

SB2130



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2130

Introduced 2/15/2019, by Sen. Linda Holmes

SYNOPSIS AS INTRODUCED:

415 ILCS 60/24.1

from Ch. 5, par. 824.1

Amends the Illinois Pesticide Act. Increases the first offense penalty for applying pesticides without a license, misrepresenting certification, failing to comply with conditions of an agrichemical facility permit, failing to comply with the conditions of a written authorization for land application of agrichemical contaminated soils or groundwater, or for constructing or operating without an agrichemical facility permit after receiving written notification from \$500 to \$750. Increases the subsequent offense penalty for these violations from \$1,000 to \$1,500. Makes various changes to the violation point structure used for assessing administrative penalties for violations of the Act and rules, including increasing the monetary penalties by specified amounts and adding a \$500 penalty for a 12 to 13 point violation.

LRB101 05178 CPF 50190 b

FISCAL NOTE ACT
MAY APPLY

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 \$750 ~~\$500~~
17 shall be assessed for the first offense and \$1,500 ~~\$1,000~~
18 for the second 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 \$750 ~~\$500~~ for the first
 5 offense and \$1,500 ~~\$1,000~~ for the second and subsequent
 6 offenses.

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

12 Total Violation Points	Monetary Penalties
13 <u>12-13</u>	<u>\$500</u>
14 14-16	<u>\$1,000</u> \$750
15 17-19	<u>\$2,500</u> \$1000
16 <u>20-22</u> 20-21	<u>\$5,000</u> \$2500
17 <u>23-25</u> 22-25	<u>\$7,500</u> \$5000
18 26-29	<u>\$10,000</u> \$7500
19 30 and above	<u>\$15,000</u> \$10,000

20 (4) The following Use and Violation Criteria establishes
 21 the point value which shall be compiled to determine the total
 22 violation points and administrative actions or monetary
 23 penalties to be imposed as set forth in paragraph (3)(G) of
 24 this Section:

25 (A) Point values shall be assessed upon the harm or
 26 loss incurred.

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

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

5 (b) Fraudulent sales practices or
6 representations with no apparent monetary losses
7 involved.

8 (2) A point value of 2 shall be assessed for the
9 following:

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

11 (1) Plants or property showing signs of
12 damage including but not limited to leaf curl,
13 burning, wilting, spotting, discoloration, or
14 dying.

15 (2) Garden produce or an agricultural crop
16 not being harvested on schedule.

17 (3) Fraudulent sales practices or
18 representations resulting in losses under
19 \$500.

20 (3) A point value of 4 shall be assessed for the
21 following:

22 (a) Exposure to a pesticide resulting in a
23 human experiencing headaches, nausea, eye
24 irritation and such other symptoms which persisted
25 less than 3 days.

26 (b) Plant or property damage resulting in a

1 loss below \$1000.

2 (c) Animals exhibiting symptoms of pesticide
3 poisoning including but not limited to eye or skin
4 irritations or lack of coordination.

5 (d) Death to less than 5 animals.

6 (e) Fraudulent sales practices or
7 representations resulting in losses from \$500 to
8 \$2000.

9 (4) A point value of 6 shall be assessed for the
10 following:

11 (a) Exposure to a pesticide resulting in a
12 human experiencing headaches, nausea, eye
13 irritation and such other symptoms which persisted
14 3 or more days.

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

17 (c) Death to 5 or more animals.

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

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

22	Point Value	Signal Word
23	1	Caution
24	2	Warning
25	4	Danger/Poison

1 (C) Point values shall be assessed based upon the
 2 degree of responsibility.

3	Point Value	Degree of Responsibility
4	2	Accidental (such as equipment malfunction)
5	4	Negligence
6	10	Knowingly

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

9	Point Value	Record
10	2	Advisory letter
11	3	Warning letter
12	5	Previous criminal conviction of this Act or administrative violation resulting in a monetary penalty
13	7	Certification, license or registration currently suspended or revoked

18 (E) Point values shall be assessed based upon the
 19 violation type:

20 (1) Application Oriented:

21	Point Value	Violation
22	1	Inadequate records
23	2	Lack of supervision
24	2	Faulty equipment

1 Use contrary to label directions:

- 2 2 a. resulting in exposure to applicator or operator
- 3 3 b. resulting in exposure to other persons or the environment
- 5 3 c. precautionary statements, sites, rates, restricted use requirements
- 7 3 Water contamination
- 8 3 Storage or disposal contrary to label directions
- 9 3 Pesticide drift
- 10 4 Direct application to a non-target site
- 11 6 Falsification of records
- 12 6 Failure to secure a permit or violation of permit or special order

14 (2) Product Oriented:

15	Point Value	Violation
16	6	Pesticide not registered
17	4	Product label claims differ from approved label

1	4	Product composition (active
2		ingredients differs from that
		of approved label)
3	4	Product not colored as required
4	4	Misbranding as set forth in
5		Sec. 5 of the Act (4 points
6		will be assessed for each
		count)

7 (5) Any penalty not paid within 60 days of notice from
8 the Department shall be submitted to the Attorney General's
9 Office for collection. Failure to pay a penalty shall also
10 be grounds for suspension or revocation of permits,
11 licenses and registrations.

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

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