

HB4971



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4971

Introduced 2/18/2020, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

415 ILCS 60/24.1

from Ch. 5, par. 824.1

Amends the Illinois Pesticide Act. Increases administrative penalties based on stated ranges of total violation points. Provides that beginning January 1, 2021 and each January 1 thereafter, the amounts of administrative penalties shall be adjusted by the Department of Agriculture based on the annual change in the Consumer Price Index. Requires the updated penalty amounts to be made available to the public on the Department's website.

LRB101 20397 JWD 69946 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pesticide Act is amended by
5 changing Section 24.1 as follows:

6 (415 ILCS 60/24.1) (from Ch. 5, par. 824.1)

7 Sec. 24.1. Administrative actions and penalties.

8 (1) The Director is authorized after an opportunity for an
9 administrative hearing to suspend, revoke, or modify any
10 license, permit, special order, registration, or certification
11 issued under this Act. This action may be taken in addition to
12 or in lieu of monetary penalties assessed as set forth in this
13 Section. When it is in the interest of the people of the State
14 of Illinois, the Director may, upon good and sufficient
15 evidence, suspend the registration, license, or permit until a
16 hearing has been held. In such cases, the Director shall issue
17 an order in writing setting forth the reasons for the
18 suspension. Such order shall be served personally on the person
19 or by registered or certified mail sent to the person's
20 business address as shown in the latest notification to the
21 Department. When such an order has been issued by the Director,
22 the person may request an immediate hearing.

23 (2) Before initiating hearing proceedings, the Director

1 may issue an advisory letter to a violator of this Act or its
2 rules and regulations when the violation points total 6 or
3 less, as determined by the Department by the Use and Violation
4 Criteria established in this Section. When the Department
5 determines that the violation points total more than 6 but not
6 more than 13, the Director shall issue a warning letter to the
7 violator.

8 (3) The hearing officer upon determination of a violation
9 or violations shall assess one or more of the following
10 penalties:

11 (A) For any person applying pesticides without a
12 license or misrepresenting certification or failing to
13 comply with conditions of an agrichemical facility permit
14 or failing to comply with the conditions of a written
15 authorization for land application of agrichemical
16 contaminated soils or groundwater, a penalty of \$500 shall
17 be assessed for the first offense and \$1,000 for the second
18 and subsequent offenses.

19 (B) For violations of a stop use order imposed by the
20 Director, the penalty shall be \$2500.

21 (C) For violations of a stop sale order imposed by the
22 Director, the penalty shall be \$1500 for each individual
23 item of the product found in violation of the order.

24 (D) For selling restricted use pesticides to a
25 non-certified applicator the penalty shall be \$1000.

26 (E) For selling restricted use pesticides without a

1 dealer's license the penalty shall be \$1,000.

2 (F) For constructing or operating without an
 3 agrichemical facility permit after receiving written
 4 notification, the penalty shall be \$500 for the first
 5 offense and \$1,000 for the second and subsequent offenses.

6 (G) For violations of the Act and Rules and
 7 Regulations, administrative penalties will be based upon
 8 the total violation points as determined by the Use and
 9 Violation Criteria as set forth in paragraph (4) of this
 10 Section. The monetary penalties shall be as follows:

Total Violation Points	Monetary Penalties
<u>12-13</u>	<u>\$500</u>
14-16	<u>\$1,000</u> \$750
17-19	<u>\$2,500</u> \$1000
<u>20-22</u> 20-21	<u>\$5,000</u> \$2500
<u>23-25</u> 22-25	<u>\$7,500</u> \$5000
26-29	<u>\$10,000</u> \$7500
30 and above	<u>\$15,000</u> \$10,000

19 (H) Beginning on January 1, 2021, and every January 1
 20 thereafter, the monetary penalties described in paragraph
 21 (3) (G) shall automatically be increased or decreased, by a
 22 percentage equal to the percentage change in the All Items
 23 Consumer Index for All Urban Consumers for the U.S. City
 24 Average, 1982-84=100 (CPI-U) published by the Bureau of
 25 Labor and Statistics of the United States Department of
 26 Labor during the preceding 12-month calendar year. The

1 updated monetary penalties resulting from each annual
2 adjustment shall be made available to the public via the
3 Department's official website, by January 1 of the calendar
4 year for which the new monetary penalties apply. When
5 calculating the monetary penalties, the Department shall
6 round down to the nearest whole dollar. A complaint
7 received by the Department, which results in a monetary
8 penalty under paragraph (3)(G), shall have the monetary
9 penalty applied based on the calendar year in which the
10 complaint was received.

11 (4) The following Use and Violation Criteria establishes
12 the point value which shall be compiled to determine the total
13 violation points and administrative actions or monetary
14 penalties to be imposed as set forth in paragraph (3)(G) of
15 this Section:

16 (A) Point values shall be assessed upon the harm or
17 loss incurred.

18 (1) A point value of 1 shall be assessed for the
19 following:

20 (a) Exposure to a pesticide by plants, animals
21 or humans with no symptoms or damage noted.

22 (b) Fraudulent sales practices or
23 representations with no apparent monetary losses
24 involved.

25 (2) A point value of 2 shall be assessed for the
26 following:

1 (a) Exposure to a pesticide which resulted in:

2 (1) Plants or property showing signs of
3 damage including but not limited to leaf curl,
4 burning, wilting, spotting, discoloration, or
5 dying.

6 (2) Garden produce or an agricultural crop
7 not being harvested on schedule.

8 (3) Fraudulent sales practices or
9 representations resulting in losses under
10 \$500.

11 (3) A point value of 4 shall be assessed for the
12 following:

13 (a) Exposure to a pesticide resulting in a
14 human experiencing headaches, nausea, eye
15 irritation and such other symptoms which persisted
16 less than 3 days.

17 (b) Plant or property damage resulting in a
18 loss below \$1000.

19 (c) Animals exhibiting symptoms of pesticide
20 poisoning including but not limited to eye or skin
21 irritations or lack of coordination.

22 (d) Death to less than 5 animals.

23 (e) Fraudulent sales practices or
24 representations resulting in losses from \$500 to
25 \$2000.

26 (4) A point value of 6 shall be assessed for the

1 following:

2 (a) Exposure to a pesticide resulting in a
3 human experiencing headaches, nausea, eye
4 irritation and such other symptoms which persisted
5 3 or more days.

6 (b) Plant or property damage resulting in a
7 loss of \$1000 or more.

8 (c) Death to 5 or more animals.

9 (d) Fraudulent sales practices or
10 representations resulting in losses over \$2000.

11 (B) Point values shall be assessed based upon the
12 signal word on the label of the chemical involved:

13	Point Value	Signal Word
14	1	Caution
15	2	Warning
16	4	Danger/Poison

17 (C) Point values shall be assessed based upon the
18 degree of responsibility.

19	Point Value	Degree of Responsibility
20	2	Accidental (such as equipment malfunction)
21	4	Negligence
22	10	Knowingly

23 (D) Point values shall be assessed based upon the
24 violator's history for the previous 3 years:

25	Point Value	Record
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1	2	Advisory letter
2	3	Warning letter
3	5	Previous criminal conviction of
4		this Act or administrative
5		violation resulting in a
6		monetary penalty
7	7	Certification, license or
8		registration currently
		suspended or revoked

9 (E) Point values shall be assessed based upon the
 10 violation type:

11 (1) Application Oriented:

12	Point Value	Violation
13	1	Inadequate records
14	2	Lack of supervision
15	2	Faulty equipment
16		Use contrary to label directions:
17	2	a. resulting in exposure to applicator or operator
18	3	b. resulting in exposure to
19		other persons or the environment
20	3	c. precautionary statements,
21		sites, rates, restricted use requirements
22	3	Water contamination

1	3	Storage or disposal contrary to label directions
2	3	Pesticide drift
3	4	Direct application to a non-target site
4	6	Falsification of records
5	6	Failure to secure a permit or violation of permit or special order

7 (2) Product Oriented:

8	Point Value	Violation
9	6	Pesticide not registered
10	4	Product label claims differ from approved label
11	4	Product composition (active ingredients differs from that of approved label)
12		
13	4	Product not colored as required
14	4	Misbranding as set forth in Sec. 5 of the Act (4 points will be assessed for each count)
15		
16		

17 (5) Any penalty not paid within 60 days of notice from
 18 the Department shall be submitted to the Attorney General's
 19 Office for collection. Failure to pay a penalty shall also
 20 be grounds for suspension or revocation of permits,

1 licenses and registrations.

2 (6) Private applicators, except those private
3 applicators who have been found by the Department to have
4 committed a "use inconsistent with the label" as defined in
5 subsection 40 of Section 4 of this Act, are exempt from the
6 Use and Violation Criteria point values.

7 (Source: P.A. 90-403, eff. 8-15-97.)