 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 18. DAIRY PRODUCTS

Chapter 1. Milk and Milk Products; Permits; Standards; Inspections

Sec. 1. The following apply to this chapter:

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(1) IC 15-17-2 (definitions).
(2) IC 15-17-16 (licensing).
(3) IC 15-17-17 (hearings).
(4) IC 15-17-19 (enforcement).

Sec. 2. (a) A person may not produce, provide, sell, offer, display for sale, or have in possession with intent to sell milk or a milk product that is adulterated or misbranded.

(b) Adulterated or misbranded milk or a milk product may be impounded by the board and disposed of in accordance with IC 16-42-1 and IC 16-42-2-6. For purposes of this section, references in IC 16-42-1 and IC 16-42-2-6 to:

(1) "state health commissioner" refer to the state veterinarian; and
(2) "department" refer to the board.

(c) Milk and milk products must conform to the standards in this chapter and in the rules adopted by the board. However, if there is an emergency, general, and acute shortage of milk in a milkshed, the board may authorize the sale of pasteurized milk that does not fully meet the requirements of this chapter.

Sec. 3. (a) A person that operates a milk plant, operates a receiving station or transfer station, acts as a milk distributor, acts as a bulk milk hauler/sampler, operates a milk tank truck, operates a dairy farm, operates a milk tank truck cleaning facility, operates a business that manufactures containers for milk or milk products, or any other person that does not possess a permit from the board may not:

(1) bring, send, or receive into Indiana for sale;
(2) sell or offer for sale in Indiana; or
(3) store in Indiana;

any milk or milk products. Grocery stores, restaurants, soda fountains, and similar establishments where milk or milk products are served or sold at retail, but not processed, are exempt from the requirements of this section. The board may recognize a permit issued by another state for a truck used to transport milk instead of issuing an Indiana permit for the same truck.

(b) To obtain a permit required by this chapter, a person must submit a written application to the board, in the form prescribed by the board.

(c) Only a person who complies with this chapter is entitled to receive and retain a permit. Permits are not transferable with respect to persons or locations.

Sec. 4. (a) The board may suspend a permit issued under section

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3 of this chapter whenever:

(1) there is reason to believe that a public health hazard exists;

(2) the permit holder has violated any of the requirements of this chapter; or

(3) the permit holder has interfered with the board in the performance of the board's duties.

(b) The board shall:

(1) in all cases except where the milk or milk product involved creates or appears to create an imminent hazard to the public health; or

(2) in any case of a willful refusal to permit authorized inspection;

serve upon the permit holder a written notice of intent to suspend the permit under IC 4-21.5. A suspension of a permit is effective immediately and remains in effect until the violation has been corrected to the satisfaction of the board.

Sec. 5. (a) When a permit has been suspended due to a violation of any of the bacterial, coliform, somatic cell, or cooling temperature standards, the board shall, not later than one (1) week after the receipt of a written application for reinstatement of a permit, issue a temporary permit after determining by an inspection of the facilities and operating methods that the conditions responsible for the violation have been corrected. Samples must then be taken at the rate of not more than two (2) per week on separate days within a three (3) week period, and the board shall reinstate the permit upon compliance with the appropriate standard, as determined in accordance with section 13 of this chapter.

(b) If a permit has been suspended due to a violation of a drug residue test requirement or a requirement other than the bacteriological, coliform, somatic cell, or cooling temperature standards, the application for reinstatement must contain a written statement that the violation has been corrected. Not later than one (1) week after the receipt of an application, the board shall make an inspection of the applicant's establishment and as many subsequent additional inspections as are considered necessary to determine that the applicant's establishment is complying with the requirements. When the findings justify, the permit must be reinstated. If a permit has been suspended due to drug residues, the permit shall be reinstated in accordance with section 17 of this chapter.

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Sec. 6. The board may refuse to issue or reissue, may suspend for a definite time, or may revoke permits issued under this chapter for repeated violations of this chapter or a rule adopted by the board. The refusal to issue or revocation of a permit under this section must be conducted in accordance with IC 4-21.5.

Sec. 7. A permit issued under this chapter expires as follows:

(1) A bulk milk hauler/sampler permit expires on December 31 of the third year after the year in which the permit was issued.

(2) A dairy farm permit expires upon an action listed in subdivisions (4) through (6).

(3) A permit, other than a bulk milk hauler/sampler permit and a dairy farm permit, expires on December 31 of the year in which the permit was issued. Permits issued within the last three (3) months of a year may be issued to expire on December 31 of the following year.

(4) Upon discontinuance of operation for a period of ninety (90) days.

(5) Upon the revocation of the permit by the board.

(6) Upon the sale or other transfer of an operation to a different owner or operator.

(7) For a milk distributor, milk plant, receiving station, transfer station, or milk tank truck cleaning facility, a transfer of the place of business from one (1) building or room to another.

Sec. 8. The board may adopt rules under IC 4-22-2 to implement sections 3 through 7 of this chapter.

Sec. 9. (a) The state veterinarian shall examine each application for a permit required in this chapter. If the applicant for a permit has complied with all statutes and rules enforced by the board, the state veterinarian shall cause the premises, location, equipment, and operating practices of the applicant to be inspected not later than ten (10) days after the receipt of the application for a permit. If the premises, location, equipment, and operating practices comply with this article and the rules of the board, the state veterinarian shall issue a permit entitling the applicant to engage in the business for which the application was submitted.

(b) The board shall conduct the following inspections:

(1) Each dairy farm and transfer station at least one (1) time every six (6) months.

(2) Each milk plant and receiving station at least one (1) time every three (3) months.

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In addition, following the issuance of a permit, the board may, to determine compliance with this chapter, inspect the licensee's facility, procedures, and equipment.

(c) If the board finds a violation of the standards for Grade A milk adopted under section 14 of this chapter, a second inspection is required after the time thought necessary to remedy the violation but not sooner than three (3) days after finding the violation. The reinspection must be used to determine compliance with the requirements adopted under section 14 of this chapter. A violation of the same requirement on the reinspection results in permit suspension in accordance with section 6 of this chapter or court action, or both.

(d) One (1) copy of the inspection report must be:

(1) handed to the operator or other responsible person; or

(2) posted in a conspicuous place on an inside wall of the establishment.

The inspection report may not be defaced and must be made available to the board upon request. An identical copy of the inspection report must be filed with the records of the board.

(e) A person licensed under this chapter shall, upon request of the board, permit access of officially designated persons to all parts of the person's establishment or facilities to determine compliance with this chapter. A distributor or plant operator shall furnish the board, upon request and for official use only, a true statement of the actual quantities of milk and milk products of each grade purchased and sold and a list of all sources of the milk and milk products, records of inspection, tests, and pasteurization time and temperature records.

(f) A person who, in an official capacity, obtains under this chapter any information that is entitled to protection as a trade secret, including information as to quantity, quality, source, or disposition of milk or milk products, or results of inspections or tests, may not use the information to the person's own advantage or reveal the information to an unauthorized person.

Sec. 10. If the board finds unsanitary conditions existing in violation of sanitary statutes or rules of the state or a violation of this chapter:

(1) on a dairy farm;

(2) in a milk plant, receiving station, transfer station, or milk tank truck cleaning facility; or

(3) by a milk distributor, bulk milk hauler/sampler, owner of a can milk route, or owner of a milk tank truck;

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the board shall, by notice in writing to the person committing the violation, prohibit the sale or transportation of raw or pasteurized milk or milk products until the unsanitary condition or violation is removed to the satisfaction of the board and the prohibition is terminated.

Sec. 11. (a) A milk plant, receiving station, or transfer station that receives raw milk or raw cream from a producer of raw milk or raw cream shall employ at least one (1) approved grader.

(b) The board may issue an approved grader permit to a person who meets the following requirements:

(1) The person has submitted an application for an approved grader permit to the board.

(2) The person has been trained by school or experience to grade and inspect raw milk or raw cream.

(3) The applicant has passed an examination given by the board.

(c) An application to renew an approved grader permit must be made on forms prescribed by the board.

(d) A permit of approval does not authorize an approved grader to be an official employee, an agent, or a representative of the board. An approved grader may not profess to be an employee, an agent, or a representative of the board.

Sec. 12. (a) A bottle, container, or package enclosing milk, Grade A dry milk products, or milk products must be labeled in accordance with the rules of the board.

(b) A vehicle or transport tank containing milk or milk products must be legibly marked with the name and address of the milk plant or hauler in possession of the contents.

(c) A tank transporting raw, heat treated, or pasteurized milk or milk products to a milk plant from sources of supply not under the routine supervision of the board must be marked with the name and address of the milk plant or hauler and must be sealed. In addition, for each shipment a shipping statement must be prepared containing at least the following information:

(1) The shipper's name, address, and permit number.

(2) The permit number of the hauler, if the hauler is not an employee of the shipper.

(3) The point of origin of shipment.

(4) The tanker identity number.

(5) The name of the product.

(6) The weight of the product.

(7) The grade of the product.

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(8) The temperature of the product.
(9) The date of shipment.
(10) The name of the supervising agent of the state regulatory authority at the point of origin.
(11) Whether the contents are raw, pasteurized, or heat treated.
(12) The seal number on inlet, outlet, and wash connections and vents.
(13) The grade of the product.
(14) The antibiotic test results.

(d) The statement must be prepared in triplicate and must be kept on file by the shipper, the consignee, and the carrier for six (6) months for the information of the board.

(e) The labeling information that is required on all bottles, containers, or packages of milk or milk products must be in letters of an acceptable size, kind, and color satisfactory to the board and must contain no marks or words that are misleading.

Sec. 13. (a) Samples of raw and processed milk and milk products must be collected as required under this section and rules adopted by the board as follows:

(1) A bulk milk hauler/sampler shall collect a representative sample of the milk from each farm tank before collecting the milk for delivery. Each sample must be labeled so as to identify the farm of origin. Each sample must be delivered to a milk plant, receiving station, transfer station, or other location approved by the board.
(2) During any consecutive six (6) months, at least four (4) samples of raw milk for pasteurization must be collected from each milk producer. The samples must be taken at least twenty (20) days apart.
(3) During any consecutive six (6) months, at least four (4) samples of raw milk for pasteurization must be collected from each milk plant, after receipt of the milk by the milk plant and before pasteurization. The samples taken from the producer may not be taken in the same month and the samples must be taken at least twenty (20) days apart.
(4) During any consecutive six (6) months, at least four (4) samples of pasteurized milk, heat treated milk, and at least four (4) samples of milk products and Grade A dry milk products must be taken from every milk plant. The samples must be taken at least twenty (20) days apart.

Samples of milk and milk products must be taken while in

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possession of the producer or distributor at any time before final delivery. Samples of milk and milk products from dairy retail stores, food service establishments, grocery stores, and other places where milk and milk products are sold must be examined periodically as determined by the board, and the results of the examination must be used to determine compliance with this chapter. Proprietors of such establishments must furnish the board, upon the board's request, with the names of all distributors from whom milk or milk products are obtained.

(b) Bacterial counts, somatic cell counts, and cooling temperature checks must be performed on raw milk for pasteurization as required by the board.

(c) In addition, antibiotic tests on milk from each producer's farm must be conducted at least four (4) times during any consecutive six (6) months, but not in the same month. Antibiotic testing of commingled milk from bulk milk vehicles must be conducted as specified by the United States Food and Drug Administration or the board. When commingled milk is tested, all producers must be represented in the sample. All individual sources of milk must be tested when test results on the commingled milk are positive. The milk plant, receiving station, or transfer station shall conduct or have conducted all tests required by the board on milk producer raw milk sample laboratory analyses and forward the results of the analyses to the board.

(d) Bacterial counts, coliform determinations, phosphatase, and cooling temperature checks must be performed on pasteurized milk and milk products as required by rules adopted by the board.

(e) Whenever two (2) of the last four (4) consecutive bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures taken on separate days exceed the limit of the standard for milk or milk products, the board shall send a written notice to the person concerned. This notice remains in effect as long as two (2) of the last four (4) consecutive samples exceed the limit of the standard. An additional sample must be taken not later than twenty-one (21) days after sending the notice, but not before the lapse of three (3) days. Immediate suspension of a permit or court action, or both, shall be instituted whenever the standard is violated by three (3) of the last five (5) bacteria counts, somatic cell counts, coliform determinations, or cooling temperatures.

(f) Whenever a phosphatase test is positive, the cause must be determined. If the cause is improper pasteurization, the problem must be corrected, and any milk or milk product involved may not

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be offered for sale.

(g) Samples must be analyzed at an official laboratory or appropriate officially designated laboratory. All sampling procedures and required laboratory examinations must be in substantial compliance with the most current edition of the Standard Methods for the Examination of Dairy Products of the American Public Health Association and the most current edition of the Official Methods of Analyses of AOAC International. These procedures and examinations must be evaluated in accordance with the methods of evaluating milk laboratories recommended by the United States Food and Drug Administration. Aseptically processed milk and milk products packaged in hermetically sealed containers must be tested in accordance with the United States Food and Drug Administration's Bacteriological Analytical Manual.

(h) Examinations and tests must be conducted to detect adulterants, including pesticides, as the board requires. Assays of vitamin D milk or milk products and fortified milk and milk products must be made at least annually by a milk plant in a laboratory acceptable to the board. Facilities fortifying products with vitamins must keep volume control records that cross-reference the form and amount of vitamin D and vitamin A used with the amount of product produced.

Sec. 14. (a) Raw milk for processing and milk and milk products must conform to all the standards in the rules adopted by the board.

(b) The board shall adopt a rule and may adopt emergency rules under IC 4-22-2-37.1 to establish standards for Grade A milk and milk products. The standards adopted under this section must be:

(1) the same as; or

(2) at least as effective in protecting health as;

the federal standards for Grade A milk adopted by the National Conference on Interstate Milk Shipments in accordance with the national conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration, including amendments to the federal standards in effect June 30, 1993.

(c) The board shall determine when an amendment to federal standards described in subsection (b) has been adopted. If the board determines that an amendment to the federal standards has been adopted, the board shall adopt rules and may adopt emergency rules under IC 4-22-2-37.1 to amend the rules adopted

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by the board under subsection (b) to provide a standard that is:

(1) the same as; or

(2) at least as effective in protecting health as;

the amendment to the federal standards for Grade A milk.

(d) The board may adopt standards for the production of manufacturing grade milk products.

(e) The board may do the following:

(1) Adopt rules defining grades of raw milk and milk products and various tests to be made at different intervals in the receipt of raw milk and milk products for the manufacturing or processing of milk and milk products.

(2) Adopt sanitary rules concerning the sampling, production, manufacturing, processing, handling, packing, storing, distributing, and transporting of milk and milk products for the enforcement of this chapter.

(3) Provide that raw milk and milk products that do not meet the minimum standards provided and that are unfit for human consumption be destroyed or removed from distribution channels for human food in a manner provided by rule.

(4) Require training for bulk milk hauler/samplers.

Sec. 15. (a) A person may not manufacture, sell, exchange, or have in the person's possession with intent to sell or exchange any milk or milk product that:

(1) does not conform to at least the minimum standards established and approved by the board; or

(2) is packaged in a container or wrapping with labeling that has not been approved by the board.

(b) A person may not manufacture, sell, exchange, or deliver, or have in the person's possession with intent to sell, exchange, or deliver, milk, cream, skim milk, condensed milk, evaporated milk, or powdered milk that:

(1) is mixed with sugar, eggs, flavors, or other substances;

(2) is:

(A) made in imitation or semblance of ice cream; or

(B) calculated or intended to be sold as ice cream or for ice cream; and

(3) does not conform with the standards for ice cream as approved and adopted by the board.

(c) This chapter does not prohibit the delivery to and the receiving of identifiable refillable milk containers by exchanges in the usual course of business and for the bona fide purpose of

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returning the containers to the lawful owners.

Sec. 16. (a) Milk must be screened for drug residue violations as follows:

(1) Except as provided in subdivision (2), milk shall be screened for drug residues as required by this chapter and rules adopted by the board. The board may adopt rules governing testing for drug residues in milk that are at least as effective in protecting the public health as the federal standards adopted by the National Conference on Interstate Milk Shipments in the Pasteurized Milk Ordinance.

(2) Milk from manufacturing grade dairy farms shall be tested for drug residues as required by this chapter and rules adopted by the board.

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

(4) All positive drug residue test results must be called into the office of the state veterinarian immediately, and a written report of the test results must be faxed or delivered to the office of the state veterinarian not later than twenty-four (24) hours after the test. The producer whose milk tested positive must be notified of the positive drug residue test immediately. The company that conducted the test is responsible for the reporting requirements in this subdivision.

(b) The board may impose a civil penalty described in section 17 of this chapter on a person that sells or offers to sell milk that contains drug residues.

Sec. 17. (a) The following definitions apply throughout this section:

(1) "Daily production" means the amount of milk, measured by hundred weight, produced by the positive producer in one (1) day, measured on the day in which the drug residue violation occurred.

(2) "Producer reimbursement" means an amount assessed against the positive producer to reimburse others for milk

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contaminated by the positive producer's contaminated milk, not including the value of the positive producer's contaminated milk for which the positive producer was not paid.

(3) "Revocation period" means the period after a Grade A producer's permit is revoked under this section that the producer may not apply for a Grade A permit.

(b) A penalty established under this section may not be more severe than the penalty standard for drug residue violations adopted by the National Conference on Interstate Milk Shipments in its Pasteurized Milk Ordinance adopted in accordance with the National Conference's Memorandum of Understanding with the United States Department of Health and Human Services, Food and Drug Administration. The penalty imposed may not exceed one thousand dollars ($1,000) for a first offense or two thousand dollars ($2,000) for a subsequent offense.

(c) A producer whose milk tests positive for drug residues shall pay a civil penalty and participate in drug residue education activities as follows:

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

(A) The civil penalty shall be determined as follows:

STEP ONE: Multiply the daily production by two (2).

STEP TWO: Multiply the STEP ONE result by three dollars ($3).

STEP THREE: Subtract the producer reimbursement from the STEP TWO result.

The positive producer shall pay a civil penalty that is the greater of the amount determined in STEP THREE or five dollars ($5).

(B) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the board of animal health, office of the state veterinarian within thirty (30) days after the drug residue violation. Failure to complete the protocol and submit proof of completion within thirty (30) days results in action to suspend the producer's permit.

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

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(A) The civil penalty shall be determined as follows:
STEP ONE: Multiply the daily production by four (4).
STEP TWO: Multiply the STEP ONE result by three dollars ($3).
The positive producer shall pay a civil penalty that is the greater of the amount determined in STEP TWO or five dollars ($5).
(B) The positive producer must, in conjunction with the producer's veterinarian and an official of the board, complete the "Milk and Dairy Beef Residue Prevention Protocol" and provide proof of completion to the state veterinarian within thirty (30) days after the drug residue violation. Failure to complete the protocol and provide proof of completion results in action to suspend the producer's permit.
(C) The producer must attend a producer education program or meeting designated by the state veterinarian. The producer is responsible for paying registration and material fees and other costs associated with attending the education program or meeting. The producer must provide proof of attendance to the state veterinarian within ten (10) days after completion of the program or meeting.
(3) The third positive test result for drug residues within a twelve (12) month period has the following results:
(A) The board shall revoke a producer's Grade A permit if the producer has a permit.
(B) The sanctions for a second offense set forth in subdivision (2) are imposed.
(C) The producer must submit to the state veterinarian a set of written procedures that the producer will follow to prevent future drug residue violations. The procedures must be submitted with the proof of completion required in subdivision (2) and must be specific, practical, and reasonably likely to lessen the possibility of a drug residue violation when followed by the producer.
(D) After a producer's Grade A permit is revoked for a third offense violation under this statute, the producer may not receive a new Grade A permit for thirty (30) days after the date of the revocation. After this period, the state veterinarian must issue a conditional Grade A permit to a producer that has applied for a permit if the producer has met all the requirements of this section at the time of

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application and the producer meets all other requirements of the board for obtaining a Grade A permit. The permit must be issued on the condition that all the requirements of this section must be completed within the time set forth in this section. A permit issued under this clause automatically becomes unconditional after the producer fully complies with this section.

(4) For each drug residue violation in a twelve (12) month period in excess of three (3) the producer is subject to the penalties for a third offense in subdivision (3), but for Grade A producers the revocation period begins on the date the producer's permit is revoked and runs for a period equal to two (2) times the length of the revocation period imposed after the producer's last drug residue violation.

(d) The state veterinarian, by special permit, may allow a producer that objects to the imposition of a civil penalty to dump two (2) days of milk production on a first offense and four (4) days of milk production on the second or third offense instead of paying a civil penalty if payment of a civil penalty would impose undue hardship on a producer. The state veterinarian may set the conditions under which the milk is to be dumped and may require documentation from the producer showing the circumstances under which the milk was dumped.

(e) Civil penalties collected under this section shall be deposited in the dairy drug residue abatement fund established by section 31 of this chapter.

Sec. 18. (a) Milk for pasteurization must be from herds that are located in a modified accredited tuberculosis free area as determined by the United States Department of Agriculture. Herds located in an area that fails to maintain accredited status must be accredited by the United States Department of Agriculture as tuberculosis free or must have passed an annual tuberculosis test.

(b) Milk for pasteurization must be from herds under a brucellosis eradication program that meets one (1) of the following conditions:

(1) Is located in certified brucellosis free areas as defined by the United States Department of Agriculture and enrolled in the testing program for the area.

(2) Meets United States Department of Agriculture requirements for an individually certified herd.

(3) Participates in a milk ring testing program that is conducted on a continuing basis at intervals of at least every

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six (6) months with individual blood tests on all animals in herds showing suspicious reactions to the milk ring tests.

(4) Conducts an individual blood agglutination test annually with an allowable maximum grace period not exceeding two (2) months.

(c) Goat milk and sheep milk for pasteurization must be from a herd or flock that meets health requirements adopted by rule of the board.

(d) For a disease other than brucellosis and tuberculosis and for conditions other than disease that may adversely affect public health, the board shall require physical, chemical, or bacteriological tests as the board considers necessary. The diagnosis of other diseases in dairy cattle, goats, and sheep must be based upon the findings of a licensed veterinarian or a veterinarian employed by an official agency. A diseased animal must be disposed of as the board directs.

(e) Records documenting the tests required in this section shall be validated with the signature of a licensed veterinarian accredited by the United States Department of Agriculture or a board veterinarian.

Sec. 19. Raw milk from dairy farms that do not have a valid permit from the board to sell Grade A raw milk for pasteurization must be cooled to sixty (60) degrees Fahrenheit and be maintained at that temperature at the point of origin unless the milk is delivered to a receiving station or transfer station not later than two (2) hours after milking.

Sec. 20. (a) Only Grade A pasteurized milk, Grade A pasteurized milk products, and manufacturing grade milk products that meet the requirements of this chapter, including rules adopted under this chapter, may be sold to the final consumer or to restaurants, soda fountains, grocery stores, or similar establishments.

(b) A municipality or county may not do the following:

(1) Impose different standards or requirements for Grade A milk and milk products or manufacturing grade milk products than those provided for in this chapter.

(2) Prohibit the sale of milk or a milk product if the milk or milk product has been produced and processed in accordance with this chapter.

(c) A milk product other than a milk product that bears a Grade A label must meet the requirements for the production, processing, and handling of Grade A milk. This labeling requirement does not

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apply to butter or to any other product that is excluded by rules of the board.

Sec. 21. (a) A person may not offer, display for sale, sell, deliver, or have possession of with intent to sell or deliver milk or milk products for human consumption unless every particle of the final mixture of the milk or milk products used in processing or manufacture has been thoroughly pasteurized by equipment approved by the board.

(b) The provisions of this chapter governing pasteurization do not apply to a person selling or offering for sale cheddar cheese that has been made from unpasteurized milk if:

(1) the cheese was made from unpasteurized milk and has been cured or ripened for at least sixty (60) days at a controlled temperature of at least thirty-five (35) degrees Fahrenheit; or

(2) the cheese is manufactured solely to be made into processed cheese that is pasteurized during the blending or manufacturing process.

Varieties of cheese other than that of the cheddar type made from unpasteurized milk must be ripened for the time and under the conditions prescribed by rule of the board. Cheese made from unpasteurized milk and offered or displayed for sale to the consumer must be labeled by the manufacturer or distributor with the manufacturer's or distributor's name and address or an equivalent identifying number or symbol and with the date of manufacture or a statement to the effect that the cheese has been cured or ripened for at least sixty (60) days.

(c) A pasteurizer of any milk or milk products must be equipped with accurate indicating thermometers and accurate recording thermometers and, for vat pasteurization equipment, an accurate airspace thermometer of a type approved by the board. Each recording thermometer chart must be dated and numbered and must show the amount in gallons, the kind of product pasteurized, the accurate readings of the indicating thermometers and airspace thermometers, the time the reading was made, and the operator's initials. Each chart may not be used for more than one (1) day of operations. The records of the pasteurization of each batch pasteurized must be retained for at least ninety (90) days.

Sec. 22. (a) Except as permitted in this section, a milk producer or distributor may not transfer milk or milk products from one (1) container or tank truck to another on the street, in a vehicle, store, or in any place except a milk plant, receiving station, transfer

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station, or milkhouse especially used for that purpose. The dipping or ladling of milk or fluid milk products is prohibited. A can milk hauler or a bulk milk hauler/sampler may not sample raw milk or milk products to test for butterfat or transfer raw milk or milk products from one (1) can or vehicle to another while in transit except in a receiving station, transfer station, or in conformity with the statutes and rules enforced by the board.

(b) A person may not sell or serve milk or a fluid milk product except in the individual original container received from the distributor or from an approved bulk dispenser. However, this requirement does not apply to the following:

(1) Milk for mixed drinks requiring less than one-half (1/2) pint of milk.

(2) Cream, whipped cream, or half-and-half that is consumed on the premises and that may be served from the original container of not more than one-half (1/2) gallon capacity or from a bulk dispenser approved for such service by the board.

(c) A person may not sell or serve pasteurized milk or a milk product that has not been maintained at a temperature required by rule adopted by the board. If containers of pasteurized milk or milk products are stored in ice, the storage container must be properly drained.

Sec. 23. (a) A person may not place or cause to be placed in a milk can or receptacle any sweepings, refuse, dirt, litter, garbage, filth, or any other animal or vegetable substance liable to decay and tending to produce or promote an unsanitary condition.

(b) A person may not allow a can or receptacle to remain uncleaned or bring or deliver to a person an uncleaned can or a receptacle for the purpose of return or bring or deliver any milk, cream, or ice cream can or receptacle for the purpose of delivery or shipment to any person or creamery engaged in selling or shipping substances for consumption as human food when the can or receptacle contains particles of milk, cream, ice cream, or other substance prohibited from being placed there.

Sec. 24. Milk and milk products from outside Indiana and not subject to the board's inspection may be sold in Indiana if the following conditions are met:

(1) The milk and milk products are produced and pasteurized under rules that are substantially equivalent to this chapter.

(2) The milk and milk products have been awarded an acceptable milk sanitation compliance and enforcement rating made by a state milk sanitation rating officer certified by the

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United States Food and Drug Administration.

(3) The milk originates from an area where the unit of government accepts Indiana Grade A milk and milk products certified by an Indiana sanitation rating officer.

Sec. 25. (a) A person who is affected with a disease in a communicable form or who is a carrier of a disease may not work at a dairy farm or milk plant in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(b) A dairy farm or milk plant operator may not employ a person who is:

(1) affected with or who is suspected of having a communicable disease; or

(2) a carrier or who is suspected of being a carrier of a communicable disease;

in any capacity that brings the person into contact with the production, handling, storage, or transportation of milk, milk products, containers, equipment, or utensils.

(c) A producer or distributor of milk or milk products shall notify the board immediately if any of the following occur:

(1) A communicable disease occurs on the producer's or distributor's dairy farm or milk plant.

(2) The producer or distributor of milk or milk products suspects that an employee has contracted or has become a carrier of a disease in a communicable form.

Sec. 26. When reasonable cause exists to suspect the possibility of transmission of infection from a person concerned with the handling of milk or milk products, the board may require any or all of the following measures:

(1) The immediate exclusion of the person from milk handling.

(2) The immediate exclusion of the milk supply concerned from distribution and use.

(3) Adequate medical and bacteriological examination of the person, the person's associates, and their body discharges.

Sec. 27. Properly prepared plans for each milkhouse, milking barn, stable, parlor, transfer station, milk plant, milk tank truck cleaning facility, and receiving station regulated under this chapter that is constructed, reconstructed, or extensively altered must be submitted to the board for written approval before work is begun.

Sec. 28. (a) The board shall employ personnel necessary to

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adequately and efficiently enforce this chapter and the rules adopted under IC 4-22-2.

(b) The board may negotiate agreements with state and local governmental agencies necessary in the opinion of the board to provide for the proper administration of this chapter.

(c) The board may enter into reciprocal agreements with federal or state milk control agencies having standards substantially equivalent with this chapter and that are enforced with equal effectiveness.

Sec. 29. The board shall enforce this chapter in accordance with the rules adopted under section 14 of this chapter and IC 15-17-3-21.

Sec. 30. A person who is licensed under this chapter or who is engaged in:

(1) the production, transportation, processing, or packaging of raw or pasteurized milk and milk products;

(2) the business of selling or distributing products described in subdivision (1) for human consumption; or

(3) the business of manufacturing containers for milk and milk products;

may not prevent the inspectors and agents of the board from performing official duties.

Sec. 31. (a) The dairy drug residue abatement fund is established to implement education and other programs designed to prevent drug residue violations. Money in the fund is appropriated for these purposes.

(b) The fund consists of civil penalties collected under section 17 of this chapter.

(c) The board shall administer the fund.

(d) The expenses of administering the fund shall be paid from money in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

Sec. 32. The board shall enforce this chapter and for that purpose may enter upon and inspect premises on which containers are stored, suspected of being stored, or trafficked in or on premises where raw or pasteurized milk or milk products are produced, purchased, received, transferred, transported, stored, processed, or put in containers to be offered for sale or sold or

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distributed for human consumption.

Sec. 33. (a) A person who recklessly violates or fails to comply with this chapter commits a Class B misdemeanor.

(b) Each day a violation continues constitutes a separate offense.

Chapter 2. Milk and Cream Purchases

Sec. 1. As used in this chapter, "Babcock test" means the official Babcock test for milk and for cream.

Sec. 2. As used in this chapter, "board" refers to the creamery examining board established by section 9 of this chapter.

Sec. 3. As used in this chapter, "milk distributor" means any person or person's agent that purchases market milk or market cream from a bargaining agent or another plant for resale.

Sec. 4. As used in this chapter, "other processing plant" means any place, premises, or establishment:

(1) where milk or cream is received, processed, or manufactured; and

(2) that is not specifically identified in this chapter.

Sec. 5. As used in this chapter, unless the context otherwise indicates, "person" includes an individual, a partnership, a limited liability company, a corporation, and an association.

Sec. 6. As used in this chapter, "receiving station" means any place other than a dairy processing plant where milk or cream is received, weighed, sampled, or tested for shipment to any other processing plant.

Sec. 7. As used in this chapter, "standard Babcock testing glassware" means glassware and weights that comply with specifications for official apparatus for the Babcock method as defined in the latest edition of Official Methods of Analysis of AOAC International.

Sec. 8. The creamery license division of Purdue University, in cooperation with the board, shall enforce this chapter.

Sec. 9. (a) The creamery examining board is established. The board consists of eight (8) members composed of the following:

(1) Three (3) producers of milk and cream.

(2) Three (3) processors of milk and cream.

(3) One (1) member of the animal sciences department who shall be appointed by the dean of agriculture of Purdue University.

(4) One (1) milk hauler.

The board shall elect a chairperson annually.

(b) Two (2) of the producer members shall be elected to the board by the Indiana Cooperative Milk Producer's Federation, Inc.

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The third producer member shall be elected to the board by the Indiana State Dairy Association.

(c) The three (3) processor members shall be elected to the board by the Midwest Dairy Products Association.

(d) The Midwest Dairy Products Association shall elect one (1) member each year. The Indiana federation of cooperatives shall elect a producer member to the board two (2) out of every three (3) years and the Indiana State Dairy Association shall select a producer member during the third year.

(e) The milk hauler member shall be appointed to the board by the dean of agriculture of Purdue University or the dean's designee.

Sec. 10. (a) The term of a board member is three (3) years.

(b) A vacancy in any membership of the board shall be filled by the same process for the unexpired term.

Sec. 11. Board members shall be reimbursed by the creamery license division for actual traveling expenses and subsistence while attending a regular or called meeting.

Sec. 12. The board shall do the following:

(1) Hold regular quarterly meetings and in addition meet in special called sessions at a date, time, and place designated by the chairperson.

(2) Review all cases of violation of this chapter.

(3) Recommend the revocation of any license issued under this chapter.

(4) Adopt specific rules under IC 4-22-2 relative to weighing, sampling, and testing of milk and cream and to the enforcement of the creamery license law.

Sec. 13. On recommendation of the board and with the approval of the dean of agriculture of Purdue University, inspectors of the creamery license division may inspect records or collect data on the quality of milk and cream in plants that:

(1) cooperate with Purdue University in the quality improvement program; or

(2) assist in any other project that will be of mutual benefit to the Indiana dairy industry and the Purdue University animal sciences department.

Sec. 14. (a) Milk and cream must be purchased on the basis of weight or volume and:

(1) the butterfat content;

(2) the protein content; or

(3) a combination of butterfat and protein content;

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as determined by any test or tests approved by the board, which may also have been designated official by AOAC International.

(b) A payment for milk must be made either on the basis of:

(1) a fresh sample taken and tested according to procedures established under rules adopted by the board; or

(2) a composite test.

A composite sample must cover a period of not more than sixteen (16) days. In each plant, all composite samples must cover the same period for each test and succeeding periods must be as nearly equal as possible. All composite samples must cover the same period. A uniform sample consisting of at least ten (10) cubic centimeters of milk must be taken each day, except when milk is frozen or partly churned, from the milk furnished by each person. An approved preservative must be added to the sample and each composite sample must be held in an approved, rubber stoppered, airtight bottle that is plainly labeled to show the name or number of the person whose milk the composite sample represents. The milk to be sampled must be poured into a weigh tank approved by the creamery license division meeting the standards prescribed in rules, be run through a fine mesh or perforated metal strainer, and be homogeneous in richness before any sample is taken. The composite samples must be kept in a refrigerated cabinet or cooler in or near the receiving room at a temperature of not more than forty-two (42) degrees Fahrenheit, away from strong light, and must be kept free of mold. The test must be made within seventy-two (72) hours, excluding Sundays and holidays, after the last sample has been added to the composite sample.

(c) If at the close of any composite period the composite samples are inaccurate as determined by the creamery license division, three (3) daily samples must be taken within the first five (5) days of the following composite period. The average of the three (3) fresh samples determines the basis of payment for the composite period in question.

(d) In each plant where composite samples of milk are taken, the owner or manager shall delegate an individual who is responsible for the care, condition, and accuracy of all composite samples.

(e) After the composite samples are emptied, the sample bottles must be thoroughly washed, and all bottles and rubber stoppers shall be sterilized before being used again.

(f) Composite samples may be removed from the plant for testing elsewhere only on written permission from the creamery license division.

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Sec. 15. (a) A hauler of milk or cream or other person or dairy processing plant or other milk plant or agent receiving milk or cream by weight or test or by weight and test may not fraudulently manipulate the weights of milk or cream of any person to take unfair samples or fraudulently manipulate the samples.

(b) When milk is received from farm bulk tanks, the hauler shall:

(1) weigh or measure the milk of each person accurately and correctly; and

(2) thoroughly mix the milk of each person by stirring until the milk is uniform and homogeneous in richness before the sample is taken from the milk.

When the weighing or sampling of the milk or cream of each person is done at the dairy processing plant, receiving station, other factory, or other location, the same procedures for buying and paying for milk or cream on the basis of the butterfat and protein apply.

Sec. 16. A person acting alone or as the officer, servant, agent, or employee of any person buying and paying for milk or cream on the basis of the total composition of milk, the protein, or fat components of milk may not:

(1) underread, overread, or otherwise fraudulently manipulate the test used to determine the total composition of milk or the protein and fat components of milk; or

(2) pay for milk or cream on any test except the true test of the lot or lots of milk or cream received.

Sec. 17. (a) A person or a person's agent buying or paying for milk or cream on the basis of the amount of butterfat contained in the milk or cream as determined by the Babcock test shall use standard Babcock testing glassware and accurate scales.

(b) All standard Babcock testing glassware and weights must be:

(1) inspected for accuracy by Purdue University; and

(2) legibly and indelibly marked by Purdue University with the letters "S.G.P." (Standard Glassware Purdue).

A bottle or pipette may not be used for a test unless the bottle or pipette is examined and marked by Purdue University.

(c) A person or a person's agent may not use test bottles and pipettes other than standard bottles or pipettes that have been examined and marked as provided in this section to determine the amount of fat in milk or cream bought or paid for on the butterfat basis.

(d) In conducting tests other than an approved test for

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determining the total composition of milk and the protein and fat components of milk, test equipment used that will influence test results must be approved by the creamery license division before use in determining producer pay tests.

Sec. 18. (a) A dairy processing plant, a receiving station, a milk shipping station, a milk factory, a milk distributor, a cheese factory, a condensery, an ice cream factory, other processing plant, person, or person's agent that handles, receives, buys, or pays for milk or cream from a producer, a bargaining agent, or another plant shall obtain a license from the creamery license division.

(b) A license must be issued to the dairy, dairy processing plant, receiving station, milk factory, milk distributor, cheese factory, condensery, ice cream factory, other processing plant, person, or person's agent by the creamery license division upon:

(1) compliance with sections 14 through 17 of this chapter; and

(2) payment of a license fee as provided in sections 22 and 23 of this chapter.

A license shall be revoked by Purdue University upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

Sec. 19. (a) A person who does testing in connection with the receiving, buying, or paying for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream, either for the person or as an officer, a servant, an agent, or an employee of any person, must hold a tester's license.

(b) A dairy processing plant, receiving station, or other factory, or person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the total composition or the protein and fat components contained in the milk or cream shall employ a licensed tester to supervise and is responsible for the operation of the testing of milk or cream.

(c) A milk tester's license or cream tester's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the rules adopted by the board and demonstrates that the person is competent and qualified to test milk or cream; and

(2) pays a license fee as provided in section 24 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

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Sec. 20. (a) A person who does sampling in connection with receiving, buying, or paying for milk or cream on the basis of the total composition of milk or the protein and fat components contained in the milk or cream, either for the person, or as officer, servant, agent, or employee of any person, must hold a sampler's license.

(b) A dairy processing plant, receiving station, other factory, person, or person's agent, that receives, buys, or pays for milk or cream on the basis of the amount of butterfat contained in the milk or cream shall employ a licensed sampler to supervise and is responsible for the sampling and weighing of milk or cream to obtain a representative sample and make and record correct weights of the whole amount of milk or cream delivered.

(c) A milk sampler's license or cream sampler's license shall be issued to a person by the creamery license division if the person:

(1) passes a satisfactory examination as provided for in the rules adopted by the board and demonstrates that the person is competent and qualified to sample milk or cream; and

(2) pays a license fee as provided in section 25 of this chapter.

A license shall be revoked by the creamery license division upon recommendation of the board if the licensee fails to comply with the rules under which the license was granted.

(d) A license to test milk or cream includes the authority to sample and weigh milk or cream.

Sec. 21. (a) A person who desires to test or sample and weigh either milk or cream before taking the examination must apply to the creamery license division for a temporary permit.

(b) A temporary permit entitles the holder to test or sample and weigh milk or cream until the date specified for taking the examination. A permit holder has the same responsibilities as a licensee in complying with this chapter.

(c) An application for a temporary permit to test must be accompanied by the payment of a fee of thirty dollars ($30). An application for a temporary permit to sample or weigh must be accompanied by the payment of a fee of twenty dollars ($20). The fee shall pay for the first regular tester's or sampler's license issued to the applicant. If the applicant fails the examination or discontinues work before the examination can be given, the applicant forfeits the fee paid for the temporary permit.

Sec. 22. The creamery license division shall issue a plant license to every dairy processing plant, receiving station, milk factory, cheese factory, condensery, ice cream factory, or other person that

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complies with section 18 of this chapter and pays to the creamery license division seventy-five dollars ($75) plus a fee of:

(1) twelve dollars ($12) per million on milk receipts of at least ten million (10,000,000) but not more than fifty million (50,000,000) pounds;

(2) nine dollars ($9) per million on milk receipts of at least fifty million (50,000,000) but not more than one hundred million (100,000,000) pounds; and

(3) five dollars ($5) per million on milk receipts of at least one hundred million (100,000,000) pounds;

during the preceding year ending December 31. The maximum fee may not exceed one thousand dollars ($1,000) regardless of volume received. Out-of-state milk receipts are exempt from the payment of fees.

Sec. 23. A license shall be issued to a receiving station or other milk or cream processing plant upon payment to the creamery license division a fee of twenty-five dollars ($25).

Sec. 24. A license shall be issued to an applicant for a milk tester's license or cream tester's license if the applicant:

(1) complies with section 19 of this chapter; and

(2) pays to the creamery license division a fee of fifteen dollars ($15).

Sec. 25. A license shall be issued to an applicant for a sampler's license if the applicant:

(1) complies with section 20 of this chapter; and

(2) pays to the creamery license division a fee of ten dollars ($10).

Sec. 26. A license issued under this chapter expires March 31 following its issue. A license is not transferable.

Sec. 27. The board shall establish fees for examining glassware based on the actual cost.

Sec. 28. (a) To secure sufficient funds to implement this chapter and to ensure accuracy to milk and cream producers in the weighing, sampling, and testing of milk and cream:

(1) a dairy processing plant;

(2) a receiving station;

(3) a milk factory;

(4) a milk distributor;

(5) a cheese factory;

(6) a condensery;

(7) an ice cream factory;

(8) any other processing plant; or

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(9) a person purchasing fluid milk or cream in Indiana directly from producers or a producers' association or otherwise receiving milk directly from producers;

shall, during the month of May of each year, pay to the treasurer of Purdue University for the fluid milk or cream delivered during the month of May a sum equal in amount to two and one-half cents ($.025) per one hundred (100) pounds for all fluid milk purchased during that time. For the financing of the producers' share of this program, the processor shall charge the two and one-half cents ($.025) per one hundred (100) pounds back to the producer association or cooperative. For those patrons who do not belong to producer associations or cooperatives, the processor shall make this charge directly to the individual producer. Butterfat purchased from producers other than in the form of fluid milk shall be converted for the purpose of the deduction into four percent (4%) milk equivalent. Out-of-state receipts are exempt from the payment of these fees.

(b) All persons required to make payments under this section shall make reports of all purchases of milk and cream at the times and in the form as required by the creamery license division.

(c) It is a violation of this chapter for a person to fail to make:

(1) the payments required under this section; or

(2) an accurate accounting of the amount of fluid milk and cream purchased.

Sec. 29. Payments under section 28 of this chapter shall be made to the treasurer of Purdue University not later than June 20 of each year. The money received is for the exclusive use of the creamery license division. The money shall be expended for the following:

(1) Salaries and traveling expenses of inspectors.

(2) Necessary equipment and supplies for the inspection of all plants and stations.

(3) The examination of applicants for licenses.

(4) Disseminating information and instruction by means of publication.

(5) All other expenses necessary in administering this chapter.

Sec. 30. If a person is more than thirty (30) days late paying a fee required under this chapter, the board shall assess a late fee of the greater of the following:

(1) Ten percent (10%) of the amount due.

(2) Five dollars ($5).

Sec. 31. (a) The money for license fees and for inspection fees as

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provided in this chapter shall be paid to the treasurer of Purdue University. The Purdue University board of trustees shall expend the collected fees, on proper vouchers to be filed with the auditor of state, in meeting all necessary expenses in carrying out this chapter, including the employment of inspectors, traveling expenses of inspectors, expenses of issuing publications, and glassware equipment, testing device, and factory inspection as provided in this chapter.

(b) The treasurer's annual report to the governor must include a classified report showing the total receipts and expenditures of all fees received under this chapter.

Sec. 32. Plants and stations covered by this chapter as listed in section 18 of this chapter (dairy processing plant and receiving station licenses) shall report before April 1 of each year the amount of milk or cream, or both, purchased during the last calendar year with the amount of butterfat in the milk or cream. Any other data or statistics desired by the creamery license division pertaining to the purchase of milk or cream must be reported to the creamery license division by the person according to and on forms furnished by the creamery license division. A person providing information under this section shall keep complete and accurate records of the person's business.

Sec. 33. (a) For purposes of this chapter, inspectors of the creamery license division may do the following:

(1) Enter at all reasonable hours all places where milk or cream is being stored, bottled, or processed, or where milk or cream is being bought, sold, or handled, to inspect records pertaining to the purchase and payment of milk or cream.

(2) Inspect and copy the records pertaining to the purchase and payment of milk or cream.

(3) Take testimony to ascertain facts pertaining to the purchase and payment of milk or cream that in the judgment of the creamery license division are necessary to administer this chapter.

(b) The board may determine the truth and accuracy of the books, records, papers, documents, accounts, and reports required to be furnished in accordance with this chapter.

Sec. 34. (a) A person or an officer, a servant, an agent, or an employee of a person may not interfere with an authorized inspector of the creamery license division who is:

(1) making an inspection; or

(2) taking a sample;

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required under this chapter.

(b) A person that owns or operates or is in charge of a dairy processing plant, a receiving station, a milk factory, a cheese factory, a condensery, an ice cream factory, or other processing plant that is subject to inspection or entry by an inspector of the creamery license division may not refuse to allow or may not obstruct an inspector's entry or inspection.

Sec. 35. A person who recklessly violates this chapter commits a Class A misdemeanor.

Chapter 3. Prohibition of Fees Assessed by Local Governments on Milk Producers

Sec. 1. As used in this chapter, "engaged in the production of milk" includes every person engaged in producing milk in Indiana or to be shipped into Indiana as a:

(1) producer;

(2) producer-distributor; or

(3) producer-cooperative.

Sec. 2. As used in this chapter, "milk" means the lacteal secretion obtained by the milking of one (1) or more cows or other dairy animals, including goats, whether in the original or in any processed form, including cream, buttermilk, and skimmed milk intended for human consumption.

Sec. 3. As used in this chapter, "person" means an individual, a firm, a limited liability company, a corporation, or an association.

Sec. 4. As used in this chapter, "producer" means a person who produces milk in Indiana or to be shipped into Indiana.

Sec. 5. As used in this chapter, "producer-cooperative" includes:

(1) corporations or associations organized under IC 15-12-1; or

(2) similar corporations or associations organized under agricultural cooperative marketing acts of states adjoining Indiana and admitted to do business in Indiana.

Sec. 6. As used in this chapter, "producer-distributor" includes a person that:

(1) owns, manages, or controls a dairy herd; and

(2) sells or distributes milk from the person's own herd at wholesale or retail.

Sec. 7. A unit (as defined in IC 36-1-2-23) may not assess:

(1) a permit fee;

(2) a license fee; or

(3) an inspection fee;

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on a person engaged in the production of milk.

Chapter 4. Payment of Claims Against Dairy Processing Plants

Sec. 1. (a) The whole claim or a judgment for the whole claim of a person is entitled to the same preferences in an insolvency proceeding under IC 22-2-10-1 if the claim or judgment is against:

(1) the owner or operator of a dairy plant or receiving station or any other premises where a dairy product is manufactured, processed, or handled or of any premises used to receive and ship milk or cream, except to the ultimate consumer; or

(2) any:

(A) dealer in a dairy product; or

(B) other person (except a hauler from the producer to a plant or receiving station) who purchases, assembles, or receives a dairy product for manufacturing, processing, or sale;

and the basis of the claim or judgment is milk, cream, any other dairy product or byproduct, or any commodity, the principal constituents or ingredients of which include (separately or in combination) milk, cream, or any other dairy product that is sold or delivered to the owner, operator, dealer, or other person.

(b) This section does not affect or impair any other lien or security for the claim or judgment described in subsection (a).

Chapter 5. Indiana Dairy Industry Development

Sec. 1. As used in this chapter, "board" refers to the Indiana dairy industry development board established by section 9 of this chapter.

Sec. 2. As used in this chapter, "commercial use" means sale for:

(1) retail consumption;

(2) resale; or

(3) processing for resale.

Sec. 3. As used in this chapter, "director" refers to the director of the department of agriculture or the director's designee.

Sec. 4. As used in this chapter, "milk" means any class of milk produced by dairy cows in Indiana.

Sec. 5. As used in this chapter, "person" means an individual, a partnership, a limited liability company, a public or private corporation, a political subdivision (as defined in IC 36-1-2-13), a cooperative, a society, an association, or a fiduciary.

Sec. 6. As used in this chapter, "producer" means a person engaged in the production of milk in Indiana for commercial use, including a producer-processor.

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Sec. 7. As used in this chapter, "producer-processor" means a producer who processes and markets the producer's own milk.

Sec. 8. As used in this chapter, "qualified program" means a state or regional dairy product promotion, research, or nutrition education program that:

(1) is certified under 7 CFR 1150.153, as amended; and

(2) meets the following requirements:

(A) Conducts activities (as defined in 7 CFR 1150.114, 7 CFR 1150.115, and 7 CFR 1150.116) intended to increase consumption of milk and dairy products.

(B) Is financed primarily by producers, either individually or through cooperative associations.

(C) Does not use a private brand or trade name in advertising and promotion of dairy products unless the national dairy promotion and research board established under 7 CFR 1150.131 and the United States Secretary of Agriculture concur that the requirement should not apply.

(D) Certifies to the United States Secretary of Agriculture that a request from a producer for a refund under the program will be honored by forwarding the part of the refund equal to the amount of credit that otherwise would be applicable to the program under 7 CFR 1150.152(c) to either the national dairy promotion and research board or a qualified program designated by the producer.

(E) Does not use program funds to influence governmental policy or action.

Sec. 9. (a) The Indiana dairy industry development board is established. The board is a public body corporate and politic and, though it is separate from the state, the exercise by the board of its powers constitutes an essential governmental function.

(b) The board consists of:

(1) at least nine (9); and

(2) not more than twenty-five (25);

voting members appointed under section 12 of this chapter.

(c) Each voting member of the board must:

(1) be a resident of Indiana;

(2) be at least twenty-one (21) years of age;

(3) have been actually engaged in the production of milk in Indiana for at least one (1) year; and

(4) derive a substantial part of the member's income from the production of milk in Indiana.

(d) The board may appoint individuals who hold offices of

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importance to the milk industry or have special expertise concerning the industry to participate in the work of the board as nonvoting members. Not more than five (5) individuals may be appointed under this subsection.

(e) The director may participate in the activities of the board as an ex officio member.

(f) An Indiana dairy farmer selected to serve on the national dairy board shall be a nonvoting, advisory member of the board.

(g) Fewer than fifty percent (50%) of the board members, including nonvoting members, may be members of Milk Promotion Services of Indiana, Inc.

Sec. 10. (a) Before March 31 of each year, the board shall:

(1) determine:

(A) the percentage of the state's milk marketings produced by each producer registered with the state board of animal health or the United States Department of Agriculture; and

(B) the number of representatives, if any, each producer is entitled to have on the board based on funds retained in Indiana; and

(2) inform each producer described in subdivision (1)(A) of the determinations made under subdivision (1).

(b) The board shall make the determinations required under this section based upon:

(1) year end milk marketing figures from:

(A) the United States Department of Agriculture; or

(B) any other source the board considers reliable; and

(2) the formula prescribed under section 12 of this chapter.

Sec. 11. (a) Not later than thirty (30) days after receiving a notice from the board under section 10 of this chapter, a producer or group of producers entitled to representation on the board may submit nominations to the board for board members.

(b) A producer or group of producers may submit two (2) nominations for each board member to which the producer or group of producers is entitled.

Sec. 12. (a) The board shall appoint from among the nominations made under section 11 of this chapter one (1) board member to represent each:

(1) producer who represents at least three percent (3%) of the state's participating milk marketings; and

(2) group of producers that:

(A) collectively represents at least three percent (3%) of

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the state's participating milk marketings; and

(B) notifies the board that the producers desire to be considered collectively for purposes of representation on the board.

(b) In addition to the members appointed under subsection (a), the board shall appoint one (1) board member to represent a producer or group of producers described in subsection (a)(2) for each additional ten percent (10%) of the state's participating milk marketings exceeding three percent (3%) that the producer or group of producers represents. Not more than four (4) board members may represent any producer or group of producers.

(c) The board shall make the appointments required under this section not later than thirty (30) days after the close of the period for submission of nominations under section 11 of this chapter.

(d) An appointment made by the board under this section may not result in a producer or group of producers having two (2) members on the board at the same time that represent the same share of the state's participating milk marketings.

(e) If a producer or group of producers entitled to representation on the board fails to submit a nomination, the board may appoint any individual who meets the requirements of section 9(c) of this chapter to represent the producer or group of producers.

Sec. 13. (a) The term of office of a board member is three (3) years.

(b) A member continues in office until a successor who meets the qualifications set forth in section 9(c) of this chapter is elected.

(c) A member may not serve for more than a total of three (3) terms.

(d) If, upon expiration of the term of a board member, the producer or group of producers that nominated the member no longer represents the percentage of the state's milk marketings required under section 12 of this chapter, a person may not be appointed to replace the board member.

Sec. 14. (a) As used in this section, "maximum daily amount" refers to the maximum daily amount allowable to employees of the executive branch of the federal government for subsistence expenses while away from home in travel status.

(b) Each member of the board who is not a state employee is entitled to a business per diem determined by the board.

(c) Each member of the board is also entitled to either:

(1) a per diem to cover travel and other expenses incurred in

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connection with the member's duties; or

(2) reimbursement for traveling expenses and other expenses actually incurred in connection with the member's duties;

as determined by the board.

(d) The business per diem allowance may not exceed the maximum daily amount allowable in the particular location where the member's duties are being performed. A mileage rate established by the board may not exceed the standard mileage rates for personally owned transportation equipment established by the United States Internal Revenue Service for each mile necessarily traveled from the member's usual place of residence to the particular location where the member's duties are being performed.

Sec. 15. (a) A member's term of office terminates and the member's office becomes vacant if the member:

(1) dies;

(2) becomes disabled;

(3) resigns; or

(4) ceases to meet at least one (1) of the qualifications set forth in section 9(c) of this chapter.

(b) If a board member's office becomes vacant before expiration of the member's term of office, the board shall:

(1) certify to the producer or group of producers who nominated the member that the vacancy exists; and

(2) request nominations in accordance with section 11 of this chapter to fill the vacancy.

(c) The board shall appoint one (1) of the individuals nominated under subsection (b).

(d) An individual appointed under this section shall serve for the remainder of the unexpired term.

Sec. 16. The board shall do the following:

(1) Elect from among the board's members a chairperson, vice chairperson, secretary, treasurer, and other officers the board considers necessary.

(2) Employ personnel and contract for services that are necessary for the proper implementation of this chapter.

(3) Establish accounts in adequately protected financial institutions to receive, hold, and disburse funds accumulated under this chapter.

(4) Bond the treasurer and other persons as necessary to ensure adequate protection of funds received and administered by the board.

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(5) Authorize the expenditure of funds and the contracting of expenditures to conduct proper activities under this chapter.

(6) Annually establish priorities and prepare and approve a budget consistent with the estimated resources of the board and the scope of this chapter.

(7) Provide for an independent audit, provide the results of the audit to the state board of accounts and the department of agriculture, and make the results of the audit available to all interested persons.

(8) Procure and evaluate data and information necessary for the proper implementation of this chapter.

(9) Formulate and execute assessment procedures and methods of collection.

(10) Establish procedures to annually inform all producers regarding board members, policy, expenditures, and programs for the preceding year.

(11) Receive and investigate, or cause to be investigated, complaints and violations of this chapter and take necessary action within its authority.

(12) Take any other action necessary for the proper implementation of this chapter, including the adoption of rules under IC 4-22-2.

Sec. 17. (a) The board shall meet at least once every six (6) months.

(b) The board shall meet at a date, time, and place fixed by the board.

(c) The chairperson:

(1) may call a special meeting; and

(2) shall call a special meeting upon the request of at least twenty-five percent (25%) of the members of the board.

(d) Written notice of the date, time, and place of all meetings shall be mailed in advance to each board member.

Sec. 18. (a) A majority of voting members appointed to the board constitutes a quorum for the transaction of business.

(b) The affirmative vote of a majority of all members appointed to the board is necessary for the action of the board.

Sec. 19. At each regular meeting, the board shall review all expenditures made since the board's last regular meeting.

Sec. 20. (a) The board shall keep:

(1) minutes of the board's meetings; and

(2) other books and records that clearly reflect all the acts and transactions of the board.

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(b) The records of the board required to be kept under subsection (a) shall be open to examination during normal business hours.

Sec. 21. (a) The board may contract for the necessary office space, furniture, stationery, printing, and personnel services useful or necessary for the administration of this chapter.

(b) The total administrative costs and expenses of the board may not exceed five percent (5%) of the annual assessments collected under this chapter.

Sec. 22. (a) Obligations incurred by the board and other liabilities and claims against the board may be enforced only against the assets of the board in the same manner as if it were a corporation. Liabilities for the debts or actions of the board may not arise against:

(1) the state;

(2) a political subdivision (as defined in IC 34-6-2-110); or

(3) a member, officer, employee, or agent of the board in an individual capacity.

(b) The members and employees of the board may not be held responsible individually to any person for errors in judgment, mistakes, or other acts either of commission or omission, as principal, agent, or employee, except for their own individual acts that result in the violation of any law.

(c) An employee of the board may not be held responsible individually for the act or omission of a member of the board.

(d) Any liability of the members of the board is several and not joint. A member of the board may not be held liable for the default of another member.

Sec. 23. (a) The board shall file a report with the director before October 1 of each year.

(b) The report required under subsection (a) must contain the following information:

(1) The income received from the assessments and penalties collected under this chapter for the preceding fiscal year.

(2) The expenditure of funds by the board during the year for the administration of this chapter.

(3) A brief description of all contracts requiring the expenditure of funds by the board and the action taken by the board on all contracts.

(4) An explanation of all programs relating to the discovery, promotion, and development of markets and industries for the use of dairy products and the direct expense associated with

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each program.

(5) The name and address of each member of the board.

(6) A brief description of the rules and orders adopted by the board.

(c) The report required under subsection (a) shall be available to the public upon request.

Sec. 24. An assessment of ten cents ($0.10) per hundredweight is imposed on all milk produced in Indiana for commercial use.

Sec. 25. A producer shall remit the assessment required under section 24 of this chapter to the board:

(1) not later than the last day of the month following the month in which the milk is commercially used; and

(2) together with a report in a form approved by the board detailing all assessments collected and remitted under this chapter.

Sec. 26. The board shall deposit all assessments received under this chapter in the fund established by the board under section 28 of this chapter.

Sec. 27. The board shall establish procedures for allowing a producer to direct the distribution of the producer's assessment to:

(1) the national dairy board; or

(2) a qualified program other than the program chosen by the board.

Sec. 28. (a) The board shall establish and administer a fund for assessments received under this chapter. The fund is not a part of the state treasury.

(b) The board shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

(c) The board shall use the money in the fund to implement this chapter.

(d) The board may not use money in the fund to establish a program of its own but shall fund an active, ongoing, qualified program in Indiana as stated in 7 U.S.C. 4505 and the regulations adopted under that law. A qualified program that receives money under this subsection may use the money to jointly sponsor projects with any private or public organization for any of the following:

(1) Advertising and promotion.

(2) Market research.

(3) Nutrition and product research and development.

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(4) Nutrition and educational programs.

(5) Any other activity to meet the objectives of this chapter.

Sec. 29. (a) The board shall add a penalty of one and one-half percent (1.5%) per month on an unpaid assessment, beginning with the day following the date the assessment was due. Any remaining amount due, including an unpaid penalty assessed under this section, shall be increased at the same rate on the corresponding day of each succeeding month until paid.

(b) For purposes of this section, an assessment that was determined at a date later than prescribed by section 25 of this chapter because of the failure to submit a report to the board when due shall be considered to have been payable on the date it would have been due if the report had been timely filed.

(c) The timeliness of a payment to the board shall be based on:

(1) the applicable postmarked date; or

(2) the date actually received by the board;

whichever is earlier.

Sec. 30. The board may maintain a court action to collect assessments and late payment fees due under this chapter.

Sec. 31. The remedies provided in this chapter are in addition to other remedies provided by law or in equity.

Sec. 32. A person who knowingly or intentionally violates this chapter commits a Class C misdemeanor.

SECTION 10. IC 15-19 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 19. LIVESTOCK

Chapter 1. Livestock Breeders Associations

Sec. 1. Subject to section 4(b) of this chapter, this chapter applies to a fair association described in section 2 of this chapter and organized after March 5, 1889.

Sec. 2. (a) A group of at least five (5) persons may form an incorporated company for the purpose of forming a fair association to improve the breeding and speed of stock and to promote agriculture.

(b) To form a fair association described in subsection (a), a group must adopt written articles of association that:

(1) specify the purpose of the fair association;

(2) specify the corporate name chosen for the fair association;

(3) list the name and residence of each member;

(4) contain an impression of the corporate seal; and

(5) establish the manner in which persons or officers are

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chosen to manage the business concerns of the fair association.

Sec. 3. Every fair association shall file its articles of association in the recorder's office of the county where the association is formed. The recorder shall record the articles of association in the miscellaneous record. The record or a certified copy of the record is conclusive evidence of the matters recited in the record. The articles may be amended at any time by a majority vote of the members of the association. The articles of association take effect on the date they are recorded in the recorder's office.

Sec. 4. (a) A fair association is a corporation from the date the articles of incorporation are filed in the appropriate recorder's office. The fair association has all the rights, powers, and privileges given to a corporation under common law, including the right to:

(1) sue and be sued;

(2) borrow money and secure payment by notes, mortgages, bonds, or deeds of trust upon its personal and real property; and

(3) rent, lease, purchase, hold, sell, and convey real estate and personal property to the extent necessary and proper to erect buildings and other proper purposes of the corporation.

(b) If:

(1) a fair association was organized in Indiana before March 6, 1889; and

(2) the fair association met the requirements of section 2 of this chapter when it was organized;

subsection (a) applies to that association and to an association described in section 1 of this chapter.

Sec. 5. A fair association may provide in its bylaws for the admission and expulsion of members and for the election of officers as may be necessary to accomplish the goals of the corporation. A fair association may adopt bylaws for the governance of the officers and members of the corporation.

Chapter 2. Indiana Standardbred Advisory Board

Sec. 1. As used in this chapter, "board" refers to the Indiana standardbred advisory board established by section 2 of this chapter.

Sec. 2. The Indiana standardbred advisory board is established to make recommendations to the Indiana horse racing commission (IC 4-31-3-1) for the furtherance of the standardbred horse industry in Indiana.

Sec. 3. The Indiana standardbred advisory board consists of

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seven (7) members selected as follows:

(1) The chairman of the Indiana horse racing commission, or the chairman's designee, is an ex officio member.

(2) Two (2) members who are members of county fair boards appointed by the governor.

(3) Four (4) members appointed by the governor who have in the past participated or shown an interest in the standardbred industry. This interest may, but does not necessarily have to be, evidenced by virtue of being an owner, driver, veterinarian, trainer, or breeder.

Not more than three (3) of the appointees under subdivisions (2) and (3) may be of the same political party as the chairman of the Indiana horse racing commission.

Sec. 4. The term of a board member appointed under section 3(2) and 3(3) of this chapter is three (3) years.

Sec. 5. (a) The advisory board shall elect a chairperson, a vice chairperson, a treasurer, and other officers the board considers necessary. The chairman of the Indiana horse racing commission serves as secretary and is entitled to vote on all matters.

(b) The records of the board shall be kept by the Indiana horse racing commission.

(c) The office of the board must be at the same location as the offices of the Indiana horse racing commission.

Sec. 6. The board shall meet quarterly and at other times as the members consider necessary. Special meetings may be called by the chairperson or at the written request of at least four (4) members after presenting the written request to the secretary. Members must receive at least ten (10) days notice before any meeting.

Sec. 7. Board members, excluding the chairman of the Indiana horse racing commission, are eligible to receive a per diem on days the board is in session.

Sec. 8. (a) After considering the recommendations of the board, the Indiana horse racing commission may:

(1) conduct educational, informational, and youth programs, and sponsor and expend funds for any program and advertising aimed at promoting the standardbred industry in Indiana;

(2) employ persons to aid in general promotion or race administration programs for the standardbred industry in Indiana;

(3) prescribe standards for race programs and conditions of races, which may include types of races, length of races,

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positioning of entries, or gait;

(4) disburse available money to supplement purses for any individual race with a cooperating fair or standardbred race meeting;

(5) disburse available money to supplement purses for races having the requirement that the entries be owned by legal residents of Indiana; and

(6) accept and disburse donations, contributions, appropriations, or grants of money or real or personal property.

(b) After considering the recommendations of the board, the Indiana horse racing commission shall distribute available money so that either:

(1) the division between the trotting and pacing gaits of the standardbred horse is as near equal as possible in proportion to entries received for any race program; or

(2) the entries may have been conceived by a stallion that regularly stands within Indiana and that is listed in the standardbred registry.

(c) The Indiana horse racing commission shall establish a standardbred registry.

(d) After considering the recommendations of the board, the Indiana horse racing commission shall collect fees for the registration of standardbred stallions in an amount established by the commission. However, amounts collected may not exceed five hundred dollars ($500) per stallion.

(e) After considering the recommendations of the board, the Indiana horse racing commission shall establish purses for races or to promote races if the races are open to only the offspring of standardbred stallions registered under subsection (c).

Sec. 9. All money that is disbursed as prescribed in section 8 of this chapter must be divided so that of all the money dispensed in any one (1) year:

(1) at least sixty percent (60%) is supplemented for use in prescribed programs of county and 4-H fairs; and

(2) not more than forty percent (40%) is used to supplement purses at the Indiana state fair.

Sec. 10. (a) The standardbred horse fund is established.

(b) The money received by the Indiana horse racing commission under this chapter shall be deposited in the standardbred horse fund. The standardbred horse fund is a nonbudgetary fund. Money remaining in the standardbred horse fund at the end of a state

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fiscal year does not revert to the state general fund.

(c) After considering the recommendations of the advisory board, the Indiana horse racing commission may disburse money from the standardbred horse fund for any purpose described in section 8 of this chapter.

(d) The Indiana horse racing commission shall pay any expense incurred in administering this chapter from the standardbred horse fund.

Chapter 3. Regulation of Horse Racing

Sec. 1. This chapter does not apply to races conducted at racetracks licensed under IC 4-31.

Sec. 2. As used in this chapter, "horse" includes a stallion, mare, filly, gelding, colt, donkey, or mule.

Sec. 3. As used in this chapter, "race" means:

(1) a speed trial for a horse; or

(2) a contest in which horses run, gallop, pace, or trot;

that is conducted either in the presence of at least fifty (50) persons or after there has been public notice that it would occur.

Sec. 4. (a) A person who knowingly, intentionally, or recklessly conducts or participates in a race not authorized under this section commits a Class B misdemeanor.

(b) A person may conduct a race only after April 14 and before November 16. A person may conduct races during not more than three (3) race meetings a year, each of which may last not more than fifteen (15) days. A person may not begin the second race meeting less than thirty (30) days after the first, or the third race meeting less than thirty (30) days after the second.

Sec. 5. A person who, with intent to stimulate or depress the performance of a horse in a race:

(1) administers a controlled substance listed in IC 35-48 to the horse less than twenty-four (24) hours before the race;

(2) injures or otherwise affects the horse; or

(3) possesses an electrical, a mechanical, or other appliance, other than a whip or spur, that can be used during the race to affect the horse;

commits a Class B misdemeanor.

Chapter 4. Racing Pigeons

Sec. 1. A person who:

(1) traps, detains, injures, or kills a pigeon, knowing that the pigeon is a racing pigeon, homer, racing homer, or homing pigeon; and

(2) is not the owner of the pigeon;

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commits a Class C infraction.

Sec. 2. A person who:

(1) knowingly removes or damages any identification attached to a racing pigeon, homer, racing homer, or homing pigeon; and

(2) is not the owner of the pigeon;

commits a Class C infraction.

Chapter 5. Livestock Certification

Sec. 1. As used in this chapter, "administrator" means the governor or the governor's designee.

Sec. 2. As used in this chapter, "buyer" means a buyer of livestock bought for direct shipment to a person in a foreign country.

Sec. 3. As used in this chapter, "livestock" means any animal or fowl raised for commercial purposes.

Sec. 4. The administrator may certify that certain livestock, bovine semen, or embryos meet the specifications of a buyer of that livestock, bovine semen, or embryos.

Sec. 5. The administrator shall charge a fee to cover the costs of certification under this chapter.

Sec. 6. The administrator has the powers necessary to carry out this chapter.

Sec. 7. The administrator and the state are immune from liability for lawful actions taken under this chapter.

Sec. 8. A person who intentionally or knowingly forges a certification or the identification of livestock, bovine semen, or embryos certified under this chapter commits a Class D felony.

Chapter 6. Livestock Brands

Sec. 1. IC 15-17-17 (hearings) applies to this chapter.

Sec. 2. As used in this chapter, "board" refers to the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 3. As used in this chapter, "brand" means a distinctive design or mark of identification made or applied to the hide on livestock by the use of a hot iron or by any other method or process approved by the board.

Sec. 4. As used in this chapter, "livestock" means:

(1) all cattle or animals of the bovine species;

(2) all horses, mules, burros, and asses or animals of the equine species;

(3) all swine or animals of the porcine species; and

(4) all goats or animals of the caprine species.

Sec. 5. As used in this chapter, "person" includes an individual,

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a firm, an association, a partnership, a corporation, other legal entity, a public or private institution, the state, a municipal corporation, or a political subdivision of the state.

Sec. 6. A person owning livestock within Indiana may adopt a brand for the person's exclusive use in Indiana. A person may not brand or cause to be branded any livestock with a brand that is of legal record in the office of the board unless that brand has been certified by the board for that person's exclusive use.

Sec. 7. The board shall record livestock brands. The board shall implement this chapter and may adopt rules under IC 4-22-2 to implement this chapter.

Sec. 8. (a) An owner of livestock in Indiana who wants to adopt a brand for the owner's exclusive use shall, before doing so, forward to the board an application on a form approved and provided by the board.

(b) For purposes of this chapter, the post office address included in an application under this section is considered the legal address of the applicant. Until the board receives a written notice of change of address from the applicant, the latest address of record with the board remains the legal address.

(c) If the brand is accepted, the board shall file the brand in the official brand book, furnish the applicant a brand certificate, and inform the applicant that the applicant has, from the date of filing, exclusive right to the use of the brand in Indiana.

(d) Additional brand certificates of a recorded brand may be obtained from the board upon the payment of a fee established by the board under section 18 of this chapter.

Sec. 9. (a) Only one (1) brand may be awarded or recorded for each owner of livestock. However, the owner or owners of separate and distinct livestock operations may, at the discretion of the board, record one (1) brand for use at each distinct and separate livestock operation.

(b) A brand may not be recorded or used if the brand:

(1) is identical with or, in the opinion of the board, is so similar to any brand previously recorded and remaining of legal record; or

(2) is an abandoned brand but has not been abandoned for five (5) years;

so as to be liable to cause confusion as to the identity or ownership of livestock.

(c) If the board determines that the submitted brand is already on record for another person or that it so closely resembles a

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previously registered brand that the brands cannot be readily distinguished, the board shall notify the applicant and return the facsimile brand and recording fee. In case of duplications, applications bearing the earliest postmark will be accepted.

(d) The board shall adjust conflicting stock brands and make any necessary changes. Changes made by the board are conclusive, and brands the board indicates may be recalled or adjusted at any time by means of written notice from the board given to the owner of the brand.

(e) A brand may be recorded in Indiana only in the office of the board.

Sec. 10. All certificates of recordation or rerecordation of brands furnished by the board are prima facie evidence of the ownership of all livestock of the kind or kinds bearing the brand or brands specified and as set forth in the record. The certificates are evidence of ownership in all lawsuits or in any criminal proceedings, when the title to livestock in Indiana is to be proved. Disputes in ownership or custody of branded livestock shall, upon request, be investigated by state or county law enforcement officials.

Sec. 11. (a) A recorded brand is the personal property of the person in whose name it is filed and is subject to sale, assignment, transfer, devise, and descent as personal property.

(b) A written instrument that evidences the sale, assignment, or transfer of a brand must be forwarded to the board to be recorded in the official brand book.

(c) The board shall determine the fee for recording a transaction under subsection (b).

(d) As soon as the transaction has been recorded, the board shall furnish the new owner with a brand certificate.

Sec. 12. (a) By January 1 of each fifth year following the original recording with the board, each owner of a brand of record shall submit to the board a renewal fee to be established by the board.

(b) For the purpose of determining the renewal date, the period between the date a brand is recorded by the board and January 1 of the next year constitutes the first year of the five (5) year period.

(c) If the owner of a brand of record fails, refuses, or neglects to pay the fee by June 30 of the year in which it is due, the brand shall be forfeited and no longer carried in the record. A forfeited brand may not be issued to another person for five (5) years after the date of forfeiture. During that five (5) year period, the former owner of record may apply to the commission for reinstatement of the

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forfeited brand. An application for reinstatement must be accompanied by a reinstatement fee established by the board. The renewal date for a reinstatement brand remains the same.

(d) Renewal fees on reinstatement brands are due on January 1 of each fifth year following the original recording.

Sec. 13. (a) Except as otherwise provided by this section, a person may not use any brand for identifying livestock unless the brand has been recorded under this chapter. If a recorded brand is applied to livestock that have been branded by a previous owner, the recorded brand must be applied so as not to overlap, obliterate, disfigure, or mutilate the existing brand or brands.

(b) Brands consisting of arabic numerals only may be used for individual livestock identification if they are located at least ten (10) inches from any recorded brand. Brands for individual identification may not be recorded.

Sec. 14. (a) The board shall publish all the recorded brands in a book and publish supplemental lists at least once each year. The brand book and supplements must contain a facsimile of all brands recorded, together with the owner's name and legal mailing address.

(b) The board shall, without charge, furnish copies of the brand book and supplements to state and county law enforcement agencies in Indiana. The general public may obtain copies by remitting to the board the cost of printing and mailing each book and accompanying supplements.

Sec. 15. The board, in cooperation with law enforcement officials in Indiana and other states, shall develop a uniform procedure for notifying livestock markets and livestock slaughtering establishments of reported livestock thefts.

Sec. 16. A brand must be applied to the shoulder, ribs, or hip on either the right or left side as determined by standing behind the animal. A brand, except those for livestock disease control purposes, may not be applied to the head or neck area.

Sec. 17. (a) A person selling livestock branded with the person's brand recorded in a current state brand book or supplement shall execute to the purchaser a written bill of sale. The bill of sale must include:

(1) the signature and residence of the seller;
(2) the name and address of the purchaser;
(3) the total number of livestock sold;
(4) a description of each animal sold as to sex and kind; and
(5) all registered brands.

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A copy of the bill of sale shall be given to each hauler of livestock, other than railroads, and must accompany the shipment of livestock while in transit. The bill of sale or a copy shall be shown by the possessor on demand to any law enforcement officer. The bill of sale is prima facie evidence of the conveyance of title of the livestock described by the bill of sale.

(b) A person engaged in the business of transporting or hauling livestock in Indiana shall, upon receiving livestock for transportation, issue a waybill or bill of lading for all livestock transported or hauled by the person. The waybill or bill of lading must accompany the shipment of livestock, with a copy being furnished to the person delivering livestock to the hauler. The waybill or bill of lading must include:

(1) the place of origin and destination of the shipment;

(2) the name of the owner of the livestock;

(3) the date and time of loading;

(4) the name of the person or company hauling the livestock;

(5) the number of livestock; and

(6) a general description of the livestock, including the identifying brands.

The waybill or bill of lading must be signed by the person delivering the livestock to the hauler, certifying that the information contained in the waybill or bill of lading is correct.

Sec. 18. (a) The board may establish and collect:

(1) up to thirty-five dollars ($35) for each brand recording; and

(2) fair and reasonable charges related to the cost of administering a brand recordation program for:

(A) the rerecording of brands;

(B) the recording of instruments transferring ownership of brands; and

(C) certificates of recordation or rerecordation of brands.

(b) The board shall deposit fees collected under this section in the brand registration fund. The brand registration fund is a nonbudgetary fund, and the money remaining in the brand registration fund at the end of a state fiscal year does not revert to the state general fund. The board may disburse money from the brand registration fund to defray the administrative costs of implementing this chapter.

Sec. 19. A person who, without permission of the owner, knowingly or intentionally applies a brand to livestock for the purpose of transferring ownership of that livestock commits a

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Class C felony.

Sec. 20. A person who knowingly destroys or alters a brand recorded with the board from livestock to conceal the identity of the owner of that livestock commits a Class C felony.

Sec. 21. A person who knowingly sells or offers for sale livestock whose brand has been destroyed or altered for the purpose of concealing the identity of the owner of that livestock commits a Class C felony.

Sec. 22. A person who knowingly purchases livestock whose brand has been destroyed or altered for the purpose of concealing the identity of the owner of that livestock commits a Class C felony.

Sec. 23. A livestock brand is a written instrument for purposes of IC 35-43-5.

Chapter 7. Commercial Feed

Sec. 1. As used in this chapter, "brand name" means a word, name, symbol, or device or any combination of words, names, symbols, or devices that identifies the commercial feed of a distributor and distinguishes it from that of other distributors.

Sec. 2. As used in this chapter, "commercial feed" means all materials that are distributed for use as feed or for mixing in feed. The term does not include the following unless adulterated within the meaning of section 29(1) of this chapter:

(1) Unmixed whole seeds.

(2) Unmixed, physically altered whole seeds that have not been chemically altered.

(3) Commodities, compounds, or substances excluded by rules adopted by the state chemist under IC 4-22-2 in accordance with section 34 of this chapter.

Sec. 3. As used in this chapter, "custom mixed feed" means commercial feed that consists of a mixture of commercial feeds or feed ingredients, each batch of which is mixed to meet the request of the final purchaser that the mixture contain a specific content of ingredients, nutrients, or nonnutritive additives.

Sec. 4. As used in this chapter, "distribute" means to offer for sale, sell, exchange, barter, or otherwise supply a commercial feed.

Sec. 5. As used in this chapter, "distributor" means a person who distributes.

Sec. 6. As used in this chapter, "drug" means:

(1) an article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in animals other than humans; or

(2) an article other than feed intended to affect the structure

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or any function of the animal body.

Sec. 7. As used in this chapter, "feed ingredient" means each of the constituent materials making up a commercial feed.

Sec. 8. As used in this chapter, "label" means a display of written, printed, or graphic matter upon or affixed to the container in which a commercial feed is distributed or on the invoice or delivery slip with which a commercial feed is distributed.

Sec. 9. As used in this chapter, "labeling" means all labels and other written, printed, or graphic matter:

(1) upon a commercial feed or its containers or wrappers; or

(2) accompanying a commercial feed.

Sec. 10. As used in this chapter, "manufacture" means to grind, mix, blend, or further process a commercial feed for distribution.

Sec. 11. As used in this chapter, "mineral feed" means a commercial feed, the primary purpose of which is to supply mineral elements and inorganic nutrients.

Sec. 12. As used in this chapter, "official sample" means a sample of feed taken by the state chemist or the chemist's agent in accordance with section 35(c) or 36 of this chapter.

Sec. 13. As used in this chapter, "percent" or "percentage" means percentage by weight.

Sec. 14. As used in this chapter, "person" includes individuals, partnerships, limited liability companies, corporations, and associations.

Sec. 15. As used in this chapter, "pet" means a domesticated animal normally maintained in or near the household of its owner.

Sec. 16. As used in this chapter, "pet food" means a commercial feed prepared and distributed for consumption by dogs or cats.

Sec. 17. As used in this chapter, "product name" means the name of the commercial feed that identifies it as to kind, class, or specific use.

Sec. 18. As used in this chapter, "specialty pet" means a domesticated animal normally maintained in a cage or tank, including a gerbil, hamster, bird, fish, and turtle.

Sec. 19. As used in this chapter, "specialty pet food" means a commercial feed prepared and distributed for consumption by specialty pets.

Sec. 20. As used in this chapter, "ton" means a net weight of two thousand (2,000) pounds avoirdupois.

Sec. 21. This chapter shall be administered by the state chemist.

Sec. 22. The state chemist may cooperate with and enter into agreements with governmental agencies of this state, other states,

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agencies of the federal government, and private associations in order to carry out this chapter.

Sec. 23. The state chemist shall publish at least annually, in a form that the state chemist considers proper:

(1) information concerning the distribution of commercial feeds, together with data on their production and use that the state chemist considers advisable; and

(2) a report of the results of the analyses of official samples of commercial feeds distributed within Indiana.

However, the information concerning production and use of commercial feed may not disclose the operations of any person.

Sec. 24. (a) A person who manufactures a commercial feed or whose name appears on the label of a commercial feed may not distribute the commercial feed in Indiana without a commercial feed license issued by the state chemist on a form provided by the state chemist.

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

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

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

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

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

Sec. 25. The state chemist may refuse an application for a commercial feed license that does not comply with this chapter and may cancel a commercial feed license that is not in compliance with this chapter. However, a commercial feed license may not be refused or canceled unless the applicant or licensee has been given an opportunity to be heard before the state chemist and to amend the applicant's or licensee's application in order to comply with this chapter.

Sec. 26. A commercial feed, except a custom mixed feed, must be accompanied by a label bearing the following information:

(1) The net weight.

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(2) The product name and the brand name, if any, under which the commercial feed is distributed.

(3) The guaranteed analysis stated in the terms that the state chemist, by rule, determines are required to advise the user of the composition of the feed or to support claims made in the labeling. In all cases the substances or elements must be determinable by laboratory methods such as the methods published by AOAC (Association of Analytical Communities) International.

(4) The common or usual name of each ingredient used in the manufacture of the commercial feed. However, the state chemist, by rule, may:

(A) permit the use of a collective term for a group of ingredients that perform a similar function; or

(B) exempt a commercial feed or group of commercial feeds from the requirement for an ingredient statement if the state chemist finds that such a statement is not required in the interest of consumers.

(5) The name and principal mailing address of the manufacturer or the person responsible for distributing the commercial feed.

(6) Adequate directions for use for:

(A) commercial feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(7) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the commercial feed.

Sec. 27. Custom mixed feed must be accompanied by a label, invoice, delivery slip, or other shipping document bearing the following information:

(1) Name and address of the manufacturer.

(2) Name and address of the purchaser.

(3) Date of delivery.

(4) The product name and brand name, if any, and the net weight of each registered commercial feed used in the mixture, and the common or usual name and net weight of each other ingredient used, and the specific content, stated in terms as required in section 26 of this chapter, of any nutrients and nonnutritive additives added at the request of the purchaser.

(5) Adequate directions for use for:

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(A) custom mixed feeds containing drugs; and

(B) other feeds that the state chemist requires by rule as necessary for their safe and effective use.

(6) Precautionary statements that the state chemist by rule determines are necessary for the safe and effective use of the custom mixed feed.

Sec. 28. A commercial feed is considered misbranded if any of the following conditions exist:

(1) Its labeling is false or misleading in any particular.

(2) It is distributed under the name of another commercial feed.

(3) It is not labeled as required by section 26 or 27 of this chapter.

(4) It appears to be or is represented as a commercial feed, or it appears to contain or is represented as containing a commercial feed ingredient, unless the commercial feed or feed ingredient conforms to the definition, if any, prescribed by rule by the state chemist.

(5) Any word, statement, or other information required by or under authority of this chapter to appear on the label or labeling is not prominently placed on the label or labeling with sufficient conspicuousness (as compared with other words, statements, designs, or devices in the labeling) and in sufficient terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Sec. 29. A commercial feed is considered adulterated if it meets any of the following conditions:

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

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

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

(B) a food additive.

(3) It is, or it contains, a food additive that is unsafe within the

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meaning of Section 409 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 348).

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

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

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

(C) the feeding of the processed feed will not result, or is not likely to result, in a pesticide residue in the edible product of the animal that is unsafe within the meaning of Section 408(a) of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(a)).

(5) It is, or it contains, a color additive that is unsafe within the meaning of Section 706 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 379e).

(6) It is, or it contains, an animal drug that is unsafe within the meaning of Section 512 of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b).

(7) If any valuable constituent has been in whole or in part omitted or removed from the commercial feed or any less valuable substance has been substituted for a valuable constituent.

(8) Its composition or quality falls below or differs from that which it is purported or is represented to possess by its labeling.

(9) It contains a drug and the methods used in or the facilities or controls used for its manufacture, processing, or packaging do not conform to current good manufacturing practice rules adopted by the state chemist to ensure that the drug:

(A) meets the requirement of this chapter as to safety; and

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(B) has the identity and strength, and meets the quality and purity characteristics that it is represented to possess.

In adopting these rules, the state chemist shall adopt the current good manufacturing practice regulations for medicated feed premixes and for medicated feeds established under authority of the federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.), unless the state chemist determines that they are not appropriate to the conditions that exist in Indiana.

(10) It contains viable weed seeds in amounts exceeding the limits the state chemist establishes by rule.

Sec. 30. (a) A distributor shall pay to the state chemist an inspection fee at the rate of forty cents ($0.40) per ton on all commercial feeds shipped into or within Indiana, subject to the following:

(1) No fee shall be paid on a commercial feed if the payment has been made by a previous distributor.

(2) No fee shall be paid on a custom mixed feed if the inspection fee has been paid on all of the commercial feeds that are ingredients of the custom mixed feed.

(3) On commercial feeds that contain ingredients on which the inspection fee has already been paid, credit shall be given for that payment.

(4) The minimum inspection fee is five dollars ($5) per quarter if a quarterly feed tonnage report is required under section 31 of this chapter.

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

Sec. 31. (a) Except as provided in subsection (b), a distributor who is liable for the payment of the tonnage inspection fee under section 30 of this chapter shall file quarterly tonnage reports setting forth the number of net tons of commercial feeds distributed in Indiana during the preceding calendar quarter. The distributor shall file the reports not later than January 31, April 30, July 31, and October 31 of each year. Upon filing a report, the distributor shall pay the inspection fee at the rate stated in section 30 of this chapter. Inspection fees that are due and owing and have not been remitted to the state chemist within fifteen (15) days after the due date shall be increased by a penalty fee of ten percent (10%) of the amount due or fifty dollars ($50), whichever is

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greater. The assessment of this penalty fee does not prevent the state chemist from taking other actions under this chapter.

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

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

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

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

Sec. 32. (a) Each person required to pay an inspection fee or to report under this chapter shall keep records that are necessary or required by the state chemist to accurately indicate the tonnage of commercial feed or the number of small packaged pet and specialty pet products distributed in Indiana. The state chemist or the state chemist's agent may examine the records to verify statements of tonnage.

(b) Failure to:

(1) make an accurate statement of tonnage;

(2) make an accurate listing of small packaged pet or specialty pet products;

(3) pay the inspection fee; or

(4) accurately report any of the information required to be submitted under this chapter;

is sufficient cause to cancel the commercial feed license of the person who fails to act or falsifies information under this subsection.

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Sec. 33. (a) Fees collected by the state chemist under this chapter shall be paid to the treasurer of Purdue University. The board of trustees of Purdue University shall expend the money received under this section on proper vouchers in meeting all necessary expenses in carrying out this chapter, including:

(1) the employment of inspectors and chemists;

(2) other expenses of the work of feed inspection as provided for by this chapter; and

(3) any other expenses of Purdue University agricultural programs authorized by law and in support of the purposes of this chapter.

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

Sec. 34. (a) Subject to subsection (b), and in the manner provided by IC 4-22-2, the state chemist may adopt:

(1) rules for commercial feeds and pet foods as specifically authorized in this chapter; and

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

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

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

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

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

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

Sec. 35. (a) Upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, officers or employees designated by the state chemist may:

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(1) during normal business hours, enter:

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

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

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

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

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

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

(d) The state chemist shall forward the results of analyses of official samples to the person named on the label and to the person in whose possession the sample was taken. If the inspection and analysis of an official sample indicates a commercial feed has been adulterated or misbranded, and upon request within thirty (30) days following receipt of the analysis, the state chemist shall furnish to the registrant a portion of the sample concerned.

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

Sec. 36. (a) For the purpose of the enforcement of this chapter, the state chemist or the state chemist's agent may enter upon any public or private premises, including any vehicle of transport,

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during regular business hours to have access to, and to obtain samples and examine records relating to distribution of commercial feeds.

(b) Sampling and analysis under this chapter shall be conducted in accordance with methods published by AOAC International or in accordance with other generally recognized methods.

Sec. 37. If the owner of a factory, warehouse, or establishment described in section 35(a) of this chapter or the owner's agent refuses to admit the state chemist or the state chemist's agent to inspect in accordance with section 35(a) and 35(b) of this chapter, the state chemist may obtain from any state court a warrant directing the owner or the owner's agent to submit the premises described in the warrant to inspection.

Sec. 38. If the state chemist or the state chemist's agent has reasonable cause to believe that a lot of commercial feed is being distributed in violation of this chapter or a rule adopted under this chapter, the state chemist or agent may issue and enforce a written or printed "stop sale or withdrawal from distribution" order, warning the distributor not to dispose of the lot of commercial feed in any manner until written permission is given by the state chemist or a court. The state chemist shall release the lot of commercial feed when the distributor has complied with this chapter and the rules adopted under this chapter. If compliance is not obtained within thirty (30) days, the state chemist may begin, or upon request of the distributor or licensee shall begin, proceedings for condemnation under section 39 of this chapter.

Sec. 39. A lot of commercial feed that is not in compliance with this chapter or a rule adopted under this chapter is subject to seizure on complaint of the state chemist to a court with jurisdiction in the county in which the commercial feed is located. If the court finds the commercial feed is in violation of this chapter and orders the condemnation of the commercial feed, the commercial feed shall be disposed of in any manner consistent with the quality of the commercial feed and the laws of Indiana. However, the disposition of the commercial feed may not be ordered by the court without first giving the claimant an opportunity to apply to the court for release of the commercial feed or for permission to process or relabel the commercial feed to bring it into compliance with this chapter.

Sec. 40. A person commits a Class C infraction if the person knowingly engages in any of the following:

(1) The manufacture or distribution of a commercial feed that

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is adulterated or misbranded.

(2) The adulteration or misbranding of a commercial feed.

(3) The distribution of agricultural commodities, such as whole seed, hay, straw, stover, silage, cobs, husks, and hulls, that are adulterated within the meaning of section 29(1) of this chapter.

(4) The removal or disposal of a commercial feed in violation of an order under section 38 or 39 of this chapter.

(5) The failure to obtain a commercial feed license under section 24 of this chapter.

(6) The failure to pay inspection fees or file reports as required by section 30 or 31 of this chapter.

Sec. 41. A person who impedes, hinders, or otherwise prevents the state chemist or the state chemist's agent in performance of the state chemist's duty under this chapter commits a Class C infraction.

Sec. 42. This chapter does not require the state chemist or the state chemist's agent to:

(1) report for prosecution;

(2) institute seizure proceedings; or

(3) issue a withdrawal from distribution order;

as a result of minor violations of the chapter if the state chemist or the state chemist's agent believes the public interest will best be served by suitable notice of warning in writing.

Sec. 43. A prosecuting attorney to whom a violation of this chapter or a rule adopted under this chapter is reported shall consider the institution and prosecution of appropriate proceedings in a court with jurisdiction without delay. However, before the state chemist reports a violation for prosecution, the state chemist shall give an opportunity to the distributor to present the distributor's view to the state chemist.

Sec. 44. The state chemist may apply for and the appropriate court may grant a temporary or permanent injunction restraining any person from violating or continuing to violate this chapter or a rule adopted under this chapter, notwithstanding the existence of other remedies at law. The injunction may be issued without bond.

Sec. 45. A person adversely affected by an act, an order, or a ruling made under this chapter, other than the penalty provisions of this chapter, may not later than forty-five (45) days after the date of the act, order, or ruling bring an action in a court with jurisdiction for judicial review. The proceeding must be brought under IC 4-21.5 or, if IC 4-21.5 is inadequate, the proceeding must

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be brought as an applicable legal action, including an action for declaratory judgment or as a prohibitory or mandatory injunction.

Sec. 46. A person who recklessly uses to the person's own advantage or recklessly reveals to persons other than the state chemist, an agent of the state chemist, or to the courts when relevant in any judicial proceeding any information acquired under this chapter concerning any method, records, formulations, or processes entitled to protection as a trade secret commits a Class B misdemeanor. However, this does not prohibit the state chemist or the state chemist's agent from exchanging information of a regulatory nature with officials of the United States government or of other states who are also prohibited by law from revealing protected information.

SECTION 11. IC 15-20 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 20. ANIMAL CONTROL

Chapter 1. Liability for Dog Bites

Sec. 1. This chapter does not limit the power of an agency of the state or a political subdivision to adopt a rule or an ordinance that does not conflict with this chapter.

Sec. 2. As used in this chapter, "owner" means the owner of a dog. The term includes a person who possesses, keeps, or harbors a dog.

Sec. 3. (a) If a dog, without provocation, bites a person:

(1) who is acting peaceably; and

(2) who is in a location where the person may be required to be in order to discharge a duty imposed upon the person by:

(A) the laws of Indiana;

(B) the laws of the United States; or

(C) the postal regulations of the United States;

the owner of the dog is liable for all damages suffered by the person bitten.

(b) The owner of a dog described in subsection (a) is liable for damages even if:

(1) the dog has not previously behaved in a vicious manner; or

(2) the owner has no knowledge of prior vicious behavior by the dog.

Sec. 4. (a) Except as provided in subsection (b), the owner of a dog commits a Class C misdemeanor if:

(1) the owner recklessly, knowingly, or intentionally fails to take reasonable steps to restrain the dog;

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(2) the dog enters property other than the property of the dog's owner; and

(3) as the result of the owner's failure to restrain the dog, the dog bites or attacks another person without provocation, resulting in bodily injury to the other person.

(b) The offense under subsection (a) is:

(1) a Class B misdemeanor if the person has been convicted of one (1) previous unrelated violation of this section;

(2) a Class A misdemeanor if:

(A) the person has been convicted of more than one (1) previous unrelated violation of this section; or

(B) the violation results in serious bodily injury to a person;

(3) a Class D felony if the owner recklessly violates this section and the violation results in the death of a person; and

(4) a Class C felony if the owner intentionally or knowingly violates this section and the violation results in the death of a person.

(c) This subsection does not apply to a nonaggressive dog that goes beyond the owner's premises onto agricultural or forested land. An owner of a dog commits a Class D infraction if the owner of the dog allows the dog to stray beyond the owner's premises, unless the dog is under the reasonable control of an individual or the dog is engaged in lawful hunting and accompanied by the owner or a custodian of the dog. However, the offense is a Class C infraction if the owner has a prior unrelated judgment for a violation of this subsection.

Sec. 5. (a) The following definitions apply throughout this section:

(1) "Coydog" means:

(A) an animal that is the offspring of a coyote and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a coyote and another animal; and

(ii) another animal.

(2) "Secure enclosure" means an outdoor pen that is:

(A) roofed or that has sides at least six (6) feet tall; and

(B) constructed in such a manner that the type of animal contained within the pen cannot reasonably be expected to escape.

(3) "Wolf hybrid" means:

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(A) an animal that is the offspring of a wolf and another animal; or

(B) an animal that is the offspring of:

(i) an animal that is the offspring of a wolf and another animal; and

(ii) another animal.

(b) An owner of a wolf hybrid or coydog shall:

(1) keep the animal in a building or secure enclosure; or

(2) keep the animal:

(A) under the reasonable control of an individual; and

(B) on a leash not more than eight (8) feet in length.

Subject to subsections (c) and (d), an owner who does not comply with this subsection commits a Class B infraction. An owner who merely tethers or chains a coydog or wolf hybrid does not comply with this subsection.

(c) Subject to subsection (d), an owner of a wolf hybrid or coydog commits a Class B misdemeanor if the owner recklessly, knowingly, or intentionally fails to comply with subsection (b) and:

(1) the wolf hybrid or coydog enters property other than the property of the owner; and

(2) the wolf hybrid or coydog causes damage to livestock or the personal property of another individual.

(d) The offense under subsection (c) is:

(1) a Class A misdemeanor if the owner has one (1) prior unrelated conviction under this section;

(2) a Class D felony if:

(A) the owner has more than one (1) prior unrelated conviction for a violation under this section; or

(B) the owner knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in serious bodily injury to a person; and

(3) a Class C felony if the owner knowingly, intentionally, or recklessly fails to comply with subsection (b) and the failure to comply results in the death of a person.

(e) Notwithstanding IC 36-1-3-8(a), a unit (as defined in IC 36-1-2-23) may adopt an ordinance:

(1) prohibiting a person from possessing a wolf hybrid or coydog; or

(2) imposing:

(A) a penalty of more than one thousand dollars ($1,000) up to the limits prescribed in IC 36-1-3-8(a)(10)(B) for a violation of subsection (b); or

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(B) conditions on the possession of a wolf hybrid or coydog that are more stringent than the provisions of subsection (b).

Sec. 6. An owner of a dog is exempt under section 4 of this chapter if the dog commits an act described in section 4 of this chapter during the period that the dog is owned by:

(1) the United States;

(2) an agency of the United States; or

(3) a governmental entity (as defined in IC 34-6-2-49);

and the dog is engaged in assisting the owner or the owner's agent in the performance of law enforcement or military duties.

Sec. 7. If a law enforcement officer or any other person having authority to impound animals has probable cause to believe that there has been a violation of section 4 of this chapter, IC 35-46-3-6 applies.

Chapter 2. Livestock Killing Dogs

Sec. 1. If a dog kills or injures any livestock while the livestock is in the care, custody, and control of the livestock's owner or the owner's agent, the owner or harborer of the dog is liable to the owner of the livestock for all damages sustained, including reasonable attorney's fees and court costs.

Sec. 2. A person who observes a dog in the act of killing or injuring livestock may kill the dog if the person has the consent of the person in possession of the real estate on which the dog is found.

Sec. 3. (a) The following losses and expenses are chargeable to the county in which an attack or exposure occurs:

(1) Damages, less compensation by insurance or otherwise, sustained by the owner of the following stock, fowl, or game killed, maimed, or damaged by a dog:

(A) Sheep.

(B) Cattle.

(C) Horses.

(D) Swine.

(E) Goats.

(F) Mules.

(G) Chickens.

(H) Geese.

(I) Turkeys.

(J) Ducks.

(K) Guineas.

(L) Tame rabbits.

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(M) Game birds and game animals held in captivity under authority of a game breeder's license issued by the department of natural resources.

(N) Bison.

(O) Farm raised cervidae.

(P) Ratitae.

(Q) Camelidae.

(2) The expense of rabies post exposure prophylaxis that is incurred by any person who is bitten by or exposed to a dog known to have rabies.

(b) Damages are not chargeable to a county under this section for sheep except those claims in which individual damage exists or is shown.

Sec. 4. (a) A county auditor shall establish procedures in accordance with the requirements of sections 3(a) and 6 of this chapter by which a claimant may submit a claim to the county auditor or a designee of the county auditor.

(b) A county auditor who:

(1) receives a verified claim under section 3(a) from a claimant; and

(2) is satisfied that the claim meets the requirements of sections 3(a) and 6 of this chapter;

shall immediately issue a warrant or check to the claimant for the verified amount of the claim. If a county option dog tax adopted under IC 6-9-39 is not in effect in the county, a claim under this section may be paid out of nonappropriated funds. A county auditor who is not satisfied that a claim meets the requirements of sections 3(a) and 6 of this chapter shall promptly notify the claimant.

(c) A person whose claim under section 3(a) is denied by a county auditor may file an action in a court with jurisdiction to determine whether the county auditor acted in conformance with the requirements of this section and sections 3 and 6 of this chapter. If the court determines that the county auditor failed to comply with the requirements of this section or sections 3 and 6 of this chapter in evaluating the person's claim, the court may fashion an appropriate remedy, including an order directed to the county auditor to reconsider the person's claim.

Sec. 5. A person requiring the treatment described in section 3(a)(2) of this chapter may select the person's own physician.

Sec. 6. (a) An owner desiring to make a claim under section 3(a)(1) of this chapter must do the following:

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(1) Not more than seventy-two (72) hours after the time of the loss, notify one (1) of the following having jurisdiction in the location where the loss occurred:

(A) A law enforcement officer.

(B) An officer of a county or municipal animal control center, shelter, or similar impounding facility.

(2) Not more than twenty (20) days after the time of the loss, report the loss to the county auditor as follows:

(A) Under oath, the owner shall state:

(i) the number, age, and value of the stock, fowl, or game; and

(ii) the damages sustained, less compensation by insurance or otherwise.

(B) In an affidavit, the owner must be joined by two (2) disinterested and reputable freeholders residing in the township in which the stock, fowl, or game were killed, maimed, or damaged. The affidavit must state that the freeholders are:

(i) disinterested; and

(ii) not related by blood or marriage to the claimant.

(C) An appraisal of the stock, fowl, or game that were killed, maimed, or damaged may not exceed the actual cash value of the stock, fowl, or game. As it applies to ratitae, cash value may not exceed the slaughter value.

(D) The owner shall provide verification of the loss by an officer described in subdivision (1).

(E) Payment for a loss for property owned by a claimant on the last property tax assessment date may not be paid if the property was not reported by the owner for assessment purposes at that time.

(b) In addition to the requirements of subsection (a), the claimant, if requested to do so by the county auditor or a person designated by the county auditor, must grant the right of subrogation to the county for the total amount paid on the claim to the claimant by the county on a form prescribed by the county auditor.

Sec. 7. (a) An officer who receives notice under section 6(a)(1) of this chapter shall visit the scene of the loss, verify the loss in writing, and mark each killed, maimed, or damaged animal so that the animal can support only one (1) claim under this chapter.

(b) A person desiring to make a claim under section 3(a)(2) of this chapter must provide the county auditor with documentation

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that the person, or a person for whom the claimant is financially responsible, underwent rabies post exposure prophylaxis.

Chapter 3. Sale of Dogs to Laboratories

Sec. 1. This chapter applies to the sale of dogs to the following:

(1) Research laboratories.

(2) A laboratory that uses animals for the production of medicines or other products.

Sec. 2. A person who sells a dog to a laboratory must show a valid bill of sale for the dog from:

(1) a breeder or kennel;

(2) an animal control facility; or

(3) a private individual;

to the individual who purchases animals for the laboratory.

Sec. 3. A person who sells a dog to a laboratory must:

(1) maintain the bill of sale for the dog; and

(2) allow a law enforcement officer to inspect the bill of sale; for not less than one (1) year after the sale of the dog to a laboratory.

Sec. 4. If a person is unable to show a valid bill of sale for a dog:

(1) a laboratory may not purchase the dog; and

(2) there is a rebuttable presumption that the dog is stolen.

SECTION 12. IC 25-38.1 IS ADDED TO THE INDIANA CODE AS A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

ARTICLE 38.1 VETERINARIANS

Chapter 1. Preamble; Definitions

Sec. 1. This article is an exercise of the police powers of the state to promote the public health, safety, and welfare of the people of Indiana to safeguard against the incompetent, dishonest, or unprincipled practitioner of veterinary medicine. The practice of veterinary medicine is a privilege conferred by the general assembly to individuals qualified under this chapter.

Sec. 2. The definitions in this chapter apply throughout this article.

Sec. 3. "Accredited college of veterinary medicine" means a veterinary college or division of a university or college that:

(1) offers the degree doctor of veterinary medicine or its equivalent;

(2) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(3) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved

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by the United States Department of Education or its successor.

Sec. 4. "Agency" refers to the Indiana professional licensing agency established by IC 25-1-5-3.

Sec. 5. "Animal" means any animal other than humans. The term includes:

(1) birds;

(2) fish;

(3) mammals; and

(4) reptiles;

wild or domestic.

Sec. 6. "Approved program" means a program in veterinary technology that:

(1) conforms to the standards required for accreditation by the American Veterinary Medical Association; and

(2) is accredited by the American Veterinary Medical Association or an accrediting agency that has been approved by the United States Department of Education or its successor.

Sec. 7. "Board" means the Indiana board of veterinary medical examiners established by IC 25-38.1-2-1.

Sec. 8. "ECFVG certificate" means a certificate issued by the American Veterinary Medical Association Educational Commission for Foreign Veterinary Graduates, indicating that the holder has demonstrated knowledge and skill equivalent to that possessed by a graduate of an accredited college of veterinary medicine.

Sec. 9. "Extern" means a:

(1) senior veterinary student enrolled in an accredited college of veterinary medicine; or

(2) second year student enrolled in an approved program in veterinary technology;

employed by or working with a licensed veterinarian and under the licensed veterinarian's direct supervision.

Sec. 10. "Licensed veterinarian" means an individual who is licensed under this article to practice veterinary medicine in Indiana.

Sec. 11. "Person" means an individual, an incorporated or unincorporated organization or association, or a group of persons acting in concert.

Sec. 12. "Practice of veterinary medicine" means:

(1) representing oneself as engaged in the practice of

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veterinary medicine, veterinary surgery, or veterinary dentistry in any of its branches;

(2) using words, letters, or titles in a connection or under circumstances that may induce another person to believe that the person using them is engaged in the practice of veterinary medicine, veterinary surgery, or veterinary dentistry;

(3) accepting remuneration for doing any of the things described in subdivisions (4) through (7);

(4) diagnosing a specific disease or injury, or identifying and describing a disease process of animals, or performing any procedure for the diagnosis of pregnancy, sterility, or infertility upon animals;

(5) prescribing a drug, medicine, appliance or application, or treatment of whatever nature for the prevention, cure, or relief of bodily injury or disease of animals;

(6) performing a surgical or dental operation upon an animal; or

(7) administering a drug, medicine, appliance, application, or treatment of whatever nature for the prevention, cure, or relief of a wound, fracture, or bodily injury or disease of animals, except where such drug, medicine, appliance, application, or treatment is administered at the direction and under the direct supervision of a veterinarian licensed under this article.

Sec. 13. "Registered veterinary technician" means a veterinary technician registered under this article to work under the direct supervision of a licensed veterinarian.

Sec. 14. "Veterinarian" means an individual who was a licensed veterinarian on August 31, 1979, or who has received a professional degree from an accredited college of veterinary medicine.

Sec. 15. "Veterinary medicine" includes veterinary surgery, obstetrics, dentistry, acupuncture, and all other branches or specialties of veterinary medicine.

Sec. 16. "Veterinary technician" means an individual who has successfully completed a program in veterinary technology of at least two (2) years in a school that conforms to the standards required for accreditation by the American Veterinary Medical Association and that is accredited by the American Veterinary Medical Association.

Chapter 2. Indiana Board of Veterinary Medical Examiners

Sec. 1. (a) The Indiana board of veterinary medical examiners

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is established.

(b) The board consists of six (6) members appointed by the governor from the districts described in section 3 of this chapter. Not more than one (1) veterinarian member may be domiciled in the same district.

(c) One (1) of the board members must be appointed to represent the general public.

(d) Not more than four (4) board members may be affiliated with the same political party.

(e) If there is a vacancy on the board, the governor shall appoint a successor to complete the unexpired term.

Sec. 2. (a) The term of each member of the board is four (4) years beginning on September 1 of the appropriate year. Each member shall serve until the member's successor is appointed and qualified. Members of the board may be appointed for more than one (1) term, but an individual may not be a member of the board for more than eight (8) years out of any twelve (12) year period.

(b) The terms of the board members expire as follows:

(1) The term of the member from the first district expires on August 31, 2008, and every four (4) years thereafter.

(2) The term of the member from the second district expires on August 31, 2009, and every four (4) years thereafter.

(3) The term of the member from the third district expires on August 31, 2010, and every four (4) years thereafter.

(4) The term of the member from the fourth district expires on August 31, 2011, and every four (4) years thereafter.

(5) The term of the member from the fifth district expires on August 31, 2008, and every four (4) years thereafter.

(6) The term of the member appointed to represent the general public expires on August 31, 2009, and every four (4) years thereafter.

Sec. 3. (a) District 1 consists of the following counties: Clay, Crawford, Daviess, Dubois, Fountain, Gibson, Greene, Knox, Lawrence, Martin, Monroe, Montgomery, Morgan, Orange, Owen, Parke, Perry, Pike, Posey, Putnam, Spencer, Sullivan, Tippecanoe, Vanderburgh, Vermillion, Vigo, Warren, and Warrick.

(b) District 2 consists of the following counties: Bartholomew, Brown, Clark, Dearborn, Decatur, Delaware, Fayette, Floyd, Franklin, Hancock, Harrison, Henry, Jackson, Jefferson, Jennings, Johnson, Madison, Ohio, Randolph, Ripley, Rush, Scott, Shelby, Switzerland, Union, Washington, and Wayne.

(c) District 3 consists of the following counties: Boone, Clinton,

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Hamilton, Hendricks, Howard, Marion, and Tipton.

(d) District 4 consists of the following counties: Lake, LaPorte, Marshall, Porter, St. Joseph, and Starke.

(e) District 5 consists of the following counties: Adams, Allen, Benton, Blackford, Carroll, Cass, DeKalb, Elkhart, Fulton, Grant, Huntington, Jasper, Jay, Kosciusko, LaGrange, Miami, Newton, Noble, Pulaski, Steuben, Wabash, Wells, White, and Whitley.

Sec. 4. (a) Each member of the board must have been a resident of Indiana for at least five (5) years continuously before appointment and must have been a licensed veterinarian in the private practice of veterinary medicine in the state for at least three (3) of those years.

(b) Each member of the board must be a graduate of a school or college of veterinary medicine generally recognized as approved, according to the prevailing standard for recognition as a school or college of veterinary medicine at the time of the member's graduation.

(c) Each member of the board must be a person of good reputation within the profession and within the community in which the member resides.

(d) A member of the board may not be an officer, a director, or an employee in any manufacturing, wholesaling, or retail enterprise dealing in drugs, supplies, instruments, or equipment used or useful in the practice of veterinary medicine, which might constitute or tend to create a conflict of interest between the member's business association and membership on the board.

(e) A member of the board may not be a member of the faculty, board of trustees, or advisory board of a school of veterinary medicine or school of veterinary technology.

(f) Notwithstanding the other provisions of this section, one (1) member of the board, appointed to represent the general public, must be an Indiana resident who has never been associated with veterinary medicine in any way other than as a consumer.

Sec. 5. (a) The board shall hold an annual meeting in Indianapolis and other regular meetings during the year at places the board sets.

(b) The board may hold special meetings as necessary. The chairperson or two (2) members of the board may call a special meeting.

(c) Four (4) members of the board constitute a quorum.

(d) All meetings must be open and public. However, the board may meet in closed session:

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(1) to prepare, approve, administer, or grade examinations;
(2) to deliberate the qualifications of an applicant for license or registration; or
(3) to deliberate the disposition of a proceeding to discipline a licensed veterinarian or registered veterinary technician.

(e) Minutes of each regular and special meeting shall be compiled and kept as a permanent record in the same office as other records of the board are kept. The agency is responsible for the care and safekeeping of the minutes.

Sec. 6. Each member of the board is entitled to reimbursement for traveling and other expenses as provided in the state travel policies and procedures established by the Indiana department of administration and approved by the budget agency.

Sec. 7. (a) At its annual meeting, the board shall elect a chairperson and vice chairperson and other necessary officers determined by the board. Officers shall serve for a term of one (1) year or until a successor is elected. There is no limitation on the number of terms an officer may serve.

(b) The state veterinarian shall be the technical adviser of the board.

(c) The duties of the agency include:
(1) corresponding for the board;
(2) keeping accounts and records of all receipts and disbursements by the board;
(3) keeping records of all applications for license or registration;
(4) keeping a register of all persons currently licensed or registered by the board; and
(5) keeping permanent records of all board proceedings.

Sec. 8. The powers granted to the board in this chapter are to enable the board to effectively supervise the practice of veterinary medicine and are to be construed liberally to accomplish this objective.

Sec. 9. The board is vested with the sole authority to determine the qualifications of applicants for:
(1) a license to practice veterinary medicine; and
(2) registration to practice as a veterinary technician;
in Indiana.

Sec. 10. The board is vested with the sole authority to issue, renew, deny, suspend, or revoke:
(1) licenses and special permits to practice veterinary medicine; and

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(2) registrations or special permits to practice as a veterinary technician;

in Indiana.

Sec. 11. The board is vested with sole authority to discipline licensed veterinarians and registered veterinary technicians consistent with this article and the rules adopted under this chapter.

Sec. 12. The board is vested with the sole authority to determine the following:

(1) The examinations applicants are required to take.

(2) The subjects to be covered.

(3) The places where and the dates on which examinations will be given.

(4) The deadlines for applying to take the examinations.

Sec. 13. The board may establish by rule minimum standards of continuing education for the renewal of licenses to practice veterinary medicine and for the renewal of registrations as a veterinary technician. The rules adopted under this section must comply with IC 25-1-4-3.

Sec. 14. The board shall adopt by rule standards of professional conduct for the competent practice of veterinary medicine and the competent practice of a veterinary technician.

Sec. 15. Subject to IC 25-1-7, the board may conduct investigations for the purpose of discovering violations of this article by:

(1) licensed veterinarians or registered veterinary technicians; or

(2) persons practicing veterinary medicine without a license or persons practicing as a registered veterinary technician without being registered.

Sec. 16. The board may inspect, without notice and during normal working hours, veterinary hospitals, clinics, or other establishments to determine if the veterinary hospitals, clinics, or other establishments meet the board's standards of cleanliness and sanitation as defined by the board's rules.

Sec. 17. The board may hold hearings on all matters properly brought before the board. When conducting hearings, the board may administer oaths, receive evidence, make findings, and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records, or other documentary evidence and commission depositions. The board may designate one (1) or more

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of its members to serve as the board's hearing officer.

Sec. 18. The board may bring proceedings in the courts for the enforcement of this article or any rules adopted under this chapter.

Sec. 19. (a) The board shall establish by rule under IC 25-1-8 fees sufficient to implement this article, including fees for examining and licensing veterinarians and for examining and registering veterinary technicians.

(b) The fees established under this section shall be charged and collected by the agency.

Sec. 20. The board may enter into reciprocal agreements with its counterpart boards in other states and may effect agreements by rule.

Sec. 21. The board may appoint one (1) or more board members to act as representatives of the board at any meeting inside or outside Indiana where representation is desirable.

Sec. 22. The agency shall provide the board with full or part-time professional and clerical personnel and supplies, including printed matter and equipment, necessary to implement this article.

Sec. 23. The board may adopt rules under IC 4-22-2 that the board considers necessary to carry out the board's duties.

Sec. 24. The board may adopt an appropriate seal, which may be affixed to all license and registration certificates and other official documents of the board.

Chapter 3. Veterinarians; Veterinary Technicians; Licenses, Special Permits, and Registration

Sec. 1. (a) A person may not practice veterinary medicine in Indiana unless the person:

(1) is licensed as a veterinarian in Indiana; or

(2) holds a special permit issued by the board.

(b) A person may not act as a veterinary technician in Indiana unless the person:

(1) is registered as a veterinary technician in Indiana; or

(2) holds a special permit issued by the board.

(c) The following persons are exempt from the licensing, registration, or special permit requirements of this chapter:

(1) A veterinarian on the faculty of the School of Veterinary Medicine at Purdue University performing regular duties, or a veterinarian employed by the animal disease diagnostic laboratory established by IC 21-46-3-1 performing regular duties.

(2) A veterinarian employed by a federal, state, or local

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government agency performing official duties.

(3) An individual who is a regular student in an accredited college of veterinary medicine or veterinary technology performing duties or actions assigned by instructors or working under the direct supervision of a licensed veterinarian.

(4) An extern.

(5) A veterinarian licensed and resident in another state or nation who occasionally consults with a licensed veterinarian in Indiana.

(6) The owner of an animal or a regular employee of the owner caring for and treating an animal, except where the ownership of the animal was transferred for purposes of circumventing this chapter.

(7) A guest lecturing or giving instructions or demonstrations at the School of Veterinary Medicine at Purdue University, or elsewhere, in connection with a continuing education program.

(8) An individual while engaged in bona fide scientific research that reasonably requires experimentation involving animals.

(9) A graduate of a foreign college of veterinary medicine who is in the process of obtaining an ECFVG certificate and who is under the direct supervision of a licensed veterinarian.

(10) A veterinarian who is enrolled in a postgraduate instructional program in an accredited college of veterinary medicine performing duties or actions assigned by instructors or working under the direct supervision of a licensed veterinarian.

Sec. 2. To become a licensed veterinarian, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the fees required under this article;

(3) have successfully completed a program in veterinary medicine from an accredited college of veterinary medicine; and

(4) have successfully completed the examinations provided under section 4 of this chapter or qualify for a license without examination under section 5 of this chapter.

However, a person who was licensed as a veterinarian in Indiana on August 31, 1979, is not required to meet the requirements of subdivision (3) or (4).

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Sec. 3. (a) As used in this subsection, "term" refers to an academic semester, trimester, or quarter. A person desiring a license to practice veterinary medicine shall make written application to the board. The application must state that the applicant is:

(1) a graduate of an accredited college of veterinary medicine; or

(2) enrolled in the last term of the last year of the veterinary medical curriculum of an accredited school of veterinary medicine.

If the applicant is enrolled as a last term student as described in subdivision (2), a letter from the dean of the student's veterinary school confirming that the applicant is a last term student, attesting to the satisfactory academic standing of the student, and stating the date on which the degree is expected to be conferred upon the student must accompany the application. A license to practice veterinary medicine in Indiana may not be issued until satisfactory proof has been furnished to the board either that the applicant has graduated from an accredited college of veterinary medicine or that the applicant is the holder of an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate. The application must show reasonable information and proof required by the board by rule. The application must be accompanied by the required fee.

(b) If the board determines that the applicant possesses the proper qualifications, the board may grant the applicant a license. If the board determines that the applicant is not qualified to take the examination or that the applicant does not qualify for a license without examination, the executive secretary of the board shall immediately notify the applicant in writing of the finding and the grounds for the finding. Applicants found unqualified may request a hearing on the question of their qualifications.

Sec. 4. (a) The board shall hold at least one (1) examination for licensing veterinarians and one (1) examination for registering veterinary technicians each year. However, the board may hold additional examinations. The agency shall give notice of the date, time, and place for each examination at least ninety (90) days before the date set for the examination. A person desiring to take an examination must make application not later than the time the board may prescribe under IC 25-38.1-2-12.

(b) The board must approve the preparation, administration, and grading of examinations. Examinations must be designed to

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test the examinee's knowledge of and proficiency in the subjects and techniques commonly taught in veterinary schools. To pass the examination, the examinee must demonstrate scientific and practical knowledge sufficient to prove to the board that the examinee is competent to practice veterinary medicine or to act as a veterinary technician as the case may be. The board may adopt and use examinations approved by the National Board of Veterinary Medical Examiners.

(c) To qualify for a license as a veterinarian or to be registered as a veterinary technician, the applicant must attain a passing score in the examinations.

(d) After the examinations, the agency shall notify each examinee of the result of the examinee's examinations. The board shall issue a license or registration certificate, as appropriate, to each individual who successfully completes the examinations and is otherwise qualified. The agency shall keep a permanent record of the issuance of each license or registration certificate.

(e) An individual who fails to pass the required examinations may apply to take a subsequent examination. Payment of the examination fee may not be waived.

(f) If an applicant fails to pass the required examination within three (3) attempts in Indiana or any other state, the applicant may not retake the required examination. The applicant may take subsequent examinations upon approval by the board and completion of remedial education as required by the board.

Sec. 5. The board may issue a license without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant is a graduate of an accredited college of veterinary medicine or holds an Educational Commission for Foreign Veterinary Graduates (ECFVG) certificate;

(2) for the five (5) years immediately preceding filing an application has been a practicing veterinarian licensed in a state, territory, or district of the United States that has license requirements substantially equivalent to the requirements of this chapter; and

(3) otherwise meets the requirements of this chapter.

Sec. 6. To become a registered veterinary technician, a person must:

(1) not have a conviction for a crime that has a direct bearing on the person's ability to practice competently;

(2) pay the required fees;

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(3) be at least eighteen (18) years of age;

(4) have successfully completed four (4) years of high school education or an acceptable equivalent;

(5) have either successfully completed an approved program of veterinary technology or have been a registered veterinary technician on August 31, 1981; and

(6) show that the person has the necessary knowledge and skills to be a registered veterinary technician, demonstrated by successfully passing the required examinations.

Sec. 7. (a) The board may refuse to issue a registration or may issue a probationary registration to an applicant for registration as a veterinary technician under this chapter if:

(1) the applicant has been disciplined by a licensing entity of another state or jurisdiction; and

(2) the violation for which the applicant was disciplined has a direct bearing on the applicant's ability to competently practice as a veterinary technician in Indiana.

(b) Whenever issuing a probationary registration under this section, the board may impose any or a combination of the following conditions:

(1) Report regularly to the board upon the matters that are the basis of the discipline of the other state or jurisdiction.

(2) Limit practice to those areas prescribed by the board.

(3) Continue or renew professional education.

(4) Engage in community restitution or service without compensation for a number of hours specified by the board.

(c) The board shall remove any limitations placed on a probationary registration issued under this section if the board finds after a hearing that the deficiency that required disciplinary action has been remedied.

(d) This section does not apply to an individual who currently holds a registration certificate under this chapter.

Sec. 8. The board may issue a registration without an examination to a qualified applicant who:

(1) furnishes satisfactory proof that the applicant has successfully completed an approved program of veterinary technology;

(2) for the five (5) years immediately preceding filing an application has been acting as a registered veterinary technician in a state, territory, or district of the United States that has registration requirements substantially equivalent to the requirements of this chapter; and

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(3) otherwise meets the requirements of this chapter.

Sec. 9. An applicant for registration as a registered veterinary technician shall complete an application form prescribed by the board. Each application shall be accompanied by the required registration fee and other material that the board may require by rule. Each applicant shall furnish proof to the board that the applicant meets the requirements of a registered veterinary technician under this chapter.

Sec. 10. A license or registration certificate issued under this article is valid for the remainder of the renewal period in effect on the date of issuance.

Sec. 11. (a) A license issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All licenses expire on October 15 in each odd-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a sixty (60) day notice of expiration to each licensed veterinarian and provide the veterinarian with a form for renewal. The agency shall issue a license renewal to each individual licensed under this chapter if the proper fee has been received and all other requirements for renewal of the license have been satisfied. Failure to renew a license on or before the expiration date automatically renders the license invalid without any action by the board.

Sec. 12. (a) A registration certificate issued under this chapter is valid until the next renewal date described under subsection (b).

(b) All registration certificates expire on January 1 of each even-numbered year but may be renewed by application to the board and payment of the proper renewal fee. In accordance with IC 25-1-5-4(c), the agency shall mail a sixty (60) day notice of expiration to each registered veterinary technician and provide the veterinary technician with a form for renewal. The agency shall issue a registration certificate renewal to each individual registered under this chapter if the proper fee has been received and all other requirements for renewal of the registration certificate have been satisfied. Failure to renew a registration certificate on or before the expiration date automatically renders the license invalid without any action by the board.

Sec. 13. (a) An individual who:

(1) practices veterinary medicine after the individual's license has expired, been revoked, or been placed on inactive status; or

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(2) acts as a registered veterinary technician after the individual's registration has expired, been revoked, or been placed on inactive status;

violates this article.

(b) A veterinarian may renew an expired license or a veterinary technician may renew an expired registration certificate not later than five (5) years after the date of expiration by making written application for renewal and paying the required fee. After five (5) years have elapsed after the date of the expiration of a license or a registration certificate, the license or registration certificate may not be renewed, but the person may make application for a new license or registration certificate and take the appropriate examinations.

(c) To have a license or registration placed on inactive status, a licensed veterinarian or registered veterinarian technician must notify the board in writing of the veterinarian's or technician's desire to have the license or registration placed on inactive status. The board shall waive the continuing education requirements, if any, and payment of the renewal fee during the period the license or registration of a veterinarian or technician is on inactive status. A license or registration may be placed on inactive status during the period:

(1) the veterinarian or technician is on active duty with any branch of the armed services of the United States;

(2) the veterinarian or technician is in the Peace Corps;

(3) the veterinarian or technician is in an alternative service during a time of national emergency;

(4) the veterinarian or technician is suffering from a severe medical condition that prevents the veterinarian or technician from meeting the requirements of the board; or

(5) after the veterinarian or technician retires.

A veterinarian or technician who is retired and on inactive status may not maintain an office or practice veterinary medicine. The board may adopt rules under IC 4-22-2 that establish prerequisites or conditions for the reactivation of an inactive license or registration.

Chapter 4. Practice; Discipline; Prohibitions

Sec. 1. (a) During working hours or when actively performing the technician's duties, a registered veterinary technician must wear a unique mark of identification on the technician's clothing that is approved by the board and that identifies the technician as a registered veterinary technician.

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(b) A registered veterinary technician may use the title "registered veterinary technician" or the abbreviation "R.V.T.".

(c) An individual who is not a registered veterinary technician may not advertise or offer the individual's services in a manner calculated to lead others to believe that the individual is a trained veterinary technician or a registered veterinary technician.

Sec. 2. A registered veterinary technician may not diagnose, make a prognosis, prescribe medical or surgical treatment, or perform as a surgeon. However, the technician may perform routine procedures defined by board rules while under the direct supervision of a licensed veterinarian responsible for the technician's performance.

Sec. 3. A licensed veterinarian who is required to directly supervise an employee must be:

(1) present within the veterinarian's usual practice area;

(2) able to communicate directly with the employee at all times that the employee is performing animal health care; and

(3) prepared to personally assume treatment, if necessary for the welfare of the animal.

Direct communication may be verbal, by telephone, or by two-way radio. Instructions must be recorded by the employee and repeated by the employee to the employee's supervising licensed veterinarian.

Sec. 4. The holder:

(1) of a license or special permit to practice veterinary medicine; or

(2) of a registration or special permit to act as a veterinary technician;

must display the certificate of license, registration, or special permit in such a manner as to be visible and readable by persons in the office of the veterinarian.

Sec. 5. A licensed veterinarian may write prescriptions. Pharmacists shall give the prescriptions written by a licensed veterinarian the same recognition given the prescriptions of persons holding an unlimited license to practice medicine or osteopathic medicine.

Sec. 6. Notwithstanding this chapter, in an emergency, in the absence of the licensed veterinarian employer, an employee may perform the duties it is lawful for the employee to perform under the direct supervision of a licensed veterinarian according to the rules of the board and the written authority of the licensed veterinary employer.

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Sec. 7. A licensed veterinarian or a registered veterinary technician who, on the veterinarian's or technician's own initiative, gives emergency treatment to a sick or injured animal is not liable in damages to the owner of the animal in the absence of gross negligence. If a licensed veterinarian performs euthanasia on the animal, there is a presumption that performing euthanasia was a humane act, necessary to relieve the animal of pain and suffering.

Sec. 8. (a) An animal placed in the custody of a veterinarian is considered to be abandoned five (5) days after the veterinarian has given written notice to the individual who delivered the animal to the veterinarian that the animal should be reclaimed by the individual. Written notice must be delivered to the place given by the individual as the individual's mailing address at the time the individual delivered the animal to the veterinarian.

(b) Abandonment of an animal under this section constitutes the relinquishment of all rights and claims by the owner of the animal. The abandoned animal may be sold or otherwise disposed of as the veterinarian may see fit. The purchaser or recipient of the abandoned animal shall receive full and clear title to the animal.

(c) The giving of notice as provided in this section relieves the veterinarian and all persons who receive an abandoned animal from the veterinarian of criminal or civil liability.

(d) The individual who delivered an animal abandoned under this section is liable for all reasonable and customary expenses incurred for diagnosis, treatment, hospitalization, surgery, board, euthanasia, and disposal of the abandoned animal.

Sec. 9. Upon written complaint sworn to by any individual, the board may, by the concurrence of four (4) members, after a hearing and based upon findings of fact, discipline a registered veterinary technician by revoking or suspending the technician's registration for a time certain, by placing the technician on probation, or by any other appropriate means for any of the following reasons:

(1) The use of fraud, misrepresentation, or deception in obtaining a registration.

(2) Chronic intoxication or the unlawful use of a controlled substance.

(3) The use of advertising or solicitation that is false or misleading or is considered unprofessional under rules adopted by the board.

(4) Conviction of or a plea of guilty to the charge of a felony or misdemeanor involving moral turpitude.

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(5) Incompetence, gross negligence, or malpractice in performing as a registered veterinary technician.

(6) Cruelty to animals.

(7) Representing the technician as a veterinarian.

(8) Disciplinary action taken against the technician's registration by the board or by the licensing agency of any other state or jurisdiction by reason of the technician's inability to practice safely as a registered veterinary technician, if the reason is valid in the opinion of the board.

Sec. 10. A person who knowingly:

(1) practices veterinary medicine without a license or special permit to practice veterinary medicine issued by the board; or

(2) supplies false information on an application for a license as a veterinarian;

commits a Class B misdemeanor.

Sec. 11. A person who knowingly:

(1) acts as a registered veterinary technician without being registered as a veterinary technician with the board or having a special permit issued by the board; or

(2) supplies false information on an application for registration as a veterinary technician;

commits a Class B misdemeanor.

Sec. 12. (a) If a person engages in the practice of veterinary medicine without a license or certificate issued under this article:

(1) the attorney general;

(2) a prosecuting attorney;

(3) the board; or

(4) a citizen;

may maintain an action in the name of the state to enjoin the person from engaging in the practice of veterinary medicine.

(b) In charging a person under subsection (a) in an affidavit, information, or indictment with a violation of this article, it is sufficient to charge that the person did, on a certain date and in a certain county, engage in the practice of veterinary medicine without a license or permit issued under this article.

SECTION 13. IC 35-46-3-15 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 15. (a) This section does not apply to the following:**

(1) A state or federally inspected livestock slaughtering facility (for conduct authorized by IC 15-17-5 and rules adopted under that chapter).

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(2) An animal disease diagnostic laboratory established under IC 21-46-3-1.

(3) A postsecondary educational institution.

(4) A research facility licensed by the United States Department of Agriculture.

(b) As used in this section, "animal" has the meaning set forth in IC 35-46-3-3.

(c) A person who knowingly or intentionally destroys or authorizes the destruction of an animal by:

(1) placing the animal in a decompression chamber and lowering the pressure of or the oxygen content in the air surrounding the animal; or

(2) electrocution;

commits a Class B misdemeanor.

SECTION 14. IC 4-4-2.3-2, AS ADDED BY P.L.83-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The secretary is responsible for implementation of the following:

(1) IC 4-4-9.7.

(2) ~~IC 15-9.~~ **IC 15-11.**

SECTION 15. IC 4-4-11-15, AS AMENDED BY P.L.162-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 15. (a) The authority is granted all powers necessary or appropriate to carry out and effectuate its public and corporate purposes under the affected statutes, including but not limited to the following:

(1) Have perpetual succession as a body politic and corporate and an independent instrumentality exercising essential public functions.

(2) Without complying with IC 4-22-2, adopt, amend, and repeal bylaws, rules, guidelines, and policies not inconsistent with the affected statutes, and necessary or convenient to regulate its affairs and to carry into effect the powers, duties, and purposes of the authority and conduct its business under the affected statutes. These bylaws, rules, guidelines, and policies must be made by a resolution of the authority introduced at one (1) meeting and approved at a subsequent meeting of the authority.

(3) Sue and be sued in its own name.

(4) Have an official seal and alter it at will.

(5) Maintain an office or offices at a place or places within the state as it may designate.

(6) Make, execute, and enforce contracts and all other instruments

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necessary, convenient, or desirable for the purposes of the authority or pertaining to:

(A) a purchase, acquisition, or sale of securities or other investments; or

(B) the performance of the authority's duties and execution of any of the authority's powers under the affected statutes.

(7) Employ architects, engineers, attorneys, inspectors, accountants, agriculture experts, silviculture experts, aquaculture experts, and financial experts, and such other advisors, consultants, and agents as may be necessary in its judgment and to fix their compensation.

(8) Procure insurance against any loss in connection with its property and other assets, including loans and loan notes in amounts and from insurers as it may consider advisable.

(9) Borrow money, make guaranties, issue bonds, and otherwise incur indebtedness for any of the authority's purposes, and issue debentures, notes, or other evidences of indebtedness, whether secured or unsecured, to any person, as provided by the affected statutes. Notwithstanding any other law, the:

(A) issuance by the authority of any indebtedness that establishes a procedure for the authority or a person acting on behalf of the authority to certify to the general assembly the amount needed to restore a debt service reserve fund or another fund to required levels; or

(B) execution by the authority of any other agreement that creates a moral obligation of the state to pay all or part of any indebtedness issued by the authority;

is subject to review by the budget committee and approval by the budget director.

(10) Procure insurance or guaranties from any public or private entities, including any department, agency, or instrumentality of the United States, for payment of any bonds issued by the authority, including the power to pay premiums on any insurance or reinsurance.

(11) Purchase, receive, take by grant, gift, devise, bequest, or otherwise, and accept, from any source, aid or contributions of money, property, labor, or other things of value to be held, used, and applied to carry out the purposes of the affected statutes, subject to the conditions upon which the grants or contributions are made, including but not limited to gifts or grants from any department, agency, or instrumentality of the United States, and lease or otherwise acquire, own, hold, improve, employ, use, and

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otherwise deal in and with real or personal property or any interest in real or personal property, wherever situated, for any purpose consistent with the affected statutes.

(12) Enter into agreements with any department, agency, or instrumentality of the United States or this state and with lenders and enter into loan agreements, sales contracts, and leases with contracting parties, including participants (as defined in IC 13-11-2-151.1) for any purpose permitted under IC 13-18-13 or IC 13-18-21, borrowers, lenders, developers, or users, for the purpose of planning, regulating, and providing for the financing and refinancing of any agricultural enterprise (as defined in IC 5-28-31-1), rural development project (as defined in IC 5-28-31-20), industrial development project, purpose permitted under IC 13-18-13 and IC 13-18-21, or international exports, and distribute data and information concerning the encouragement and improvement of agricultural enterprises and agricultural employment, rural development projects, industrial development projects, international exports, and other types of employment in the state undertaken with the assistance of the authority under this chapter.

(13) Enter into contracts or agreements with lenders and lessors for the servicing and processing of loans and leases pursuant to the affected statutes.

(14) Provide technical assistance to local public bodies and to profit and nonprofit entities in the development or operation of agricultural enterprises, rural development projects, and industrial development projects.

(15) To the extent permitted under its contract with the holders of the bonds of the authority, consent to any modification with respect to the rate of interest, time, and payment of any installment of principal or interest, or any other term of any contract, loan, loan note, loan note commitment, contract, lease, or agreement of any kind to which the authority is a party.

(16) To the extent permitted under its contract with the holders of bonds of the authority, enter into contracts with any lender containing provisions enabling it to reduce the rental or carrying charges to persons unable to pay the regular schedule of charges when, by reason of other income or payment by any department, agency, or instrumentality of the United States of America or of this state, the reduction can be made without jeopardizing the economic stability of the agricultural enterprise, rural development project, or industrial development project being

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financed.

(17) Notwithstanding IC 5-13, but subject to the requirements of any trust agreement entered into by the authority, invest:

(A) the authority's money, funds, and accounts;

(B) any money, funds, and accounts in the authority's custody; and

(C) proceeds of bonds or notes;

in the manner provided by an investment policy established by resolution of the authority.

(18) Fix and revise periodically, and charge and collect, fees and charges as the authority determines to be reasonable in connection with:

(A) the authority's loans, guarantees, advances, insurance, commitments, and servicing; and

(B) the use of the authority's services or facilities.

(19) Cooperate and exchange services, personnel, and information with any federal, state, or local government agency, or instrumentality of the United States or this state.

(20) Sell, at public or private sale, with or without public bidding, any loan or other obligation held by the authority.

(21) Enter into agreements concerning, and acquire, hold, and dispose by any lawful means, land or interests in land, building improvements, structures, personal property, franchises, patents, accounts receivable, loans, assignments, guarantees, and insurance needed for the purposes of the affected statutes.

(22) Take assignments of accounts receivable, loans, guarantees, insurance, notes, mortgages, security agreements securing notes, and other forms of security, attach, seize, or take title by foreclosure or conveyance to any industrial development project when a guaranteed loan thereon is clearly in default and when in the opinion of the authority such acquisition is necessary to safeguard the industrial development project guaranty fund, and sell, or on a temporary basis, lease or rent such industrial development project for any use.

(23) Expend money provided to the authority by the Indiana economic development corporation from the industrial development project guaranty fund created by IC 5-28-30, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(24) Purchase, lease as lessee, construct, remodel, rebuild, enlarge, or substantially improve industrial development projects,

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including land, machinery, equipment, or any combination thereof.

(25) Lease industrial development projects to users or developers, with or without an option to purchase.

(26) Sell industrial development projects to users or developers, for consideration to be paid in installments or otherwise.

(27) Make direct loans from the proceeds of the bonds to users or developers for:

(A) the cost of acquisition, construction, or installation of industrial development projects, including land, machinery, equipment, or any combination thereof; or

(B) eligible expenditures for an educational facility project described in IC 4-4-10.9-6.2(a)(2);

with the loans to be secured by the pledge of one (1) or more bonds, notes, warrants, or other secured or unsecured debt obligations of the users or developers.

(28) Lend or deposit the proceeds of bonds to or with a lender for the purpose of furnishing funds to such lender to be used for making a loan to a developer or user for the financing of industrial development projects under this chapter.

(29) Enter into agreements with users or developers to allow the users or developers, directly or as agents for the authority, to wholly or partially construct industrial development projects to be leased from or to be acquired by the authority.

(30) Establish reserves from the proceeds of the sale of bonds, other funds, or both, in the amount determined to be necessary by the authority to secure the payment of the principal and interest on the bonds.

(31) Adopt rules and guidelines governing its activities authorized under the affected statutes.

(32) Use the proceeds of bonds to make guaranteed participating loans.

(33) Purchase, discount, sell, and negotiate, with or without guaranty, notes and other evidences of indebtedness.

(34) Sell and guarantee securities.

(35) Make guaranteed participating loans under IC 4-4-21-26.

(36) Procure insurance to guarantee, insure, coinsure, and reinsure against political and commercial risk of loss, and any other insurance the authority considers necessary, including insurance to secure the payment of principal and interest on notes or other obligations of the authority.

(37) Provide performance bond guarantees to support eligible

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export loan transactions, subject to the terms of the affected statutes.

(38) Provide financial counseling services to Indiana exporters.

(39) Accept gifts, grants, or loans from, and enter into contracts or other transactions with, any federal or state agency, municipality, private organization, or other source.

(40) Sell, convey, lease, exchange, transfer, or otherwise dispose of property or any interest in property, wherever the property is located.

(41) Cooperate with other public and private organizations to promote export trade activities in Indiana.

(42) Cooperate with the Indiana economic development corporation in taking any actions necessary for the administration of the agricultural loan and rural development project guarantee fund established by IC 5-28-31.

(43) In cooperation with the Indiana economic development corporation, take assignments of notes and mortgages and security agreements securing notes and other forms of security, and attach, seize, or take title by foreclosure or conveyance to any agricultural enterprise or rural development project when a guaranteed loan to the enterprise or rural development project is clearly in default and when in the opinion of the Indiana economic development corporation the acquisition is necessary to safeguard the agricultural loan and rural development project guarantee fund, and sell, or on a temporary basis, lease or rent the agricultural enterprise or rural development project for any use.

(44) Expend money provided to the authority by the Indiana economic development corporation from the agricultural loan and rural development project guarantee fund created by IC 5-28-31, subject to the terms of any agreement with the Indiana economic development corporation governing the expenditure of that money.

(45) Reimburse from bond proceeds expenditures for industrial development projects under this chapter.

(46) Acquire, hold, use, and dispose of the authority's income, revenues, funds, and money.

(47) Purchase, acquire, or hold debt securities or other investments for the authority's own account at prices and in a manner the authority considers advisable, and sell or otherwise dispose of those securities or investments at prices without relation to cost and in a manner the authority considers advisable.

(48) Fix and establish terms and provisions with respect to:

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(A) a purchase of securities by the authority, including dates and maturities of the securities;

(B) redemption or payment before maturity; and

(C) any other matters that in connection with the purchase are necessary, desirable, or advisable in the judgment of the authority.

(49) To the extent permitted under the authority's contracts with the holders of bonds or notes, amend, modify, and supplement any provision or term of:

(A) a bond, a note, or any other obligation of the authority; or

(B) any agreement or contract of any kind to which the authority is a party.

(50) Subject to the authority's investment policy, do any act and enter into any agreement pertaining to a swap agreement (as defined in IC 8-9.5-9-4) related to the purposes of the affected statutes in accordance with IC 8-9.5-9-5 and IC 8-9.5-9-7, whether the action is incidental to the issuance, carrying, or securing of bonds or otherwise.

(51) Do any act necessary or convenient to the exercise of the powers granted by the affected statutes, or reasonably implied from those statutes, including but not limited to compliance with requirements of federal law imposed from time to time for the issuance of bonds.

(b) The authority's powers under this chapter shall be interpreted broadly to effectuate the purposes of this chapter and may not be construed as a limitation of powers. The omission of a power from the list in subsection (a) does not imply that the authority lacks that power. The authority may exercise any power that is not listed in subsection (a) but is consistent with the powers listed in subsection (a) to the extent that the power is not expressly denied by the Constitution of the State of Indiana or by another statute.

(c) This chapter does not authorize the financing of industrial development projects for a developer unless any written agreement that may exist between the developer and the user at the time of the bond resolution is fully disclosed to and approved by the authority.

(d) The authority shall work with and assist the Indiana housing and community development authority established by IC 5-20-1-3, the Indiana port commission established under IC 8-10-1, and the state fair commission established by ~~IC 15-1.5-2-1~~ **IC 15-13-2-1** in the issuance of bonds, notes, or other indebtedness. The Indiana housing and community development authority, the Indiana port commission, and the state fair commission shall work with and cooperate with the

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authority in connection with the issuance of bonds, notes, or other indebtedness.

SECTION 16. IC 4-21.5-4-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsection (c), an order issued under this chapter expires on the earliest of the following:

(1) The date set in the order.

(2) The date set by a statute other than this article.

(3) The elapse of ninety (90) days.

(b) During the pendency of any related proceedings under IC 4-21.5-3, the agency responsible for the proceeding may renew the order for successive ninety (90) day periods unless a statute other than this article prohibits the renewal of the order.

(c) An order issued under this chapter and ~~IC 15-2.1-6~~ **IC 15-17-6** does not expire.

SECTION 17. IC 4-22-2-37.1, AS AMENDED BY P.L.218-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 37.1. (a) This section applies to a rulemaking action resulting in any of the following rules:

(1) An order adopted by the commissioner of the Indiana department of transportation under IC 9-20-1-3(d) or IC 9-21-4-7(a) and designated by the commissioner as an emergency rule.

(2) An action taken by the director of the department of natural resources under IC 14-22-2-6(d) or IC 14-22-6-13.

(3) An emergency temporary standard adopted by the occupational safety standards commission under IC 22-8-1.1-16.1.

(4) An emergency rule adopted by the solid waste management board under IC 13-22-2-3 and classifying a waste as hazardous.

(5) A rule, other than a rule described in subdivision (6), adopted by the department of financial institutions under IC 24-4.5-6-107 and declared necessary to meet an emergency.

(6) A rule required under IC 24-4.5-1-106 that is adopted by the department of financial institutions and declared necessary to meet an emergency under IC 24-4.5-6-107.

(7) A rule adopted by the Indiana utility regulatory commission to address an emergency under IC 8-1-2-113.

(8) An emergency rule adopted by the state lottery commission under IC 4-30-3-9.

(9) A rule adopted under IC 16-19-3-5 that the executive board of the state department of health declares is necessary to meet an

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emergency.

(10) An emergency rule adopted by the Indiana finance authority under IC 8-21-12.

(11) An emergency rule adopted by the insurance commissioner under IC 27-1-23-7.

(12) An emergency rule adopted by the Indiana horse racing commission under IC 4-31-3-9.

(13) An emergency rule adopted by the air pollution control board, the solid waste management board, or the water pollution control board under IC 13-15-4-10(4) or to comply with a deadline required by federal law, provided:

(A) the variance procedures are included in the rules; and

(B) permits or licenses granted during the period the emergency rule is in effect are reviewed after the emergency rule expires.

(14) An emergency rule adopted by the Indiana election commission under IC 3-6-4.1-14.

(15) An emergency rule adopted by the department of natural resources under IC 14-10-2-5.

(16) An emergency rule adopted by the Indiana gaming commission under IC 4-32.2-3-3(b), IC 4-33-4-2, IC 4-33-4-3, or IC 4-33-4-14.

(17) An emergency rule adopted by the alcohol and tobacco commission under IC 7.1-3-17.5, IC 7.1-3-17.7, or IC 7.1-3-20-24.4.

(18) An emergency rule adopted by the department of financial institutions under IC 28-15-11.

(19) An emergency rule adopted by the office of the secretary of family and social services under IC 12-8-1-12.

(20) An emergency rule adopted by the office of the children's health insurance program under IC 12-17.6-2-11.

(21) An emergency rule adopted by the office of Medicaid policy and planning under IC 12-15-41-15 or IC 12-15-44-19(b).

(22) An emergency rule adopted by the Indiana state board of animal health under ~~IC 15-2.1-18-21.~~ **IC 15-17-10-9.**

(23) An emergency rule adopted by the board of directors of the Indiana education savings authority under IC 21-9-4-7.

(24) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-34 (repealed).

(25) An emergency rule adopted by the department of local government finance under IC 6-1.1-4-33 (repealed).

(26) An emergency rule adopted by the boiler and pressure vessel

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rules board under IC 22-13-2-8(c).

(27) An emergency rule adopted by the Indiana board of tax review under IC 6-1.1-4-37(l) (repealed) or an emergency rule adopted by the department of local government finance under IC 6-1.1-4-36(j) (repealed) or IC 6-1.1-22.5-20.

(28) An emergency rule adopted by the board of the Indiana economic development corporation under IC 5-28-5-8.

(29) A rule adopted by the department of financial institutions under IC 34-55-10-2.5.

(30) A rule adopted by the Indiana finance authority:

(A) under IC 8-15.5-7 approving user fees (as defined in IC 8-15.5-2-10) provided for in a public-private agreement under IC 8-15.5;

(B) under IC 8-15-2-17.2(a)(10):

(i) establishing enforcement procedures; and

(ii) making assessments for failure to pay required tolls;

(C) under IC 8-15-2-14(a)(3) authorizing the use of and establishing procedures for the implementation of the collection of user fees by electronic or other nonmanual means; or

(D) to make other changes to existing rules related to a toll road project to accommodate the provisions of a public-private agreement under IC 8-15.5.

(b) The following do not apply to rules described in subsection (a):

(1) Sections 24 through 36 of this chapter.

(2) IC 13-14-9.

(c) After a rule described in subsection (a) has been adopted by the agency, the agency shall submit the rule to the publisher for the assignment of a document control number. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(d) After the document control number has been assigned, the agency shall submit the rule to the publisher for filing. The agency shall submit the rule in the form required by section 20 of this chapter and with the documents required by section 21 of this chapter. The publisher shall determine the format of the rule and other documents to be submitted under this subsection.

(e) Subject to section 39 of this chapter, the publisher shall:

(1) accept the rule for filing; and

(2) electronically record the date and time that the rule is

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accepted.

(f) A rule described in subsection (a) takes effect on the latest of the following dates:

(1) The effective date of the statute delegating authority to the agency to adopt the rule.

(2) The date and time that the rule is accepted for filing under subsection (e).

(3) The effective date stated by the adopting agency in the rule.

(4) The date of compliance with every requirement established by law as a prerequisite to the adoption or effectiveness of the rule.

(g) Subject to subsection (h), IC 14-10-2-5, IC 14-22-2-6, IC 22-8-1.1-16.1, and IC 22-13-2-8(c), and except as provided in subsections (j), (k), and (l), a rule adopted under this section expires not later than ninety (90) days after the rule is accepted for filing under subsection (e). Except for a rule adopted under subsection (a)(13), (a)(24), (a)(25), or (a)(27), the rule may be extended by adopting another rule under this section, but only for one (1) extension period. The extension period for a rule adopted under subsection (a)(28) may not exceed the period for which the original rule was in effect. A rule adopted under subsection (a)(13) may be extended for two (2) extension periods. Subject to subsection (j), a rule adopted under subsection (a)(24), (a)(25), or (a)(27) may be extended for an unlimited number of extension periods. Except for a rule adopted under subsection (a)(13), for a rule adopted under this section to be effective after one (1) extension period, the rule must be adopted under:

(1) sections 24 through 36 of this chapter; or

(2) IC 13-14-9;

as applicable.

(h) A rule described in subsection (a)(6), (a)(8), (a)(12), or (a)(29) expires on the earlier of the following dates:

(1) The expiration date stated by the adopting agency in the rule.

(2) The date that the rule is amended or repealed by a later rule adopted under sections 24 through 36 of this chapter or this section.

(i) This section may not be used to readopt a rule under IC 4-22-2.5.

(j) A rule described in subsection (a)(24) or (a)(25) expires not later than January 1, 2006.

(k) A rule described in subsection (a)(28) expires on the expiration date stated by the board of the Indiana economic development corporation in the rule.

(l) A rule described in subsection (a)(30) expires on the expiration date stated by the Indiana finance authority in the rule.

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SECTION 18. IC 4-31-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. The commission shall:

(1) prescribe the rules and conditions under which horse racing at a recognized meeting may be conducted;

(2) initiate safeguards as necessary to account for the amount of money wagered at each track or satellite facility in each wagering pool;

(3) require all permit holders to provide a photographic or videotape recording, approved by the commission, of the entire running of all races conducted by the permit holder;

(4) make annual reports concerning its operations and recommendations to the governor and, in an electronic format under IC 5-14-6, to the general assembly; and

(5) carry out the provisions of ~~IC 15-5-5.5,~~ **IC 15-19-2,** after considering recommendations received from the Indiana standardbred advisory board under ~~IC 15-5-5.5.~~ **IC 15-19-2.**

SECTION 19. IC 4-31-9-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 9. (a) Before January 15 and July 15 of each year, each permit holder that operates satellite facilities shall forward to the auditor of state an amount equal to one-half of one percent (0.5%) of the total amount of money wagered at that permit holder's satellite facilities during the six (6) month period ending on the last day of the preceding month. The auditor of state shall distribute amounts received under this section as follows:

(1) Fifty percent (50%) of the amounts received shall be deposited in the livestock industry promotion and development fund established by ~~IC 4-4-3.2.~~ **IC 15-11-5-4.**

(2) Fifty percent (50%) of the amounts received shall be distributed to the state fair commission for use in any activity that the commission is authorized to carry out under ~~IC 15-1.5-3.~~ **IC 15-13-3.**

(b) Payments required by this section shall be made from amounts withheld by the permit holder under section 1 of this chapter.

SECTION 20. IC 5-14-1.5-6.1, AS AMENDED BY P.L.179-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.1. (a) As used in this section, "public official" means a person:

(1) who is a member of a governing body of a public agency; or

(2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

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(1) Where authorized by federal or state statute.
(2) For discussion of strategy with respect to any of the following:
(A) Collective bargaining.
(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing.
(C) The implementation of security systems.
(D) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties.
However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.
(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.
(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by the Indiana economic development corporation, the office of tourism development, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision.
(5) To receive information about and interview prospective employees.
(6) With respect to any individual over whom the governing body has jurisdiction:
(A) to receive information concerning the individual's alleged misconduct; and
(B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:
(i) a physician; or
(ii) a school bus driver.
(7) For discussion of records classified as confidential by state or federal statute.
(8) To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.
(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.
(10) When considering the appointment of a public official, to do the following:

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(A) Develop a list of prospective appointees.
(B) Consider applications.
(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under ~~IC 15-5-1.1 or~~ IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

SECTION 21. IC 6-1.1-10-38, AS AMENDED BY P.L.2-2007, SECTION 113, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 38. This chapter does not contain all of the property tax exemption provisions. The property taxation exemption provisions include, but are not limited to, the following

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sections:

IC 4-20.5-14-3	IC 20-14-7-3
IC 4-20.5-19	IC 20-14-9-15
IC 5-1-4-26	IC 20-14-10-14
IC 6-1.1-10-5	IC 20-47-2-21
IC 8-10-1-27	IC 20-47-3-15
IC 8-23-7-31	IC 23-7-7-3
IC 8-15-2-12	IC 23-14-70-23
IC 8-21-9-31	IC 36-1-10-18
IC 10-18-2-22	IC 36-7-14-37
IC 10-18-1-36	IC 36-7-15.1-25
IC 10-18-3-12	IC 36-7-18-25
IC 10-18-4-21	IC 36-9-4-52
IC 10-18-7-9	IC 36-9-11-10
IC 14-33-20-27	IC 36-9-11.1-11
~~IC 15-1.5-6-4~~	IC 36-9-13-36
IC 15-13-4-4	IC 36-9-13-37
IC 16-22-6-34	IC 36-9-30-31
IC 21-34-8-3	IC 36-10-8-18
IC 21-35-2-19	IC 36-10-9-18
IC 21-35-3-20	

SECTION 22. IC 6-1.1-12-38, AS AMENDED BY P.L.154-2006, SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 38. (a) A person is entitled to a deduction from the assessed value of the person's property in an amount equal to the difference between:

(1) the assessed value of the person's property, including the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11,~~ **IC 15-16-4-52;** minus

(2) the assessed value of the person's property, excluding the assessed value of the improvements made to comply with the fertilizer storage rules adopted by the state chemist under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11.~~ **IC 15-16-4-52.**

(b) To obtain the deduction under this section, a person must file a certified statement in duplicate, on forms prescribed by the department of local government finance, with the auditor of the county in which the property is subject to assessment. In addition to the certified statement,

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the person must file a certification by the state chemist listing the improvements that were made to comply with the fertilizer storage rules adopted under ~~IC 15-3-3-12~~ **IC 15-16-2-44** and the pesticide storage rules adopted by the state chemist under ~~IC 15-3-3.5-11.~~ **IC 15-16-4-52.** The statement and certification must be filed before June 11 of the year preceding the year the deduction will first be applied. Upon the verification of the statement and certification by the assessor of the township in which the property is subject to assessment, the county auditor shall allow the deduction.

SECTION 23. IC 6-1.1-18-12, AS AMENDED BY P.L.219-2007, SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) For purposes of this section, "maximum rate" refers to the maximum:

(1) property tax rate or rates; or

(2) special benefits tax rate or rates;

referred to in the statutes listed in subsection (d).

(b) The maximum rate for taxes first due and payable after 2003 is the maximum rate that would have been determined under subsection (e) for taxes first due and payable in 2003 if subsection (e) had applied for taxes first due and payable in 2003.

(c) The maximum rate must be adjusted each year to account for the change in assessed value of real property that results from:

(1) an annual adjustment of the assessed value of real property under IC 6-1.1-4-4.5; or

(2) a general reassessment of real property under IC 6-1.1-4-4.

(d) The statutes to which subsection (a) refers are:

(1) IC 8-10-5-17;

(2) IC 8-22-3-11;

(3) IC 8-22-3-25;

(4) IC 12-29-1-1;

(5) IC 12-29-1-2;

(6) IC 12-29-1-3;

(7) IC 12-29-3-6;

(8) IC 13-21-3-12;

(9) IC 13-21-3-15;

(10) IC 14-27-6-30;

(11) IC 14-33-7-3;

(12) IC 14-33-21-5;

(13) ~~IC 15-1-6-2,~~ **IC 15-14-7-4;**

(14) ~~IC 15-1-8-1,~~ **IC 15-14-9-1;**

(15) ~~IC 15-1-8-2,~~ **IC 15-14-9-2;**

(16) IC 16-20-2-18;

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(17) IC 16-20-4-27;
(18) IC 16-20-7-2;
(19) IC 16-22-14;
(20) IC 16-23-1-29;
(21) IC 16-23-3-6;
(22) IC 16-23-4-2;
(23) IC 16-23-5-6;
(24) IC 16-23-7-2;
(25) IC 16-23-8-2;
(26) IC 16-23-9-2;
(27) IC 16-41-15-5;
(28) IC 16-41-33-4;
(29) IC 20-46-2-3;
(30) IC 20-46-6-5;
(31) IC 20-49-2-10;
(32) IC 36-1-19-1;
(33) IC 23-14-66-2;
(34) IC 23-14-67-3;
(35) IC 36-7-13-4;
(36) IC 36-7-14-28;
(37) IC 36-7-15.1-16;
(38) IC 36-8-19-8.5;
(39) IC 36-9-6.1-2;
(40) IC 36-9-17.5-4;
(41) IC 36-9-27-73;
(42) IC 36-9-29-31;
(43) IC 36-9-29.1-15;
(44) IC 36-10-6-2;
(45) IC 36-10-7-7;
(46) IC 36-10-7-8;
(47) IC 36-10-7.5-19;
(48) IC 36-10-13-5;
(49) IC 36-10-13-7;
(50) IC 36-10-14-4;
(51) IC 36-12-7-7;
(52) IC 36-12-7-8;
(53) IC 36-12-12-10; and
(54) any statute enacted after December 31, 2003, that:
(A) establishes a maximum rate for any part of the:
(i) property taxes; or
(ii) special benefits taxes;
imposed by a political subdivision; and

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(B) does not exempt the maximum rate from the adjustment under this section.

(e) The new maximum rate under a statute listed in subsection (d) is the tax rate determined under STEP SEVEN of the following STEPS:

STEP ONE: Determine the maximum rate for the political subdivision levying a property tax or special benefits tax under the statute for the year preceding the year in which the annual adjustment or general reassessment takes effect.

STEP TWO: Determine the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the year preceding the year the annual adjustment or general reassessment takes effect to the year that the annual adjustment or general reassessment takes effect.

STEP THREE: Determine the three (3) calendar years that immediately precede the ensuing calendar year and in which a statewide general reassessment of real property does not first take effect.

STEP FOUR: Compute separately, for each of the calendar years determined in STEP THREE, the actual percentage increase (rounded to the nearest one-hundredth percent (0.01%)) in the assessed value (before the adjustment, if any, under IC 6-1.1-4-4.5) of the taxable property from the preceding year.

STEP FIVE: Divide the sum of the three (3) quotients computed in STEP FOUR by three (3).

STEP SIX: Determine the greater of the following:

(A) Zero (0).

(B) The result of the STEP TWO percentage minus the STEP FIVE percentage.

STEP SEVEN: Determine the quotient of the STEP ONE tax rate divided by the sum of one (1) plus the STEP SIX percentage increase.

(f) The department of local government finance shall compute the maximum rate allowed under subsection (e) and provide the rate to each political subdivision with authority to levy a tax under a statute listed in subsection (d).

SECTION 24. IC 6-2.5-7-5.5, AS ADDED BY P.L.207-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5.5. (a) Notwithstanding the limit on deductions in section 5(d) of this chapter, and only to the extent funds are available to reimburse the state as required under ~~IC 15-4-10-24.5,~~ **IC 15-15-12-30,** a retail merchant is entitled to the deduction allowed

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under section 5(c) of this chapter.

(b) The department shall annually publish in the Indiana Register a notice of the amount of funds available for the reimbursement required under ~~IC 15-4-10-24.5.~~ **IC 15-15-12-30.**

SECTION 25. IC 8-3-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. All railroad corporations doing business in this state shall, between July 1 and August 20 in each year, destroy detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation growing on lands occupied by them.

SECTION 26. IC 8-21-1-10.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10.1. (a) For purposes of this section and section 10.2 of this chapter, a "lighter-than-air aircraft" means a gas or hot air filled free balloon, with or without airborne heaters or engines, or any other type of balloon designed to transport persons or goods.

(b) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for agricultural application if the applicator:

(1) is licensed as a pesticide operator by the state chemist and has met the requirements of ~~IC 15-3-3.6-6,~~ **IC 15-16-5-48;** and

(2) has received permission to use the land for agricultural aviation purposes from the owner or lessee of the land.

(c) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites for helicopters if the operator of the helicopter:

(1) meets Federal Aviation Administration qualifications for operation of the specific aircraft;

(2) determines that air routes to and from the site are acceptable to the aircraft's limitations and that proposed routes in congested areas provide for emergency landings in the event that an autorotation descent is necessary;

(3) follows all Federal Aviation Administration regulations covering landing on and departing from the site; and

(4) has received permission to use the site from the owner or lessee of the site.

(d) The provisions of section 10 of this chapter relating to the department's authority to issue certificates of approval for airport sites do not apply to provisional landing sites which are used for lighter-than-air aircraft. However, no person may operate a

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lighter-than-air aircraft from any landing site unless the pilot is in compliance with:

(1) all applicable federal air regulations; and

(2) all rules and regulations adopted by the department which relate to the operation of a lighter-than-air aircraft.

SECTION 27. IC 9-20-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to a truck, a truck-trailer combination, or a truck-wagon combination that is either:

(1) a municipal waste collection and transportation vehicle:

(A) specially designed and equipped with a self-compactor or detachable container;

(B) used exclusively for garbage, refuse, or recycling operations; and

(C) laden with garbage, refuse, or recyclables; or

(2) a disposal plant transporting vehicle certified under ~~IC 15-2.1-16~~ **IC 15-17-11** that is laden with dead animals or animal parts.

SECTION 28. IC 14-8-2-67, AS AMENDED BY P.L.1-2006, SECTION 206, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 67. (a) "Department", except for purposes of IC 14-32, refers to the department of natural resources.

(b) "Department" for purposes of IC 14-32, refers to the department of agriculture established by ~~IC 15-9-2-1.~~ **IC 15-11-2-1.**

SECTION 29. IC 14-8-2-77, AS AMENDED BY P.L.1-2006, SECTION 207, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 77. "Division" has the following meaning:

(1) For purposes of IC 14-9-8, the meaning set forth in IC 14-9-8-2.

(2) For purposes of IC 14-20-1, the meaning set forth in IC 14-20-1-2.

(3) For purposes of IC 14-21-1, the meaning set forth in IC 14-21-1-6.

(4) For purposes of IC 14-22, the division of fish and wildlife.

(5) For purposes of IC 14-24, the division of entomology and plant pathology.

(6) For purposes of IC 14-25.5, the division of water.

(7) For purposes of IC 14-31-2, the meaning set forth in IC 14-31-2-4.

(8) For purposes of IC 14-32, the division of soil conservation of the department of agriculture established by ~~IC 15-9-4-1.~~

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IC 15-11-4-1.

(9) For purposes of IC 14-37, the division of oil and gas.

SECTION 30. IC 14-22-6-14, AS AMENDED BY P.L.1-2006, SECTION 213, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. (a) The:

(1) division of fish and wildlife of the department; and

(2) division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1,~~ **IC 15-11-4-1** through the soil and water conservation districts established under IC 14-32;

shall, in cooperation with other conservation education organizations and one (1) or more organizations of hunters, establish a program to help landowners with problems determined by the director to be caused by localized deer population.

(b) The program established under this section must educate landowners concerning the means by which a landowner can:

(1) control; or

(2) obtain assistance in controlling;

the deer population on the landowner's tract of land.

(c) Under the program established under this section, one (1) or more hunters or organizations of hunters may, upon request by a landowner, work with the department and the landowner to alleviate problems caused by localized deer populations.

(d) In each county, the division of fish and wildlife, in cooperation with the soil and water conservation district established within the county under IC 14-32, shall disseminate information about the program established under this section.

SECTION 31. IC 14-22-20.5-5, AS ADDED BY P.L.93-2005, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. Meat and products derived from privately owned cervidae that are from a cervidae livestock operation may be sold to the general public, subject to ~~IC 15-2.1-24.~~ **IC 15-17-5.**

SECTION 32. IC 14-22-38-4, AS AMENDED BY P.L.75-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) A person who:

(1) unlawfully takes or possesses a deer or wild turkey;

(2) takes or possesses a deer or wild turkey by illegal methods or with illegal devices; or

(3) except as provided in subsections (c) and (d), sells, offers to sell, purchases, or offers to purchase a deer or wild turkey or a part of a deer or wild turkey;

shall reimburse the state five hundred dollars ($500) for the first violation and one thousand dollars ($1,000) for each subsequent

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violation.

(b) The money shall be deposited in the conservation officers fish and wildlife fund. This penalty is in addition to any other penalty under the law.

(c) Notwithstanding section 6 of this chapter, if a properly tagged deer is brought to a meat processing facility and the owner of the deer:

(1) fails to pick up the processed deer within a reasonable time; or

(2) notifies the meat processing facility that the owner does not want the processed deer;

the deer meat may be given away by the meat processing facility to another person. The meat processing facility may charge the person receiving the deer meat a reasonable and customary processing fee.

(d) Notwithstanding section 6 of this chapter, deer meat and products from farm raised deer that meet the requirements under ~~IC 15-2.1~~ **IC 15-17** may be sold to the public.

SECTION 33. IC 14-32-2-1, AS AMENDED BY P.L.175-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. The soil conservation board is established within the department of agriculture established by ~~IC 15-9-2-1~~ **IC 15-11-2-1** as the policy making body for soil and water conservation.

SECTION 34. IC 14-32-2-8, AS AMENDED BY P.L.1-2006, SECTION 221, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 8. (a) The members of the board shall elect a member as the chairman of the board.

(b) The director of the division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1~~ **IC 15-11-4-1** is the secretary of the board.

SECTION 35. IC 14-32-5-4, AS AMENDED BY P.L.1-2006, SECTION 222, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) As used in this section, "landfill" means a facility where solid waste is to be disposed of through placement on or beneath the surface of the ground. However, the term does not include any of the following:

(1) A land application operation regulated under 327 IAC 6.

(2) A surface impoundment.

(3) An injection well.

(4) A facility for the disposal of solid waste other than sludge from a municipal wastewater treatment plant that is:

(A) generated at the site of the facility; or

(B) generated by the owner or operator of the facility.

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(5) An operation permitted under IC 14-34.

(b) As used in this section, "underground injection" means the subsurface emplacement of fluids through:

(1) a bored, drilled, or driven shaft; or

(2) a dug hole, the depth of which is greater than the hole's largest surface dimension.

(c) A district shall inspect every landfill located within the boundaries of the district for compliance with rules adopted under IC 13-18 or IC 13-19 concerning erosion and sediment control. Each landfill shall be inspected under this section at least two (2) times each calendar year as follows:

(1) One (1) time before July 1.

(2) One (1) time after June 30 and before December 31.

(d) Not later than ten (10) days after an inspection of a landfill under this section, the individual who conducted the inspection on behalf of the district shall prepare a written report on the results of the inspection and send the report to the following:

(1) The executive of the county.

(2) The commissioner of the department of environmental management.

(3) The director of the division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1.~~ **IC 15-11-4-1.**

SECTION 36. IC 14-32-8-4, AS AMENDED BY P.L.1-2006, SECTION 231, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. The clean water Indiana program is established. The division of soil conservation established within the department of agriculture by ~~IC 15-9-4-1~~ **IC 15-11-4-1** shall administer the program subject to the direction of the board.

SECTION 37. IC 16-18-2-339 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 339. (a) "State department" refers to the state department of health.

(b) For purposes of IC 16-42-1 through IC 16-42-4, the term means the Indiana state board of animal health when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** and ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 38. IC 16-18-2-340 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 340. (a) "State health commissioner" or "commissioner", except as otherwise provided, means the state health commissioner of the state department of health.

(b) For purposes of IC 16-21, IC 16-28, and IC 16-29, the term includes a deputy or an assistant state health commissioner appointed

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by the state health commissioner, or an agent expressly authorized by the state health commissioner.

(c) For purposes of IC 16-42-1 through IC 16-42-4, the term means the state veterinarian when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** and ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 39. IC 16-20-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. The members of a local board of health shall be chosen as follows:

(1) Four (4) persons knowledgeable in public health, at least two (2) of whom are licensed physicians. The other two (2) appointees may be any of the following:

(A) A registered nurse licensed under IC 25-23.

(B) A registered pharmacist licensed under IC 25-26.

(C) A dentist licensed under IC 25-14.

(D) A hospital administrator.

(E) A social worker.

(F) An attorney with expertise in health matters.

(G) A school superintendent.

(H) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1.**

(I) A professional engineer registered under IC 25-31.

(J) An environmental scientist.

(2) Two (2) representatives of the general public.

(3) One (1) representative described in either subdivision (1) or (2).

SECTION 40. IC 16-20-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) There must be at least seven (7) members of a multiple county board of health.

(b) The county executives establishing a multiple county health department shall determine the following for the multiple county board of health:

(1) The number of members.

(2) The qualifications of members.

(3) The number of appointments made by each county.

(c) The county executive of each county participating in a multiple county board of health shall appoint at least one (1) licensed physician.

(d) At least two-thirds (2/3) of the members appointed under this section must have expertise in public health. The appointees may be any of the following:

(1) A registered nurse licensed under IC 25-23.

(2) A registered pharmacist licensed under IC 25-26.

(3) A dentist licensed under IC 25-14.

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(4) A hospital administrator.
(5) A social worker.
(6) An attorney with expertise in health matters.
(7) A school superintendent.
(8) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1.**
(9) A professional engineer registered under IC 25-31.
(10) An environmental scientist.

SECTION 41. IC 16-42-1-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 42. IC 16-42-2-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 43. IC 16-42-3-2.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2.5. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 44. IC 16-42-4-1.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1.1. (a) The state veterinarian shall act in place of the state health commissioner under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~

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IC 15-18-1.

(b) The Indiana state board of animal health shall act in place of the state department of health under this chapter when impounding or disposing of adulterated or misbranded products under ~~IC 15-2.1-23~~ **IC 15-17-5** or ~~IC 15-2.1-24.~~ **IC 15-18-1.**

SECTION 45. IC 21-46-2-2, AS ADDED BY P.L.2-2007, SECTION 287, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. ~~In carrying out its duties under this chapter,~~ The center for value added research **(IC 15-11-9)** shall cooperate with and may use the resources of

~~(1)~~ Purdue University and other colleges and universities located in Indiana.

~~(2) any other state or federal department or agency;~~

~~(3) political subdivisions located in Indiana; and~~

~~(4) interest groups representing agriculture, business, and industry in Indiana.~~

SECTION 46. IC 22-11-20-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "law" includes the following:

(1) IC 13 or a rule adopted under IC 13.

(2) ~~IC 15-3-2~~ **IC 15-16-1** or a rule adopted under ~~IC 15-3-2.~~ **IC 15-16-1.**

(3) IC 22-8-1.1 or a rule adopted under IC 22-8-1.1.

(4) An equipment law.

SECTION 47. IC 23-1.5-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 14. "Veterinarian" means an individual admitted to practice veterinary medicine under ~~IC 15-5-1.1-11.~~ **IC 25-38.1-3.**

SECTION 48. IC 23-14-68-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. For the purposes of this chapter, the maintenance of a cemetery includes the following:

(1) Resetting and straightening all monuments.

(2) Leveling and seeding the ground.

(3) Constructing fences where there are none and repairing existing fences.

(4) Destroying and cleaning up detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation.

SECTION 49. IC 23-14-69-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. A township trustee shall care for and maintain each cemetery to which this chapter applies that is located in the township, keeping the cemeteries in a respectable condition by:

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(1) destroying detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation; and

(2) removing all unsightly accumulations and debris.

SECTION 50. IC 23-14-74-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. A corporation, organization, association, or individual that owns and has the control and management of a public cemetery located in a township shall keep the public cemetery in a respectable condition by destroying detrimental plants (as defined in ~~IC 15-3-4-1),~~ **IC 15-16-8-1),** noxious weeds, and rank vegetation.

SECTION 51. IC 25-1-4-0.2, AS ADDED BY P.L.157-2006, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.2. As used in this chapter, "approved organization" refers to the following:

(1) United States Department of Education.

(2) Council on Post-Secondary Education.

(3) Joint Commission on Accreditation of Hospitals.

(4) Joint Commission on Healthcare Organizations.

(5) Federal, state, and local government agencies.

(6) A college or other teaching institution accredited by the United States Department of Education or the Council on Post-Secondary Education.

(7) A national organization of practitioners whose members practicing in Indiana are subject to regulation by a board or agency regulating a profession or occupation under this title. ~~or IC 15.~~

(8) A national, state, district, or local organization that operates as an affiliated entity under the approval of an organization listed in subdivisions (1) through (7).

(9) An internship or a residency program conducted in a hospital that has been approved by an organization listed in subdivisions (1) through (7).

(10) Any other organization or individual approved by the board.

SECTION 52. IC 25-1-4-0.3, AS AMENDED BY P.L.185-2007, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 0.3. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects **and** landscape architects ~~and registered interior designers~~ (IC 25-4-1-2).

(3) Indiana athletic trainers board (IC 25-5.1-2-1).

(4) Indiana auctioneer commission (IC 25-6.1-2-1).

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(5) State board of barber examiners (IC 25-7-5-1).
(6) State boxing commission (IC 25-9-1).
(7) Board of chiropractic examiners (IC 25-10-1).
(8) State board of cosmetology examiners (IC 25-8-3-1).
(9) State board of dentistry (IC 25-14-1).
(10) Indiana dietitians certification board (IC 25-14.5-2-1).
(11) State board of registration for professional engineers (IC 25-31-1-3).
(12) Board of environmental health specialists (IC 25-32-1).
(13) State board of funeral and cemetery service (IC 25-15-9).
(14) Indiana state board of health facility administrators (IC 25-19-1).
(15) Committee ~~on~~ **of** hearing aid dealer examiners (IC 25-20-1-1.5).
(16) Home inspectors licensing board (IC 25-20.2-3-1).
(17) Indiana hypnotist committee (IC 25-20.5-1-7).
(18) State board of registration for land surveyors (IC 25-21.5-2-1).
(19) Manufactured home installer licensing board (IC 25-23.7).
(20) Medical licensing board of Indiana (IC 25-22.5-2).
(21) Indiana state board of nursing (IC 25-23-1).
(22) Occupational therapy committee (IC 25-23.5).
(23) Indiana optometry board (IC 25-24).
(24) Indiana board of pharmacy (IC 25-26).
(25) Indiana physical therapy committee (IC 25-27-1).
(26) Physician assistant committee (IC 25-27.5).
(27) Indiana plumbing commission (IC 25-28.5-1-3).
(28) Board of podiatric medicine (IC 25-29-2-1).
(29) Private investigator and security guard licensing board (IC 25-30-1-5.2).
(30) State psychology board (IC 25-33).
(31) Indiana real estate commission (IC 25-34.1-2).
(32) Real estate appraiser licensure and certification board (IC 25-34.1-8).
(33) Respiratory care committee (IC 25-34.5).
(34) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(35) Speech-language pathology and audiology board (IC 25-35.6-2).
(36) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**

SECTION 53. IC 25-1-4-1 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. No board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may require continuing education as a condition of certification, registration, or licensure unless so specifically authorized or mandated by statute.

SECTION 54. IC 25-1-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. A board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may cooperate with members of the profession or occupation it regulates to promote continuing education within the profession or occupation.

SECTION 55. IC 25-1-4-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3.2. A board or agency regulating a profession or occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 shall require that at least one-half ~~(50%)~~ **(1/2)** of all continuing education requirements must be allowed by distance learning methods, except for doctors, nurses, chiropractors, optometrists and dentists.

SECTION 56. IC 25-1-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. A board, a commission, a committee, or an agency regulating a profession or **an** occupation under this title or under ~~IC 15,~~ IC 16 or IC 22 may grant an applicant a waiver from all or part of the continuing education requirement for a renewal period if the applicant was not able to fulfill the requirement due to a hardship that resulted from any of the following:

(1) Service in the armed forces of the United States during a substantial part of the renewal period.

(2) An incapacitating illness or injury.

(3) Other circumstances determined by the board or agency.

SECTION 57. IC 25-1-5-3, AS AMENDED BY P.L.206-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. (a) There is established the Indiana professional licensing agency. The agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

(4) Medical licensing board of Indiana (IC 25-22.5-2).

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(5) Indiana state board of nursing (IC 25-23-1).
(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32).
(10) Speech-language pathology and audiology board (IC 25-35.6-2).
(11) State psychology board (IC 25-33).
(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**
(13) Controlled substances advisory committee (IC 35-48-2-1).
(14) Committee of hearing aid dealer examiners (IC 25-20).
(15) Indiana physical therapy committee (IC 25-27).
(16) Respiratory care committee (IC 25-34.5).
(17) Occupational therapy committee (IC 25-23.5).
(18) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(19) Physician assistant committee (IC 25-27.5).
(20) Indiana athletic trainers board (IC 25-5.1-2-1).
(21) Indiana dietitians certification board (IC 25-14.5-2-1).
(22) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) Nothing in this chapter may be construed to give the agency policy making authority, which authority remains with each board.

SECTION 58. IC 25-1-5-10, AS AMENDED BY P.L.206-2005, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) As used in this section, "provider" means an individual licensed, certified, registered, or permitted by any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).
(2) State board of dentistry (IC 25-14-1).
(3) Indiana state board of health facility administrators (IC 25-19-1).
(4) Medical licensing board of Indiana (IC 25-22.5-2).
(5) Indiana state board of nursing (IC 25-23-1).
(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32-1).
(10) Speech-language pathology and audiology board (IC 25-35.6-2).
(11) State psychology board (IC 25-33).
(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~

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(IC 25-38.1-2).

(13) Indiana physical therapy committee (IC 25-27).

(14) Respiratory care committee (IC 25-34.5).

(15) Occupational therapy committee (IC 25-23.5).

(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).

(17) Physician assistant committee (IC 25-27.5).

(18) Indiana athletic trainers board (IC 25-5.1-2-1).

(19) Indiana dietitians certification board (IC 25-14.5-2-1).

(20) Indiana hypnotist committee (IC 25-20.5-1-7).

(b) The agency shall create and maintain a provider profile for each provider described in subsection (a).

(c) A provider profile must contain the following information:

(1) The provider's name.

(2) The provider's license, certification, registration, or permit number.

(3) The provider's license, certification, registration, or permit type.

(4) The date the provider's license, certification, registration, or permit was issued.

(5) The date the provider's license, certification, registration, or permit expires.

(6) The current status of the provider's license, certification, registration, or permit.

(7) The provider's city and state of record.

(8) A statement of any disciplinary action taken against the provider within the previous ten (10) years by a board or committee described in subsection (a).

(d) The agency shall make provider profiles available to the public.

(e) The computer gateway administered by the office of technology established by IC 4-13.1-2-1 shall make the information described in subsection (c)(1), (c)(2), (c)(3), (c)(6), (c)(7), and (c)(8) generally available to the public on the Internet.

(f) The agency may adopt rules under IC 4-22-2 to implement this section.

SECTION 59. IC 25-1-9-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Board of chiropractic examiners (IC 25-10-1).

(2) State board of dentistry (IC 25-14-1).

(3) Indiana state board of health facility administrators (IC 25-19-1).

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(4) Medical licensing board of Indiana (IC 25-22.5-2).
(5) Indiana state board of nursing (IC 25-23-1).
(6) Indiana optometry board (IC 25-24).
(7) Indiana board of pharmacy (IC 25-26).
(8) Board of podiatric medicine (IC 25-29-2-1).
(9) Board of environmental health specialists (IC 25-32).
(10) Speech-language pathology and audiology board (IC 25-35.6-2).
(11) State psychology board (IC 25-33).
(12) Indiana board of veterinary medical examiners ~~(IC 15-5-1.1).~~ **(IC 25-38.1-2).**
(13) Indiana physical therapy committee (IC 25-27-1).
(14) Respiratory care committee (IC 25-34.5).
(15) Occupational therapy committee (IC 25-23.5).
(16) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
(17) Physician assistant committee (IC 25-27.5).
(18) Indiana athletic trainers board (IC 25-5.1-2-1).
(19) Indiana dietitians certification board (IC 25-14.5-2-1).
(20) Indiana hypnotist committee (IC 25-20.5-1-7).

SECTION 60. IC 25-1-9-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 10. (a) The board may summarily suspend a practitioner's license for ninety (90) days before a final adjudication or during the appeals process if the board finds that a practitioner represents a clear and immediate danger to the public health and safety if the practitioner is allowed to continue to practice. The summary suspension may be renewed upon a hearing before the board, and each renewal may be for ninety (90) days or less.

(b) Before the board may summarily suspend a license that has been issued under ~~IC 15-5-1.1,~~ IC 25-22.5, **IC 25-38.1,** or IC 25-14, the consumer protection division of the attorney general's office shall make a reasonable attempt to notify a practitioner of a hearing by the board to suspend a practitioner's license and of information regarding the allegation against the practitioner. The consumer protection division of the attorney general's office shall also notify the practitioner that the practitioner may provide a written or an oral statement to the board on the practitioner's behalf before the board issues an order for summary suspension. A reasonable attempt to reach the practitioner is made if the consumer protection division of the attorney general's office attempts to reach the practitioner by telephone or facsimile at the last telephone number of the practitioner on file with the board.

(c) After a reasonable attempt is made to notify a practitioner under

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subsection (b):

(1) a court may not stay or vacate a summary suspension of a practitioner's license for the sole reason that the practitioner was not notified; and

(2) the practitioner may not petition the board for a delay of the summary suspension proceedings.

SECTION 61. IC 25-1-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. This chapter applies to an individual who:

(1) holds a license, certificate, registration, or permit under this title, ~~IC 15,~~ IC 16, or IC 22; and

(2) is called to active duty.

SECTION 62. IC 25-1-12-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. As used in this chapter, "practitioner" means an individual who holds:

(1) an unlimited license, certificate, or registration;

(2) a limited or probationary license, certificate, or registration;

(3) a temporary license, certificate, registration, or permit;

(4) an intern permit; or

(5) a provisional license;

issued under this title, ~~or IC 15,~~ IC 16, or IC 22.

SECTION 63. IC 25-20.2-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This article applies to an individual who conducts home inspections for compensation.

(b) This article does not apply to the following:

(1) An individual who is acting within the scope of the individual's employment as:

(A) a code enforcement official for the state or a political subdivision of the state; or

(B) a representative of a state or local housing agency or authority acting under the authority of the United States Department of Housing and Urban Development.

(2) An individual who is:

(A) either:

(i) registered as an architect under IC 25-4;

(ii) registered as a professional engineer under IC 25-31; or

(iii) licensed as a plumbing contractor or journeyman plumber under IC 25-28.5; and

(B) acting within the scope of the individual's registration or license.

(3) An individual who is licensed under IC 25-34.1 as a real estate

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broker, broker-salesperson, or salesperson and is acting within the scope of the individual's license.

(4) An individual who is licensed or certified under IC 25-34.1 as a real estate appraiser and is acting within the scope of the individual's license or certificate.

(5) An individual who holds a certificate of authority under IC 27-1-27-2 as a public adjuster and is acting within the scope of the individual's certificate.

(6) An individual who holds a permit, certificate, or license to:

(A) use and apply pesticides; or

(B) make diagnostic inspections and reports for wood destroying pests;

under ~~IC 15-3-3.6~~ **IC 15-16-5** and is acting within the scope of the individual's certificate or license.

(7) An individual who holds a license from a political subdivision as a tradesperson or home builder and is acting within the scope of the individual's license.

SECTION 64. IC 25-26-21-5, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) This chapter does not apply to the following:

(1) A home health agency (as defined in IC 16-27-1-2) that does not sell, lease, or rent home medical equipment.

(2) A hospital licensed under IC 16-21-2 that:

(A) provides home medical equipment services only as an integral part of patient care; and

(B) does not provide home medical equipment services through a separate business entity.

(3) A manufacturer or wholesale distributor that does not sell, lease, or rent home medical equipment directly to a consumer.

(4) Except as provided under subsection (b), a practitioner (as defined in IC 25-1-9-2) who does not sell, lease, or rent home medical equipment.

(5) A veterinarian licensed under ~~IC 15-5-1.1.~~ **IC 25-38.1-3.**

(6) A hospice program (as defined in IC 16-25-1.1-4) that does not sell, lease, or rent home medical equipment.

(7) A health facility licensed under IC 16-28 that does not sell, lease, or rent home medical equipment.

(8) A provider that:

(A) provides home medical equipment services within the scope of the licensed provider's professional practice;

(B) is otherwise licensed by the state; and

(C) receives annual continuing education that is documented

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by the provider or the licensing entity.

(9) An employee of a person licensed under this chapter.

(b) A pharmacist licensed in Indiana or a pharmacy that holds a permit issued under IC 25-26 that sells, leases, or rents home medical equipment:

(1) is not required to obtain a license under this chapter; and

(2) is otherwise subject to the:

(A) requirements of this chapter; and

(B) requirements established by the board by rule under this chapter.

SECTION 65. IC 25-31.5-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. "State chemist" refers to the state chemist appointed under ~~IC 15-3-3-2.~~ **IC 15-16-2-24.**

SECTION 66. IC 26-3-7-2, AS AMENDED BY P.L.1-2006, SECTION 483, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. The following definitions apply throughout this chapter:

(1) "Agency" refers to the Indiana grain buyers and warehouse licensing agency established under section 1 of this chapter.

(2) "Anniversary date" means the date that is ninety (90) calendar days after the fiscal year end of a business licensed under this chapter.

(3) "Bin" means a bin, tank, interstice, or other container in a warehouse in which bulk grain may be stored.

(4) "Buyer-warehouse" means a person that operates both as a warehouse licensed under this chapter and as a grain buyer.

(5) "Claimant" means a person that is unable to secure satisfaction of the financial obligations due from a licensee under this chapter for grain that has been delivered to the licensee for sale or for storage under a bailment.

(6) "Deferred pricing" or "price later" means a purchase by a buyer in which title to the grain passes to the buyer and the price to be paid to the seller is not determined:

(A) at the time the grain is received by the buyer; or

(B) within ten (10) days of receipt.

(7) "Depositor" means any of the following:

(A) A person that delivers grain to a licensee under this chapter for storage or sale.

(B) A person that:

(i) owns or is the legal holder of a ticket or receipt issued by a licensee for grain received by the licensee; and

(ii) is the creditor of the issuing licensee for the value of the

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grain received in return for the ticket or receipt.

(C) A licensee that stores grain that the licensee owns solely, jointly, or in common with others in a warehouse owned or controlled by the licensee or another licensee.

(8) "Designated representative" means the person or persons designated by the director to act instead of the director in assisting in the administration of this chapter.

(9) "Director" means the director of the Indiana grain buyers and warehouse licensing agency appointed under section 1 of this chapter.

(10) "Facility" means a location or one (1) of several locations in Indiana that are operated as a warehouse or by a grain buyer.

(11) "Failure" means any of the following:

(A) The inability of a licensee to financially satisfy claimants.

(B) Public declaration of a licensee's insolvency.

(C) Revocation or suspension of a licensee's license, if the licensee has outstanding indebtedness owed to claimants.

(D) Nonpayment of a licensee's debts in the ordinary course of business, if there is not a good faith dispute.

(E) Voluntary surrender of a licensee's license, if the licensee has outstanding indebtedness to claimants.

(12) "Grain" means corn for all uses, popcorn, wheat, oats, barley, rye, sorghum, soybeans, oil seeds, other agricultural commodities as approved by the agency, and seed as defined in this section. The term does not include canning crops for processing, sweet corn, or flint corn.

(13) "Grain assets" means any of the following:

(A) All grain owned or stored by a licensee, including grain that:

(i) is in transit following shipment by a licensee; and

(ii) has not been paid for.

(B) All proceeds, due or to become due, from the sale of a licensee's grain.

(C) Equity, less any secured financing directly associated with the equity, in hedging or speculative margin accounts of a licensee held by a commodity or security exchange, or a dealer representing a commodity or security exchange, and any money due the licensee from transactions on the exchange, less any secured financing directly associated with the money due the licensee from the transactions on the exchange.

(D) Any other unencumbered funds, property, or equity in funds or property, wherever located, that can be directly traced

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to the sale of grain by a licensee. However, funds, property, or equity in funds or property may not be considered encumbered unless:

(i) the encumbrance results from valuable consideration paid to the licensee in good faith by a secured party; and

(ii) the encumbrance did not result from the licensee posting the funds, property, or equity in funds or property as additional collateral for an antecedent debt.

(E) Any other unencumbered funds, property, or equity in assets of the licensee.

(14) "Grain bank grain" means grain owned by a depositor for use in the formulation of feed and stored by the warehouse to be returned to the depositor on demand.

(15) "Grain buyer" means a person who is engaged in the business of buying grain from producers. The term does not include a buyer of grain who:

(A) buys less than fifty thousand (50,000) bushels of grain annually;

(B) buys grain for the sole purpose of feeding the person's own livestock or poultry and derives a major portion of the person's income from selling that livestock or poultry; or

(C) does not offer storage, deferred pricing, delayed payment, or contracts or other instruments that are linked to the commodity futures or commodity options market.

(16) "Grain standards act" means the United States Grain Standards Act, approved August 11, 1916 (39 Stat. 482; 7 U.S.C. 71-87 as amended).

(17) "License" means a license issued under this chapter.

(18) "Official grain standards of the United States" means the standards of quality or condition for grain, fixed and established by the secretary of agriculture under the grain standards act.

(19) "Person" means an individual, partnership, corporation, association, or other form of business enterprise.

(20) "Receipt" means a warehouse receipt issued by a warehouse licensed under this chapter.

(21) "Seed", notwithstanding ~~IC 15-4-1,~~ **IC 15-15-1,** means grain set apart to be used primarily for the purpose of producing new plants.

(22) "Ticket" means a scale weight ticket, a load slip, or other evidence, other than a receipt, given to a depositor upon initial delivery of grain to a facility.

(23) "Warehouse act" means the United States Warehouse Act,

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approved August 11, 1916 (39 Stat. 486; 7 U.S.C. 241-273 as amended).

(24) "Warehouse" means a person that operates a facility or group of facilities in which grain is or may be stored for hire or which is used for grain bank storage and which is operated under one (1) ownership and run from a single office.

SECTION 67. IC 26-3-7-6.3, AS ADDED BY P.L.207-2007, SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6.3. (a) The grain buyers and warehouse licensing agency license fee fund is established to provide funds for the administration of this chapter. The fund shall be administered by the agency. The fund consists of:

(1) the moisture testing device inspection fees collected under ~~IC 4-4-27-3,~~ **IC 15-11-8-3;**

(2) the licensing fees collected under section 6 of this chapter;

(3) gifts and bequests; and

(4) appropriations made by the general assembly.

(b) Expenses of administering the fund shall be paid from money in the fund.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 68. IC 26-4-1-19.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 19.5. "Seed", notwithstanding ~~IC 15-4-1,~~ **IC 15-15-1,** means grain set apart to be used primarily for the purpose of producing new plants.

SECTION 69. IC 29-1-17-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 12. (a) If after reasonable search, satisfactory to the court, there shall be no known heir of the decedent, all of his net estate not disposed of by will shall be ordered paid to the state treasurer to become a part of the common school fund, subject to the further provisions of this section.

(b) If any heir, distributee, advisee, or claimant cannot be found after reasonable search, satisfactory to the court, the personal representative shall sell the share of the estate to which he is entitled, pursuant to an order of court first obtained, and pay the proceeds to the clerk of the court for use and benefit of the person or persons thereafter determined to be entitled thereto according to law.

(c) When the personal representative shall pay any money to the

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state treasurer or clerk of the court pursuant to this section, he shall take a receipt therefor and file it with the court with the other receipts filed in the proceeding. Such receipt shall be sufficient to discharge the personal representative in the same manner and to the same extent as though such distribution or payment were made to a distributee or claimant entitled thereto.

(d) The moneys received by the state treasurer pursuant to the provisions of this section shall be paid to the person entitled on proof of his right thereto or in the case of an absentee, to the receiver of such absentee's property, or, if the state treasurer refuses or fails to pay because he is doubtful as to his duties in the premises, such person may apply to the court in which the estate was administered, whereupon the court upon notice to the state treasurer may determine the person entitled thereto and order the treasurer to pay the same accordingly. No interest shall be allowed thereon and such distributee or claimant shall pay all costs and expenses incident to the proceedings. If such proceeds are not paid or no application is made to the court within seven (7) years after such payment to the state treasurer, no recovery thereof shall be had.

(e) This section does not apply to stocks, dividends, capital credits, patronage refunds, utility deposits, membership fees, account balances, or book equities for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed under IC 8-1-17, or an agricultural cooperative association formed under ~~IC 15-7-1.~~ **IC 15-12-1.**

SECTION 70. IC 32-34-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. (a) This chapter does not apply to any property held, due, and owing in a foreign country and arising out of a foreign transaction.

(b) This chapter does not apply to:

(1) stocks;
(2) dividends;
(3) capital credits;
(4) patronage refunds;
(5) utility deposits;
(6) membership fees;
(7) account balances; or
(8) book equities;

for which the owner cannot be found and that are the result of distributable savings of a rural electric membership corporation formed under IC 8-1-13, a rural telephone cooperative corporation formed

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under IC 8-1-17, or an agricultural cooperative association formed under ~~IC 15-7-1.~~ **IC 15-12-1.**

(c) This chapter does not apply to unclaimed overpayments of utility bills that become the property of a municipality under IC 36-9-23-28.5.

(d) This chapter does not apply to deposits required by a municipally owned utility (as defined in IC 8-1-2-1).

(e) This chapter does not apply to a business to business credit memorandum or a credit balance resulting from a business to business credit memorandum.

(f) This chapter does not apply to gift certificates or gift cards.

SECTION 71. IC 33-37-5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7. (a) This section applies to criminal actions.

(b) The clerk shall collect the marijuana eradication program fee set by the court under ~~IC 15-3-4.6-4.1~~ **IC 15-16-7-8,** if:

(1) a weed control board has been established in the county under ~~IC 15-3-4.6-1,~~ **IC 15-16-7-3;** and

(2) the person has been convicted of an offense under IC 35-48-4 in a case prosecuted in that county.

(c) The court may set a fee under this section of not more than three hundred dollars ($300).

SECTION 72. IC 34-30-2-58 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 58. ~~IC 15-3-4-2~~ **IC 15-16-8-4** (Concerning township trustees or persons hired by them for the removal of detrimental plants upon another person's real property).

SECTION 73. IC 34-30-2-59 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 59. ~~IC 15-4-9-5~~ **IC 15-15-9-7** (Concerning administrator and state for certification of agricultural products).

SECTION 74. IC 34-30-2-60 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 60. ~~IC 15-4-10-25~~ **IC 15-15-12-31** (Concerning the state, political subdivisions, and the members, officers, employees, and agents of the corn marketing council for debts or actions of the council).

SECTION 75. IC 34-30-2-61 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 61. ~~IC 15-5-1.1-31~~ **IC 25-38.1-4-7** (Concerning veterinarians or veterinary technicians who give emergency treatment to sick or injured animals).

SECTION 76. IC 34-30-2-62 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 62. ~~IC 15-5-1.1-33~~ **IC 25-38.1-4-8** (Concerning veterinarians who dispose of, and persons

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who receive from veterinarians, abandoned animals).

SECTION 77. IC 34-30-2-63 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 63. ~~IC 15-5-16-5~~ **IC 15-19-5-7** (Concerning the state and the livestock certification administrator for acts taken under the livestock certification program).

SECTION 78. IC 34-30-2-64, AS AMENDED BY P.L.1-2006, SECTION 520, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 64. ~~IC 15-7-2-5~~ **IC 15-12-2-6** (Concerning the United States and the United States Secretary of Agriculture for the transfer of assets to the director of the department of agriculture on behalf of the Indiana rural rehabilitation corporation).

SECTION 79. IC 35-46-3-5, AS AMENDED BY P.L.171-2007, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

(1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.

(2) Conduct authorized under ~~IC 15-5-7.~~ **IC 15-20-2.**

(3) Veterinary practices authorized by standards adopted under ~~IC 15-5-1.1-8.~~ **IC 25-38.1-2-14.**

(4) Conduct authorized by a local ordinance.

(5) Acceptable farm management practices.

(6) Conduct authorized by ~~the Indiana Meat and Poultry Inspection and Humane Slaughter Act, IC 15-2.1-24,~~ **IC 15-17-5,** and rules adopted under ~~IC 15-2.1-24~~ **IC 15-17-5** for state or federally inspected livestock slaughtering facilities.

(7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).

(8) Destruction of a vertebrate defined as a pest under ~~IC 15-3-3.6-2(22).~~ **IC 15-16-5-24.**

(9) Destruction of or injury to a fish.

(10) Destruction of a vertebrate animal that is:

(A) endangering, harassing, or threatening livestock or a domestic animal; or

(B) destroying or damaging a person's property.

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal

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Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

SECTION 80. IC 35-46-3-6, AS AMENDED BY P.L.171-2007, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 6. (a) This section does not apply to a violation of section 1 of this chapter.

(b) Any law enforcement officer or any other person having authority to impound animals who has probable cause to believe there has been a violation of this chapter or ~~IC 15-5-12-3~~ **IC 15-20-1-4** may take custody of the animal involved.

(c) The owner of an animal that has been impounded under this section may prevent disposition of the animal by an animal shelter that is caring for the animal by posting, not later than ten (10) days after the animal has been impounded, a bond with the court in an amount sufficient to provide for the animal's care and keeping for at least thirty (30) days, beginning from the date the animal was impounded. The owner may renew a bond by posting a new bond, in an amount sufficient to provide for the animal's care and keeping for at least an additional thirty (30) days, not later than ten (10) days after the expiration of the period for which a previous bond was posted. If a bond expires and is not renewed, the animal shelter may determine disposition of the animal, subject to court order. If the owner of an animal impounded under this section is convicted of an offense under this chapter or ~~IC 15-5-12-3,~~ **IC 15-20-1-4,** the owner shall reimburse the animal shelter for the expense of the animal's care and keeping. If the owner has paid a bond under this subsection, the animal shelter may euthanize an animal if a veterinarian determines that an animal is suffering extreme pain.

(d) If the owner requests, the court having jurisdiction of criminal charges filed under this chapter or ~~IC 15-5-12~~ **IC 15-20-1** shall hold a hearing to determine whether probable cause exists to believe that a violation of this chapter or ~~IC 15-5-12~~ **IC 15-20-1** has occurred. If the court determines that probable cause does not exist, the court shall order the animal returned to its owner, and the return of any bond posted by its owner.

(e) Whenever charges are filed under this chapter, the court shall appoint the state veterinarian under ~~IC 15-2.1-2-50~~ **IC 15-17-4-1** or the state veterinarian's designee to:

(1) investigate the condition of the animal and the circumstances relating to the animal's condition; and

(2) make a recommendation to the court under subsection (f)

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regarding the confiscation of the animal.

(f) The state veterinarian or the state veterinarian's designee who is appointed under subsection (e) shall do the following:

(1) Make a recommendation to the court concerning whether confiscation is necessary to protect the safety and well-being of the animal.

(2) If confiscation is recommended under subdivision (1), recommend a manner for handling the confiscation and disposition of the animal that is in the best interests of the animal.

The state veterinarian or the state veterinarian's designee who submits a recommendation under this subsection shall articulate to the court the reasons supporting the recommendation.

(g) The court:

(1) shall give substantial weight to; and

(2) may enter an order based upon;

a recommendation submitted under subsection (f).

(h) If a person is convicted of an offense under this chapter or ~~IC 15-5-12,~~ **IC 15-20-1,** the court may impose the following additional penalties against the person:

(1) A requirement that the person pay the costs of caring for an animal involved in the offenses that are incurred during a period of impoundment authorized under subsection (b).

(2) An order terminating or imposing conditions on the person's right to possession, title, custody, or care of:

(A) an animal that was involved in the offense; or

(B) any other animal in the custody or care of the person.

(i) If a person's right to possession, title, custody, or care of an animal is terminated under subsection (h), the court may:

(1) award the animal to a humane society or other organization that has as its principal purpose the humane treatment of animals; or

(2) order the disposition of the animal as recommended under subsection (f).

SECTION 81. IC 36-2-18-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 1. Each county highway department shall control detrimental plants (as defined in ~~IC 15-3-4-1)~~ **IC 15-16-8-1),** and noxious weeds as required by law.

SECTION 82. IC 36-6-4-3, AS AMENDED BY P.L.1-2006, SECTION 562, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 3. The executive shall do the following:

(1) Keep a written record of official proceedings.

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(2) Manage all township property interests.
(3) Keep township records open for public inspection.
(4) Attend all meetings of the township legislative body.
(5) Receive and pay out township funds.
(6) Examine and settle all accounts and demands chargeable against the township.
(7) Administer township assistance under IC 12-20 and IC 12-30-4.
(8) Perform the duties of fence viewer under IC 32-26.
(9) Act as township assessor when required by IC 36-6-5.
(10) Provide and maintain cemeteries under IC 23-14.
(11) Provide fire protection under IC 36-8, except in a township that:
(A) is located in a county having a consolidated city; and
(B) consolidated the township's fire department under IC 36-3-1-6.1.
(12) File an annual personnel report under IC 5-11-13.
(13) Provide and maintain township parks and community centers under IC 36-10.
(14) Destroy detrimental plants, noxious weeds, and rank vegetation under ~~IC 15-3-4.~~ **IC 15-16-8.**
(15) Provide insulin to the poor under IC 12-20-16.
(16) Perform other duties prescribed by statute.

SECTION 83. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2008]: IC 15-1; IC 15-1.5; IC 15-2.1; IC 15-3; IC 15-4; IC 15-5; IC 15-6; IC 15-7; IC 15-9; IC 21-46-1-2; IC 21-46-2-1; IC 21-46-2-3; IC 21-46-2-4.

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COMMITTEE REPORT

Madam President: The Senate Committee on Agriculture and Small Business, to which was referred Senate Bill No. 190, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 190 as introduced.)

NUGENT, Chairperson

Committee Vote: Yeas 11, Nays 0.

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