



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB2108

Introduced 2/26/2021, by Sen. Karina Villa

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. Adds and changes monetary penalties for specified amounts of violation points. Provides that beginning on January 1, 2022, and every January 1 thereafter, the monetary penalties shall automatically be increased or decreased by a percentage equal to the percentage change in a specified document during the preceding 12-month calendar year. Provides that the updated monetary penalties resulting from each annual adjustment shall be made available to the public via the Department of Agriculture's official website on or before January 1 of the calendar year for which the new monetary penalties apply. Provides point values for exposure to a pesticide which resulted in herbaceous plants and woody perennial plants (rather than plants) or property showing signs of damage. Defines "herbaceous plant" and "woody perennial plant". Makes other changes. Effective immediately.

LRB102 16534 CPF 21929 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 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, livestock
23 and poultry and livestock or poultry products, seeds, sod,

1 shrubs and other products of agricultural origin including the
2 premises necessary to and used directly in agricultural
3 production. Agricultural commodity also includes aquatic
4 products as defined in the Aquaculture Development Act.

5 5. "Animal" means all vertebrate and invertebrate species
6 including, but not limited to, man and other mammals, bird,
7 fish, and shellfish.

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

11 7. "Certified applicator".

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

16 B. "Private applicator" means a certified applicator
17 who purchases, uses, or supervises the use of any
18 pesticide classified for restricted use, for the purpose
19 of producing any agricultural commodity on property owned,
20 rented, or otherwise controlled by him or his employer, or
21 applied to other property if done without compensation
22 other than trading of personal services between no more
23 than 2 producers of agricultural commodities.

24 C. "Licensed Commercial Applicator" means a certified
25 applicator, whether or not he is a private applicator with
26 respect to some uses, who owns or manages a business that

1 is engaged in applying pesticides, whether classified for
2 general or restricted use, for hire. The term also applies
3 to a certified applicator who uses or supervises the use
4 of pesticides, whether classified for general or
5 restricted use, for any purpose or on property of others
6 excluding those specified by subparagraphs 7 (B), (D), (E)
7 of Section 4 of this Act.

8 D. "Commercial Not For Hire Applicator" means a
9 certified applicator who uses or supervises the use of
10 pesticides classified for general or restricted use for
11 any purpose on property of an employer when such activity
12 is a requirement of the terms of employment and such
13 application of pesticides under this certification is
14 limited to property under the control of the employer only
15 and includes, but is not limited to, the use or
16 supervision of the use of pesticides in a greenhouse
17 setting. "Commercial Not For Hire Applicator" also
18 includes a certified applicator who uses or supervises the
19 use of pesticides classified for general or restricted use
20 as an employee of a state agency, municipality, or other
21 duly constituted governmental agency or unit.

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

25 9. "Desiccant" means any substance or combination of
26 substances intended for artificially accelerating the drying

1 of plant tissue.

2 10. "Device" means any instrument or contrivance, other
3 than a firearm or equipment for application of pesticides when
4 sold separately from pesticides, which is intended for
5 trapping, repelling, destroying, or mitigating any pest, other
6 than bacteria, virus, or other microorganisms on or living in
7 man or other living animals.

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

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

14 13. "Equipment" means any type of instruments and
15 contrivances using motorized, mechanical or pressure power
16 which is used to apply any pesticide, excluding pressurized
17 hand-size household apparatus containing dilute ready to apply
18 pesticide or used to apply household pesticides.

19 14. "FIFRA" means the Federal Insecticide, Fungicide, and
20 Rodenticide Act, as amended.

21 15. "Fungi" means any non-chlorophyll bearing
22 thallophytes, any non-chlorophyll bearing plant of a lower
23 order than mosses or liverworts, as for example rust, smut,
24 mildew, mold, yeast and bacteria, except those on or in living
25 animals including man and those on or in processed foods,
26 beverages or pharmaceuticals.

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

4 17. "Imminent Hazard" means a situation which exists when
5 continued use of a pesticide would likely result in
6 unreasonable adverse effect on the environment or will involve
7 unreasonable hazard to the survival of a species declared
8 endangered by the U.S. Secretary of the Interior or to species
9 declared to be protected by the Illinois Department of Natural
10 Resources.

11 18. "Inert Ingredient" means an ingredient which is not an
12 active ingredient.

13 19. "Ingredient Statement" means a statement of the name
14 and percentage of each active ingredient together with the
15 total percentage of inert ingredients in a pesticide and for
16 pesticides containing arsenic in any form, the ingredient
17 statement shall include percentage of total and water soluble
18 arsenic, each calculated as elemental arsenic. In the case of
19 spray adjuvants the ingredient statement need contain only the
20 names of the functioning agents and the total percent of those
21 constituents ineffective as spray adjuvants.

22 20. "Insect" means any of the numerous small invertebrate
23 animals generally having the body more or less obviously
24 segmented for the most part belonging to the class Insects,
25 comprised of six-legged, usually winged forms, as for example
26 beetles, caterpillars, and flies. This definition encompasses

1 other allied classes of arthropods whose members are wingless
2 and usually have more than 6 legs as for example spiders,
3 mites, ticks, centipedes, and millipedes.

4 21. "Label" means the written, printed or graphic matter
5 on or attached to the pesticide or device or any of its
6 containers or wrappings.

7 22. "Labeling" means the label and all other written,
8 printed or graphic matter: (a) on the pesticide or device or
9 any of its containers or wrappings, (b) accompanying the
10 pesticide or device or referring to it in any other media used
11 to disseminate information to the public, (c) to which
12 reference is made to the pesticide or device except when
13 references are made to current official publications of the U.
14 S. Environmental Protection Agency, Departments of
15 Agriculture, Health, Education and Welfare or other Federal
16 Government institutions, the state experiment station or
17 colleges of agriculture or other similar state institution
18 authorized to conduct research in the field of pesticides.

19 23. "Land" means all land and water area including
20 airspace, and all plants, animals, structures, buildings,
21 contrivances, and machinery appurtenant thereto or situated
22 thereon, fixed or mobile, including any used for
23 transportation.

24 24. "Licensed Operator" means a person employed to apply
25 pesticides to the lands of others under the direction of a
26 "licensed commercial applicator" or a "licensed commercial

1 not-for-hire applicator".

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

7 26. "Permit" means a written statement issued by the
8 Director or his authorized agent, authorizing certain acts of
9 pesticide purchase or of pesticide use or application on an
10 interim basis prior to normal certification, registration, or
11 licensing.

12 27. "Person" means any individual, partnership,
13 association, fiduciary, corporation, or any organized group of
14 persons whether incorporated or not.

15 28. "Pest" means (a) any insect, rodent, nematode, fungus,
16 weed, or (b) any other form of terrestrial or aquatic plant or
17 animal life or virus, bacteria, or other microorganism,
18 excluding virus, bacteria, or other microorganism on or in
19 living animals including man, which the Director declares to
20 be a pest.

21 29. "Pesticide" means any substance or mixture of
22 substances intended for preventing, destroying, repelling, or
23 mitigating any pest or any substance or mixture of substances
24 intended for use as a plant regulator, defoliant or desiccant.

25 30. "Pesticide Dealer" means any person who distributes
26 registered pesticides to the user.

1 31. "Plant Regulator" means any substance or mixture of
2 substances intended through physiological action to affect the
3 rate of growth or maturation or otherwise alter the behavior
4 of ornamental or crop plants or the produce thereof. This does
5 not include substances which are not intended as plant
6 nutrient trace elements, nutritional chemicals, plant or seed
7 inoculants or soil conditioners or amendments.

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

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

12 34. "Restricted Use Pesticide" means any pesticide with
13 one or more of its uses classified as restricted by order of
14 the Administrator of USEPA.

15 35. "SLN Registration" means registration of a pesticide
16 for use under conditions of special local need as defined by
17 FIFRA.

18 36. "State Restricted Pesticide Use" means any pesticide
19 use which the Director determines, subsequent to public
20 hearing, that an additional restriction for that use is needed
21 to prevent unreasonable adverse effects.

22 37. "Structural Pest" means any pests which attack and
23 destroy buildings and other structures or which attack
24 clothing, stored food, commodities stored at food
25 manufacturing and processing facilities or manufactured and
26 processed goods.

1 38. "Unreasonable Adverse Effects on the Environment"
2 means the unreasonable risk to the environment, including man,
3 from the use of any pesticide, when taking into account
4 accrued benefits of as well as the economic, social, and
5 environmental costs of its use.

6 39. "USEPA" means United States Environmental Protection
7 Agency.

8 40. "Use inconsistent with the label" means to use a
9 pesticide in a manner not consistent with the label
10 instruction, the definition adopted in FIFRA as interpreted by
11 USEPA shall apply in Illinois.

12 41. "Weed" means any plant growing in a place where it is
13 not wanted.

14 42. "Wildlife" means all living things, not human,
15 domestic, or pests.

16 43. "Bulk pesticide" means any registered pesticide which
17 is transported or held in an individual container in undivided
18 quantities of greater than 55 U.S. gallons liquid measure or
19 100 pounds net dry weight.

20 44. "Bulk repackaging" means the transfer of a registered
21 pesticide from one bulk container (containing undivided
22 quantities of greater than 100 U.S. gallons liquid measure or
23 100 pounds net dry weight) to another bulk container
24 (containing undivided quantities of greater than 100 U.S.
25 gallons liquid measure or 100 pounds net dry weight) in an
26 unaltered state in preparation for sale or distribution to

1 another person.

2 45. "Business" means any individual, partnership,
3 corporation or association engaged in a business operation for
4 the purpose of selling or distributing pesticides or providing
5 the service of application of pesticides in this State.

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

9 47. "Chemigation" means the application of a pesticide
10 through the systems or equipment employed for the primary
11 purpose of irrigation of land and crops.

12 48. "Use" means any activity covered by the pesticide
13 label including but not limited to application of pesticide,
14 mixing and loading, storage of pesticides or pesticide
15 containers, disposal of pesticides and pesticide containers
16 and reentry into treated sites or areas.

17 49. "Herbaceous plant" means any nonwoody vascular,
18 annual, biennial, or perennial plant.

19 50. "Woody perennial plant" means any plant that produces
20 wood as its primary structure and with a life span longer than
21 2 years.

22 (Source: P.A. 99-540, eff. 1-1-17; 100-201, eff. 8-18-17.)

23 (415 ILCS 60/24.1) (from Ch. 5, par. 824.1)

24 Sec. 24.1. Administrative actions and penalties.

25 (1) The Director is authorized after an opportunity for an

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

15 (2) Before initiating hearing proceedings, the Director
16 may issue an advisory letter to a violator of this Act or its
17 rules and regulations when the violation points total 6 or
18 less, as determined by the Department by the Use and Violation
19 Criteria established in this Section. When the Department
20 determines that the violation points total more than 6 but not
21 more than 13, the Director shall issue a warning letter to the
22 violator.

23 (3) The hearing officer upon determination of a violation
24 or violations shall assess one or more of the following
25 penalties:

26 (A) For any person applying pesticides without a

1 license or misrepresenting certification or failing to
2 comply with conditions of an agrichemical facility permit
3 or failing to comply with the conditions of a written
4 authorization for land application of agrichemical
5 contaminated soils or groundwater, a penalty of \$500 shall
6 be assessed for the first offense and \$1,000 for the
7 second and subsequent offenses.

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

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

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

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

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

21 (G) For violations of the Act and rules ~~Rules~~ and
22 regulations ~~Regulations~~, administrative penalties will be
23 based upon the total violation points as determined by the
24 Use and Violation Criteria as set forth in paragraph (4)
25 of this Section. The monetary penalties shall be as
26 follows:

1	Total Violation Points	Monetary Penalties	
2	<u>12-13</u>	<u>\$750</u>	
3	14-16	<u>\$1,500</u>	\$750
4	17-19	<u>\$2,000</u>	\$1000
5	20-21	<u>\$5,000</u>	\$2500
6	22-25	<u>\$10,000</u>	\$5000
7	26-29	<u>\$15,000</u>	\$7500
8	30 and above	<u>\$20,000</u>	\$10000

9 (H) Beginning on January 1, 2022, and every January 1
10 thereafter, the monetary penalties described in paragraph
11 (3)(G) shall automatically be increased or decreased by a
12 percentage equal to the percentage change in the All Items
13 Consumer Index for All Urban Consumers for the U.S. City
14 Average, 1982-84=100 (CPI-U), published by the Bureau of
15 Labor and Statistics of the United States Department of
16 Labor, during the preceding 12-month calendar year. The
17 updated monetary penalties resulting from each annual
18 adjustment shall be made available to the public via the
19 Department's official website on or before January 1 of
20 the calendar year for which the new monetary penalties
21 apply. When calculating the monetary penalties, the
22 Department shall round down to the nearest whole dollar. A
23 complaint received by the Department that results in a
24 monetary penalty under in paragraph (3)(G) shall have the
25 monetary penalty applied based on the calendar year in
26 which the complaint was received.

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

6 (A) Point values shall be assessed upon the harm or
7 loss incurred.

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

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

12 (b) Fraudulent sales practices or
13 representations with no apparent monetary losses
14 involved.

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

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

18 (1) Herbaceous plant ~~Plants~~ or property
19 showing signs of damage including but not
20 limited to leaf curl, burning, wilting,
21 spotting, or discoloration, ~~or dying~~.

22 (2) Garden produce or an agricultural crop
23 not being harvested on schedule.

24 (3) Fraudulent sales practices or
25 representations resulting in losses under
26 \$500.

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

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

7 (b) Herbaceous plant ~~Plant~~ or property damage
8 resulting in permanent injury or death in a loss
9 below \$1000.

10 (c) Animals exhibiting symptoms of pesticide
11 poisoning including but not limited to eye or skin
12 irritations or lack of coordination.

13 (d) Death to less than 5 animals.

14 (e) Fraudulent sales practices or
15 representations resulting in losses from \$500 to
16 \$2000.

17 (f) A woody perennial plant showing signs of
18 damage, including, but not limited to, leaf curl,
19 burning, wilting, spotting, or discoloration.

20 (4) A point value of 6 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 3 or more days.

26 (b) Plant or property damage resulting in a

1 loss of \$1000 or more.

2 (c) Death to 5 or more animals.

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

5 (e) A woody perennial plant showing signs of
6 damage likely to cause an increased risk of
7 mortality or damage that results in mortality.

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

10 Point Value	Signal Word
11 1	Caution
12 2	Warning
13 4	Danger/Poison

14 (C) Point values shall be assessed based upon the
15 degree of responsibility.

16 Point Value	Degree of Responsibility
17 2	Accidental (such as equipment malfunction)
18 4	Negligence
19 10	Knowingly

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

22 Point Value	Record
23 2	Advisory letter
24 3	Warning letter

1 5 Previous criminal conviction of
 2 this Act or administrative
 3 violation resulting in a
 4 monetary penalty

5 7 Certification, license or
 6 registration currently
 suspended or revoked

7 (E) Point values shall be assessed based upon the
 8 violation type:

9 (1) Application Oriented:

10 Point Value	Violation
11 1	Inadequate records
12 2	Lack of supervision
13 2	Faulty equipment

14 Use contrary to label directions:

15 <u>4</u> 3	a. resulting in exposure to applicator or operator
16 3	b. resulting in exposure to other persons or the environment
18 <u>4</u> 3	c. precautionary statements, sites, rates, restricted use requirements
20 <u>4</u> 3	Water contamination
21 <u>4</u> 3	Storage or disposal contrary to label directions

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

(2) Product Oriented:

Point Value

Violation

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

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

(6) Private applicators, except those private

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

5 (7) Each violation of this Act that includes human
6 exposure to a pesticide under subdivision (a) of
7 subparagraph (1) of paragraph (A) of subsection (4) of
8 this Section, subdivision (a) of subparagraph (3) of
9 paragraph (A) of subsection (4) of this Section, or
10 subdivision (a) of subparagraph (4) of paragraph (A) of
11 subsection (4) of this Section is a separate offense for
12 each human exposed.

13 (Source: P.A. 90-403, eff. 8-15-97; revised 8-19-20.)

14 Section 99. Effective date. This Act takes effect upon
15 becoming law.