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# HOUSE BILL No. 1524

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-42-11.

**Synopsis:** State egg board. Makes various changes to the law relating to the sale of eggs and the state egg board. Makes changes to definitions used with regard to the sale of eggs. Makes changes to the appointment process for members of the state egg board. Increases the various fees charged by the state egg board. Requires certain egg producers who sell eggs at a farmers market to have a permit. Requires an out-of-state permit holder to reimburse the state egg board for certain expenses relating to an audit. Requires a wholesaler to remit a permit fee penalty of the greater of ten percent of the fee or \$20 if the wholesaler does not remit a report fee within ten days. (Current law provides that the wholesaler must remit a fee of 10% of the report fee if the wholesaler does not remit a report fee within ten days.) Makes related changes. Repeals certain provisions containing definitions.

**Effective:** July 1, 2009.

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January 14, 2009, read first time and referred to Committee on Agriculture and Rural Development.

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First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

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# HOUSE BILL No. 1524



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

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

- 1 SECTION 1. IC 16-18-2-105.5 IS ADDED TO THE INDIANA
- 2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 3 [EFFECTIVE JULY 1, 2009]: **Sec. 105.5. "Eggs", for purposes of**
- 4 **IC 16-42-11, has the meaning set forth in IC 16-42-11-1.1.**
- 5 SECTION 2. IC 16-18-2-319 IS AMENDED TO READ AS
- 6 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 319. "Retailer", for
- 7 purposes of IC 16-42-11, has the meaning set forth in ~~IC 16-42-11-2:~~
- 8 **IC 16-42-11-1.1.**
- 9 SECTION 3. IC 16-18-2-374 IS AMENDED TO READ AS
- 10 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 374. (a) "Wholesaler",
- 11 for purposes of IC 16-42-11, has the meaning set forth in
- 12 ~~IC 16-42-11-3:~~ **IC 16-42-11-1.1.**
- 13 (b) "Wholesaler", for purposes of IC 16-42-19 and IC 16-42-21, has
- 14 the meaning set forth in IC 16-42-19-10.
- 15 (c) "Wholesaler", for purposes of IC 16-41-32, has the meaning set
- 16 forth in IC 16-41-32-13.
- 17 SECTION 4. IC 16-42-11-1.1 IS ADDED TO THE INDIANA



1 CODE AS A NEW SECTION TO READ AS FOLLOWS  
2 [EFFECTIVE JULY 1, 2009]: Sec. 1.1. The following definitions  
3 apply throughout this chapter:

- 4 (1) "Case" means thirty (30) dozen.
- 5 (2) "Eggs" means shell eggs represented as fresh or treated.
- 6 (3) "Farmers market" means a common facility where two (2)  
7 or more farmers or growers gather on a regular basis to sell  
8 farm products, which they produce, directly to the consumer.
- 9 (4) "Fresh eggs" means consumer grades of eggs as defined by  
10 the standards of quality and weights as set forth by the state  
11 egg board.
- 12 (5) "Person" means any individual, partnership, association,  
13 business trust, corporation, or any organized group of  
14 persons, regardless of whether the group is incorporated.
- 15 (6) "Retailer" means any person who sells eggs for human  
16 consumption and not for resale.
- 17 (7) "Treated eggs" means eggs that have been treated by a  
18 process such as pasteurization, irradiation, or other method  
19 of treatment that changes the interior quality of an egg in  
20 such a manner that United States Department of Agriculture  
21 quality standards do not apply.
- 22 (8) "Wholesaler" means any person engaged in buying eggs  
23 for human consumption for resale to retailers, hotels,  
24 restaurants, hospitals, nursing homes, schools, state or federal  
25 institutions, operators of multiple unit retail outlets engaged  
26 in the distribution of eggs to their own retail units, or  
27 producers who sell or deliver eggs to retailers, hotels,  
28 restaurants, hospitals, nursing homes, schools, or state or  
29 federal institutions.

30 SECTION 5. IC 16-42-11-4 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state egg  
32 board is established. The board consists of nine (9) members appointed  
33 by the governor as follows:

- 34 (1) One (1) member from a list of not less than three (3) persons  
35 submitted and recommended **recommendations submitted** by  
36 the Indiana State Poultry Association, Inc.
- 37 (2) One (1) member from a list of not less than three (3) persons  
38 submitted and recommended **recommendations submitted** by  
39 the Indiana Farm Bureau, Inc.
- 40 (3) One (1) member from a list of not less than three (3) persons  
41 submitted and recommended **recommendations submitted** by  
42 the Indiana Retail Grocers' **Grocery and Convenience Store**

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Association, Inc.

(4) One (1) member from a list of not less than three (3) persons submitted and recommended recommendations submitted by the Indiana Retail Council, Inc.

(5) One (1) member from a list of not less than three (3) persons submitted and recommended recommendations submitted by the Egg Council of the Indiana State Poultry Association, Inc.

(6) One (1) member from a list of not less than three (3) persons submitted and recommended recommendations submitted by the trustees dean of the college of agriculture of Purdue University. as a representative of the office of agricultural research programs.

(7) One (1) member at large to represent the interests of the consumer.

(8) One (1) member to represent those engaged in the wholesaling of eggs through the Federal-State Egg Grading Program in Indiana.

(9) One (1) member to represent the interests of the food service industry.

(b) All appointments are for terms of three (3) years. However, an appointment to fill an unexpired term shall be made by the governor for the remainder of that term only.

(c) The recommendations provided for in this section shall be submitted to the governor within ten (10) days before an appointment is to be made to the state egg board. All appointments by the governor under this chapter shall be made within twenty (20) days after submission to the governor of the recommendations for appointments. If the recommendations are not submitted to the governor within the specified time, the governor shall make the appointment without the recommendations. **If the governor does not make an appointment to fill an expired term for a member described in subsection (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) within twenty (20) days after receiving the recommendation, the current members of the state egg board may select an individual from the names submitted by an organization under subsection (a) to fill the position represented by that organization on the state egg board. The individual shall serve a three (3) year term beginning with the next official board meeting following the twenty (20) day deadline.**

(d) The members of the state egg board shall, before entering upon their duties, take and subscribe to the oath of office provided for other state officers. The oath of office shall be filed in the office of the secretary of state. The secretary of state shall administer the oath as a

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1 part of the duties of the office of secretary of state.  
 2 (e) The state egg board shall elect from its own membership the  
 3 following officers:  
 4 (1) President.  
 5 (2) A vice president who serves in the president's absence or  
 6 disability.  
 7 (3) Recording secretary.  
 8 The officers serve for one (1) year or until their successors are elected  
 9 and qualified.  
 10 (f) Each member of the state egg board who is not a state employee  
 11 is entitled to the minimum salary per diem provided by  
 12 IC 4-10-11-2.1(b). The member is also entitled to reimbursement for  
 13 traveling expenses as provided under IC 4-13-1-4 and other expenses  
 14 actually incurred in connection with the member's duties as provided  
 15 in the state policies and procedures established by the Indiana  
 16 department of administration and approved by the budget agency.  
 17 (g) The state egg board shall provide a suitable office, equipment,  
 18 supplies, and facilities for the conduct of the board's business.  
 19 SECTION 6. IC 16-42-11-5 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) The state egg  
 21 board shall administer, enforce, and carry out this chapter.  
 22 (b) The state egg board shall do the following:  
 23 (1) Formulate and determine standards of quality and weights of  
 24 eggs sold or offered for sale. ~~as fresh eggs.~~  
 25 (2) Regulate the sale of and commerce in eggs sold or offered for  
 26 sale at retail or wholesale ~~as fresh eggs~~ and regulate the sale of  
 27 eggs by wholesalers and retailers.  
 28 (3) Formulate and publish definitions, names, and grades of ~~fresh~~  
 29 eggs and specifications for the care and handling of eggs that may  
 30 be offered for sale at retail and wholesale ~~as fresh eggs~~ under the  
 31 terms of this chapter and for the care and handling of eggs that  
 32 may be offered for sale by wholesalers and retailers as eggs fit for  
 33 human consumption.  
 34 (4) Provide for and issue permits to wholesalers or retailers of  
 35 ~~fresh~~ eggs and provide for the registration of wholesalers and  
 36 retailers of eggs.  
 37 (5) Adopt rules necessary for or incident to carrying out this  
 38 chapter.  
 39 (6) Investigate and report violations of this chapter and violations  
 40 of the rules of the state egg board to the proper authorities for  
 41 prosecution.  
 42 (7) Revoke any registration or permit for a violation of this

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1 chapter or of the rules adopted by the state egg board.  
 2 (8) Hold four (4) regular meetings at quarterly intervals at the  
 3 time and place the state egg board designates. The president of  
 4 the state egg board may call special meetings of the state egg  
 5 board whenever in the president's judgment it becomes necessary.  
 6 The president shall call a special meeting of the state egg board  
 7 upon written request of a majority of the members of the state egg  
 8 board.

9 (9) The state egg board shall publish or cause to be published an  
 10 annual report of the board's work. In addition, the state egg board  
 11 may periodically publish or cause to be published and distributed  
 12 other information concerning eggs.

13 SECTION 7. IC 16-42-11-6 IS AMENDED TO READ AS  
 14 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6. A person may not  
 15 sell, offer for sale, or advertise for sale at retail or wholesale ~~stret~~ eggs  
 16 that do not meet the standards of quality and weight set forth by the  
 17 state egg board.

18 SECTION 8. IC 16-42-11-7 IS AMENDED TO READ AS  
 19 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Every person  
 20 selling eggs to a retailer shall furnish ~~written~~ proof of delivery at the  
 21 time of delivery showing:

- 22 (1) the date;
  - 23 (2) the grades; and
  - 24 (3) the quantity of the eggs;
- 25 according to the standards prescribed by the state egg board.

26 (b) A copy of the proof of delivery shall be kept on file by retailers  
 27 at their respective places of business for thirty (30) days and at all  
 28 reasonable times shall be available and open for inspection by  
 29 accredited inspectors or representatives of the state egg board.

30 SECTION 9. IC 16-42-11-9.5 IS ADDED TO THE INDIANA  
 31 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 2009]: **Sec. 9.5. A farmer or bona fide egg**  
 33 **producer who markets directly to the consumer at a location that**  
 34 **is not the farmer's or producer's own premises and is recognized**  
 35 **as a farmers market is required to have a farmers market retail**  
 36 **permit issued by the state egg board.**

37 SECTION 10. IC 16-42-11-10 IS AMENDED TO READ AS  
 38 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. ~~(a) As used in this~~  
 39 ~~section; "case" means thirty (30) dozen.~~

40 ~~(b)~~ **(a)** Every wholesaler or retailer selling ~~stret~~ eggs shall, before  
 41 July 1 of each year, file with the state egg board a statement setting  
 42 forth the fact that the wholesaler or retailer desires to sell ~~fresh stret~~

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1 eggs. The statement shall designate the name of the wholesaler or  
 2 retailer desiring to register ~~and~~ the location of the wholesaler's or  
 3 retailer's principal office **and any location where eggs are stored or**  
 4 **distributed if that location is different from the principal office.**  
 5 The state egg board shall furnish blank forms for registration. The state  
 6 egg board shall register the facts set forth in the statement in a  
 7 permanent record. The state egg board shall furnish to each registered  
 8 wholesaler a registration number upon payment of the registration fee  
 9 and deposit.

10 ~~(c)~~ **(b)** The state egg board shall require and collect from each  
 11 wholesaler at the time of registration a fee based upon the average  
 12 number of cases of eggs sold to retailers, hotels, restaurants, hospitals,  
 13 nursing homes, schools, or to state or federal institutions each week  
 14 during the preceding calendar year, as follows:

Average Number	Registration Fee
of Cases Sold	
0 - 100	\$ 30
101 - 250	\$ 60
251 - 500	\$ 90
501 - 1,000	\$ 120
1,001 and over	\$ 150
0 - 5	\$ 50
6 - 250	\$ 90
251 - 500	\$ 120
501 - 1,000	\$ 150
1,001 and over	\$ 200

27 ~~(d)~~ **(c)** The state egg board shall require and collect from each  
 28 wholesaler at the time of registration a deposit equal to the product  
 29 obtained by using a multiplier of ~~six~~ **eleven** cents (~~\$0.06~~) **(\$0.11)** and  
 30 a multiplicand that is the number of cases of eggs sold in that quarter  
 31 of the immediately preceding five (5) calendar quarters in which the  
 32 highest number of cases of eggs were sold by the wholesaler to  
 33 retailers, hotels, restaurants, hospitals, nursing homes, schools, or to  
 34 state or federal institutions. However, if the wholesaler does not have  
 35 a five (5) quarter history, the state egg board shall fix the deposit at a  
 36 reasonable amount. **All registered wholesalers distributing less than**  
 37 **five (5) cases per week are exempt from making a deposit.**

38 ~~(e)~~ **(d)** **Except as provided in subsection (e),** the state egg board  
 39 shall require and collect from each retail store or unit of retailing a fee  
 40 based upon the average number of cases of eggs sold each week during  
 41 the preceding calendar year, as follows:

Average Number	Registration Fee
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1	of Cases Sold	
2	<del>1-5</del>	\$20
3	more than 5	\$25
4	less than 6	\$30
5	6-50	\$50
6	51 and over	\$100

7 (e) The state egg board shall require and collect from a farmer  
8 or bona fide egg producer who markets directly to the consumer at  
9 a location that is not the farmer's or producer's own premises and  
10 is recognized as a farmers market a fee of twenty dollars (\$20).

11 (f) All registered wholesalers must make application to the state egg  
12 board for a permit to report the case volume of ~~shell~~ eggs sold in  
13 Indiana and submit a fee of ~~six eleven~~ cents (~~\$0.06~~) (\$0.11) for each  
14 thirty (30) dozen eggs or a fraction of that number of the volume  
15 reported. In applying for a permit, the ~~wholesaler applicant~~ must agree  
16 to do the following:

- 17 (1) Keep records the state egg board considers necessary to  
18 indicate accurately the case volume of ~~shell~~ eggs sold in Indiana.
- 19 (2) Grant the state egg board permission to examine those records  
20 and verify the statement of the number and grade of eggs  
21 reported.
- 22 (3) Report under oath to the state egg board, on forms furnished  
23 by the state egg board, the number of eggs reported during the  
24 period covered.

25 **Wholesalers distributing less than five (5) cases per week are**  
26 **exempt from the fee but must comply with the requirements**  
27 **described in subdivisions (1), (2), and (3).**

28 (g) The state egg board may grant the permit if the board determines  
29 that the action will lead to efficient enforcement of this chapter. The  
30 state egg board may revoke the permit at any time if it appears to the  
31 state egg board that the wholesaler is not complying with the terms of  
32 the agreement entered into at the time of the issuance. The report of  
33 eggs is due and the fees are payable quarterly on the last day of the  
34 month following the end of the quarter. If:

- 35 (1) the report is not filed and the fee paid by the tenth day  
36 following the due date;
  - 37 (2) the report is false; or
  - 38 (3) the requirements of this chapter have not been complied with;
- 39 the state egg board may revoke the permit. If the fee is unpaid after the  
40 ten (10) day grace period, a penalty of **the greater of twenty dollars**  
41 **(\$20) or ten percent (10%)** in addition to the amount due shall be  
42 assessed. **If the state egg board determines that an account review**

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1 **is necessary, out-of-state permit holders shall reimburse the state**  
2 **egg board for expenses incurred to conduct the account review.**

3 SECTION 11. IC 16-42-11-11 IS AMENDED TO READ AS  
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) A person may  
5 not sell as a wholesaler to a retailer, hotel, restaurant, hospital, nursing  
6 home, school, or state or federal institution ~~shell~~ eggs for human  
7 consumption that are not subject to being reported as provided in this  
8 chapter.

9 (b) A person operating multiple retail outlets may not distribute or  
10 deliver to retail units ~~shell~~ eggs for human consumption that are not  
11 subject to being reported as provided for in this chapter. A retail store  
12 or retail unit may not receive from a wholesaler ~~shell~~ eggs for human  
13 consumption that are not subject to being reported as provided for in  
14 this chapter.

15 SECTION 12. IC 16-42-11-12 IS AMENDED TO READ AS  
16 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. The dean of **the**  
17 **college of agriculture** of Purdue University may, subject to the approval  
18 of the state egg board, employ an executive administrator, inspectors,  
19 clerks, and other assistants necessary to carry out this chapter under the  
20 direction and supervision of the state egg board. The inspectors shall  
21 inspect and examine eggs sold, offered for sale, or exposed for sale ~~as~~  
22 **fresh eggs** and shall also inspect and examine eggs sold by wholesalers  
23 and retailers as fit for human consumption under this chapter at times  
24 and places and in the manner the state egg board directs.

25 SECTION 13. IC 16-42-11-15 IS AMENDED TO READ AS  
26 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. The:

- 27 (1) members of the state egg board;  
28 (2) dean of **the college of agriculture** of Purdue University; and  
29 (3) employees of the state egg board;  
30 are not liable in their individual capacity, except to the state, for an act  
31 done or omitted in connection with the performance of their respective  
32 duties under this chapter.

33 SECTION 14. THE FOLLOWING ARE REPEALED [EFFECTIVE  
34 JULY 1, 2009]: IC 16-18-2-50; IC 16-18-2-141; IC 16-42-11-1;  
35 IC 16-42-11-2; IC 16-42-11-3.

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