



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

HB5018

Introduced 2/8/2024, by Rep. Maura Hirschauer

#### SYNOPSIS AS INTRODUCED:

415 ILCS 60/4  
415 ILCS 60/24.1

from Ch. 5, par. 804  
from Ch. 5, par. 824.1

Amends the Illinois Pesticide Act. Increases monetary penalties, and increases point values in determining monetary penalties. Distinguishes pesticide effects on woody perennial plants and herbaceous plants with respect to penalties. Defines terms.

LRB103 39359 BDA 69522 b

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 Sections 4 and 24.1 as follows:

6 (415 ILCS 60/4) (from Ch. 5, par. 804)

7 Sec. 4. Definitions. As used in this Act:

8 1. "Director" means Director of the Illinois Department of  
9 Agriculture or his authorized representative.

10 2. "Active Ingredient" means any ingredient which will  
11 prevent, destroy, repel, control or mitigate a pest or which  
12 will act as a plant regulator, defoliant or desiccant.

13 3. "Adulterated" shall apply to any pesticide if the  
14 strength or purity is not within the standard of quality  
15 expressed on the labeling under which it is sold, distributed  
16 or used, including any substance which has been substituted  
17 wholly or in part for the pesticide as specified on the  
18 labeling under which it is sold, distributed or used, or if any  
19 valuable constituent of the pesticide has been wholly or in  
20 part abstracted.

21 4. "Agricultural Commodity" means produce of the land,  
22 including, but not limited to, plants and plant parts,  
23 livestock and poultry and livestock or poultry products,

1 seeds, sod, shrubs and other products of agricultural origin  
2 including the premises necessary to and used directly in  
3 agricultural production. Agricultural commodity also includes  
4 aquatic products, including any aquatic plants and animals or  
5 their by-products that are produced, grown, managed, harvested  
6 and marketed on an annual, semi-annual, biennial or short-term  
7 basis, in permitted aquaculture facilities.

8 5. "Animal" means all vertebrate and invertebrate species  
9 including, but not limited to, man and other mammals, birds,  
10 fish, and shellfish.

11 5.5. "Barrier mosquitocide" means a pesticide that is  
12 formulated to kill adult mosquitoes and that is applied so as  
13 to leave a residual mosquitocidal coating on natural or  
14 manmade surfaces. "Barrier mosquitocide" does not include a  
15 product that is exempt from registration under the Federal  
16 Insecticide, Fungicide, and Rodenticide Act, or rules adopted  
17 pursuant to that Act.

18 5.6. "Barrier mosquitocide treatment" means application of  
19 a barrier mosquitocide to a natural or manmade surface.

20 6. "Beneficial Insects" means those insects which during  
21 their life cycle are effective pollinators of plants,  
22 predators of pests or are otherwise beneficial.

23 7. "Certified applicator".

24 A. "Certified applicator" means any individual who is  
25 certified under this Act to purchase, use, or supervise  
26 the use of pesticides which are classified for restricted

1 use.

2 B. "Private applicator" means a certified applicator  
3 who purchases, uses, or supervises the use of any  
4 pesticide classified for restricted use, for the purpose  
5 of producing any agricultural commodity on property owned,  
6 rented, or otherwise controlled by him or his employer, or  
7 applied to other property if done without compensation  
8 other than trading of personal services between no more  
9 than 2 producers of agricultural commodities.

10 C. "Licensed Commercial Applicator" means a certified  
11 applicator, whether or not he is a private applicator with  
12 respect to some uses, who owns or manages a business that  
13 is engaged in applying pesticides, whether classified for  
14 general or restricted use, for hire. The term also applies  
15 to a certified applicator who uses or supervises the use  
16 of pesticides, whether classified for general or  
17 restricted use, for any purpose or on property of others  
18 excluding those specified by subparagraphs 7 (B), (D), (E)  
19 of Section 4 of this Act.

20 D. "Commercial Not For Hire Applicator" means a  
21 certified applicator who uses or supervises the use of  
22 pesticides classified for general or restricted use for  
23 any purpose on property of an employer when such activity  
24 is a requirement of the terms of employment and such  
25 application of pesticides under this certification is  
26 limited to property under the control of the employer only

1 and includes, but is not limited to, the use or  
2 supervision of the use of pesticides in a greenhouse  
3 setting. "Commercial Not For Hire Applicator" also  
4 includes a certified applicator who uses or supervises the  
5 use of pesticides classified for general or restricted use  
6 as an employee of a state agency, municipality, or other  
7 duly constituted governmental agency or unit.

8 8. "Defoliant" means any substance or combination of  
9 substances which cause leaves or foliage to drop from a plant  
10 with or without causing abscission.

11 9. "Desiccant" means any substance or combination of  
12 substances intended for artificially accelerating the drying  
13 of plant tissue.

14 10. "Device" means any instrument or contrivance, other  
15 than a firearm or equipment for application of pesticides when  
16 sold separately from pesticides, which is intended for  
17 trapping, repelling, destroying, or mitigating any pest, other  
18 than bacteria, virus, or other microorganisms on or living in  
19 man or other living animals.

20 11. "Distribute" means offer or hold for sale, sell,  
21 barter, ship, deliver for shipment, receive and then deliver,  
22 or offer to deliver pesticides, within the State.

23 12. "Environment" includes water, air, land, and all  
24 plants and animals including man, living therein and the  
25 interrelationships which exist among these.

26 13. "Equipment" means any type of instruments and

1 contrivances using motorized, mechanical or pressure power  
2 which is used to apply any pesticide, excluding pressurized  
3 hand-size household apparatus containing dilute ready to apply  
4 pesticide or used to apply household pesticides.

5 14. "FIFRA" means the Federal Insecticide, Fungicide, and  
6 Rodenticide Act, as amended.

7 15. "Fungi" means any non-chlorophyll bearing  
8 thallophytes, any non-chlorophyll bearing plant of a lower  
9 order than mosses or liverworts, as for example rust, smut,  
10 mildew, mold, yeast and bacteria, except those on or in living  
11 animals including man and those on or in processed foods,  
12 beverages or pharmaceuticals.

13 15.5. "Herbaceous plants" means any non-woody, vascular  
14 annual, biennial, or perennial plants.

15 16. "Household Substance" means any pesticide customarily  
16 produced and distributed for use by individuals in or about  
17 the household.

18 17. "Imminent Hazard" means a situation which exists when  
19 continued use of a pesticide would likely result in  
20 unreasonable adverse effects on the environment or will  
21 involve unreasonable hazard to the survival of a species  
22 declared endangered by the U.S. Secretary of the Interior or  
23 to species declared to be protected by the Illinois Department  
24 of Natural Resources.

25 18. "Inert Ingredient" means an ingredient which is not an  
26 active ingredient.

1           19. "Ingredient Statement" means a statement of the name  
2 and percentage of each active ingredient together with the  
3 total percentage of inert ingredients in a pesticide and for  
4 pesticides containing arsenic in any form, the ingredient  
5 statement shall include percentage of total and water soluble  
6 arsenic, each calculated as elemental arsenic. In the case of  
7 spray adjuvants the ingredient statement need contain only the  
8 names of the functioning agents and the total percent of those  
9 constituents ineffective as spray adjuvants.

10           20. "Insect" means any of the numerous small invertebrate  
11 animals generally having the body more or less obviously  
12 segmented for the most part belonging to the class Insects,  
13 comprised of six-legged, usually winged forms, as for example  
14 beetles, caterpillars, and flies. This definition encompasses  
15 other allied classes of arthropods whose members are wingless  
16 and usually have more than 6 legs as for example spiders,  
17 mites, ticks, centipedes, and millipedes.

18           21. "Label" means the written, printed or graphic matter  
19 on or attached to the pesticide or device or any of its  
20 containers or wrappings.

21           22. "Labeling" means the label and all other written,  
22 printed or graphic matter: (a) on the pesticide or device or  
23 any of its containers or wrappings, (b) accompanying the  
24 pesticide or device or referring to it in any other media used  
25 to disseminate information to the public, (c) to which  
26 reference is made to the pesticide or device except when

1 references are made to current official publications of the U.  
2 S. Environmental Protection Agency, Departments of  
3 Agriculture, Health, Education and Welfare or other Federal  
4 Government institutions, the state experiment station or  
5 colleges of agriculture or other similar state institution  
6 authorized to conduct research in the field of pesticides.

7 23. "Land" means all land and water area including  
8 airspace, and all plants, animals, structures, buildings,  
9 contrivances, and machinery appurtenant thereto or situated  
10 thereon, fixed or mobile, including any used for  
11 transportation.

12 24. "Licensed Operator" means a person employed to apply  
13 pesticides to the lands of others under the direction of a  
14 "licensed commercial applicator" or a "licensed commercial  
15 not-for-hire applicator".

16 25. "Nematode" means invertebrate animals of the phylum  
17 nemathelminthes and class nematoda, also referred to as nemas  
18 or eelworms, which are unsegmented roundworms with elongated  
19 fusiform or sac-like bodies covered with cuticle and  
20 inhabiting soil, water, plants or plant parts.

21 26. "Permit" means a written statement issued by the  
22 Director or his authorized agent, authorizing certain acts of  
23 pesticide purchase or of pesticide use or application on an  
24 interim basis prior to normal certification, registration, or  
25 licensing.

26 27. "Person" means any individual, partnership,



1 association, fiduciary, corporation, or any organized group of  
2 persons whether incorporated or not.

3 28. "Pest" means (a) any insect, rodent, nematode, fungus,  
4 weed, or (b) any other form of terrestrial or aquatic plant or  
5 animal life or virus, bacteria, or other microorganism,  
6 excluding virus, bacteria, or other microorganism on or in  
7 living animals including man, which the Director declares to  
8 be a pest.

9 29. "Pesticide" means any substance or mixture of  
10 substances intended for preventing, destroying, repelling, or  
11 mitigating any pest or any substance or mixture of substances  
12 intended for use as a plant regulator, defoliant or desiccant.

13 30. "Pesticide Dealer" means any person who distributes  
14 registered pesticides to the user.

15 31. "Plant Regulator" means any substance or mixture of  
16 substances intended through physiological action to affect the  
17 rate of growth or maturation or otherwise alter the behavior  
18 of ornamental or crop plants or the produce thereof. This does  
19 not include substances which are not intended as plant  
20 nutrient trace elements, nutritional chemicals, plant or seed  
21 inoculants or soil conditioners or amendments.

22 32. "Protect Health and Environment" means to guard  
23 against any unreasonable adverse effects on the environment.

24 33. "Registrant" means a person who has registered any  
25 pesticide pursuant to the provision of FIFRA and this Act.

26 34. "Restricted Use Pesticide" means any pesticide with

1 one or more of its uses classified as restricted by order of  
2 the Administrator of USEPA.

3 35. "SLN Registration" means registration of a pesticide  
4 for use under conditions of special local need as defined by  
5 FIFRA.

6 36. "State Restricted Pesticide Use" means any pesticide  
7 use which the Director determines, subsequent to public  
8 hearing, that an additional restriction for that use is needed  
9 to prevent unreasonable adverse effects.

10 37. "Structural Pest" means any pests which attack and  
11 destroy buildings and other structures or which attack  
12 clothing, stored food, commodities stored at food  
13 manufacturing and processing facilities or manufactured and  
14 processed goods.

15 38. "Unreasonable Adverse Effects on the Environment"  
16 means the unreasonable risk to the environment, including man,  
17 from the use of any pesticide, when taking into account  
18 accrued benefits of as well as the economic, social, and  
19 environmental costs of its use.

20 39. "USEPA" means United States Environmental Protection  
21 Agency.

22 40. "Use inconsistent with the label" means to use a  
23 pesticide in a manner not consistent with the label  
24 instruction, the definition adopted in FIFRA as interpreted by  
25 USEPA shall apply in Illinois.

26 41. "Weed" means any plant growing in a place where it is

1 not wanted.

2 42. "Wildlife" means all living things, not human,  
3 domestic, or pests.

4 42.5. "Woody perennial plants" means any plant that  
5 produces wood as its primary structure and whose life span is  
6 longer than 2 years.

7 43. "Bulk pesticide" means any registered pesticide which  
8 is transported or held in an individual container in undivided  
9 quantities of greater than 55 U.S. gallons liquid measure or  
10 100 pounds net dry weight.

11 44. "Bulk repackaging" means the transfer of a registered  
12 pesticide from one bulk container (containing undivided  
13 quantities of greater than 100 U.S. gallons liquid measure or  
14 100 pounds net dry weight) to another bulk container  
15 (containing undivided quantities of greater than 100 U.S.  
16 gallons liquid measure or 100 pounds net dry weight) in an  
17 unaltered state in preparation for sale or distribution to  
18 another person.

19 45. "Business" means any individual, partnership,  
20 corporation or association engaged in a business operation for  
21 the purpose of selling or distributing pesticides or providing  
22 the service of application of pesticides in this State.

23 46. "Facility" means any building or structure and all  
24 real property contiguous thereto, including all equipment  
25 fixed thereon used for the operation of the business.

26 47. "Chemigation" means the application of a pesticide

1 through the systems or equipment employed for the primary  
2 purpose of irrigation of land and crops.

3 48. "Use" means any activity covered by the pesticide  
4 label, including, but not limited to, application of  
5 pesticide, mixing and loading, storage of pesticides or  
6 pesticide containers, disposal of pesticides and pesticide  
7 containers and reentry into treated sites or areas.

8 (Source: P.A. 102-555, eff. 1-1-22; 102-916, eff. 1-1-23;  
9 103-154, eff. 6-30-23.)

10 (415 ILCS 60/24.1) (from Ch. 5, par. 824.1)

11 Sec. 24.1. Administrative actions and penalties.

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

1 Director, the person may request an immediate hearing.

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

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

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

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

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

26 (D) For selling restricted use pesticides to a

1 non-certified applicator the penalty shall be \$1000.

2 (E) For selling restricted use pesticides without a  
3 dealer's license the penalty shall be \$1,000.

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

8 (F-5) For any person found by the Department to have  
9 committed a use inconsistent with the label, as defined in  
10 subsection 40 of Section 4, that results in human exposure  
11 to a pesticide, the penalty shall be assessed in  
12 accordance with this paragraph (F-5). The Department shall  
13 impose a penalty under this paragraph (F-5) only if it  
14 represents an amount greater than the penalty assessed  
15 under paragraph ~~subparagraph~~ (G). The amount of the  
16 penalty under this paragraph (F-5) is calculated as  
17 follows:

18 (a) If fewer than 3 humans are exposed, then the  
19 penalty shall be \$500 for each human exposed.

20 (b) If 3 or more humans but fewer than 5 humans are  
21 exposed, then the penalty shall be \$750 for each human  
22 exposed.

23 (c) If 5 or more humans are exposed, then the  
24 penalty shall be \$1,250 for each human exposed.

25 If a penalty is imposed under this paragraph (F-5),  
26 the Department shall redetermine the total violation

1 points under subsection (4), less any points under  
 2 subsection (4) stemming from human exposure, and impose  
 3 any additional penalty under paragraph ~~subparagraph~~ (G)  
 4 based on the new total. The reassessed total shall not  
 5 affect any determination under subsection (2); any  
 6 determination under subsection (2) shall be determined by  
 7 the full application of points under subsection (4).

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

14 Total Violation Points	Monetary Penalties
15 <u>12-13</u>	<u>\$500</u>
16 14-16	<u>\$1,250</u> <del>\$750</del>
17 17-19	<u>\$2,500</u> <del>\$1000</del>
18 20-21	<u>\$5,000</u> <del>\$2500</del>
19 22-25	<u>\$7,500</u> <del>\$5000</del>
20 26-29	<u>\$12,500</u> <del>\$7500</del>
21 30 and above	<u>\$17,500</u> <del>\$10,000</del>

22 (4) Subject to paragraph (F-5), the following Use and  
 23 Violation Criteria establishes the point value which shall be  
 24 compiled to determine the total violation points and  
 25 administrative actions or monetary penalties to be imposed as  
 26 set forth in paragraph (3) (G) of this Section:

1 (A) Point values shall be assessed upon the harm or  
2 loss incurred.

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

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

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

10 (2) A point value of 2 shall be assessed for  
11 exposure ~~the following:~~ ~~(a) Exposure~~ to a pesticide  
12 which resulted in:

13 (a) Herbaceous plants ~~(1) Plants~~ or property  
14 showing signs of damage, including, but not  
15 limited to, leaf curl, burning, wilting, spotting,  
16 or discoloration, ~~or dying.~~

17 (b) ~~(2)~~ Garden produce or an agricultural crop  
18 not being harvested on schedule.

19 (c) ~~(3)~~ Fraudulent sales practices or  
20 representations resulting in losses under \$500.

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

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



1 (b) Herbaceous plants ~~Plant~~ or property damage  
2 resulting in permanent injury or death in a loss  
3 below \$1000.

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

7 (d) Death to less than 5 animals.

8 (e) Fraudulent sales practices or  
9 representations resulting in losses from \$500 to  
10 \$2000.

11 (f) Woody perennial plants showing signs of  
12 damage, including, but not limited to, leaf curl,  
13 burning, wilting, spotting, or discoloration.

14 (4) A point value of 6 shall be assessed for the  
15 following:

16 (a) Exposure to a pesticide resulting in a  
17 human experiencing headaches, nausea, eye  
18 irritation, and such other symptoms which  
19 persisted 3 or more days.

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

22 (c) Death to 5 or more animals.

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

25 (e) Woody perennial plants showing signs of  
26 damage likely to cause an increased risk of

1 mortality or damage which results in mortality.

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

4	Point Value	Signal Word
5	1	Caution
6	2	Warning
7	4	Danger/Poison

8 (C) Point values shall be assessed based upon the  
9 degree of responsibility.

10	Point Value	Degree of Responsibility
11	2	Accidental (such as equipment 12 malfunction)
13	4	Negligence
14	10	Knowingly

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

17	Point Value	Record
18	2	Advisory letter
19	3	Warning letter
20	5	Previous criminal conviction of 21 this Act or administrative 22 violation resulting in a monetary penalty
23	7	Certification, license, or 24 registration currently 25 suspended or revoked

1 (E) Point values shall be assessed based upon the  
 2 violation type:

3 (1) Application Oriented:

4	Point Value	Violation
5	1	Inadequate records
6	2	Lack of supervision
7	2	Faulty equipment
8	Use contrary to label directions:	
9	2	a. resulting in exposure to applicator or operator
10	<u>4</u> ↻	b. resulting in exposure to other persons or the environment
11	3	c. precautionary statements, sites, rates, restricted use requirements
12	<u>4</u> ↻	Water contamination
13	3	Storage or disposal contrary to label directions
14	<u>4</u> ↻	Pesticide drift
15	4	Direct application to a non-target site
16	6	Falsification of records
17	6	Failure to secure a permit or violation of permit or special order
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1 (2) Product Oriented:

2	Point Value	Violation
3	6	Pesticide not registered
4	4	Product label claims differ
5		from approved label
6	4	Product composition (active
7		ingredients differs from
8		that of approved label)
8	4	Product not colored as required
9	4	Misbranding as set forth in
10		Section 5 of the Act (4
11		points will be assessed for
12		each count)

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

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

23 (Source: P.A. 102-558, eff. 8-20-21; 103-62, eff. 6-9-23;  
24 revised 9-20-23.)