



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3658

Introduced 2/22/2021, by Rep. Sonya M. Harper

SYNOPSIS AS INTRODUCED:

20 ILCS 205/205-60 rep.	
20 ILCS 215/Act rep.	
65 ILCS 5/11-15.4-5	
415 ILCS 60/4	from Ch. 5, par. 804
505 ILCS 5/3.02	from Ch. 5, par. 1003.02
505 ILCS 45/2a	from Ch. 5, par. 242a
515 ILCS 5/5-5	from Ch. 56, par. 5-5
820 ILCS 405/214	from Ch. 48, par. 324

Repeals the Aquaculture Development Act. Amends the Civil Administrative Code of Illinois, the Illinois Municipal Code, the Illinois Pesticide Act, the Agricultural Areas Conservation and Protection Act, the County Cooperative Extension Law, the Fish and Aquatic Life Code, and the Unemployment Insurance Act making conforming changes.

LRB102 16077 KMF 21450 b

1 AN ACT concerning fish.

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

4 (20 ILCS 205/205-60 rep.)

5 Section 5. The Civil Administrative Code of Illinois is
6 amended by repealing Section 205-60.

7 (20 ILCS 215/Act rep.)

8 Section 10. The Aquaculture Development Act is repealed.

9 Section 15. The Illinois Municipal Code is amended by
10 changing Section 11-15.4-5 as follows:

11 (65 ILCS 5/11-15.4-5)

12 Sec. 11-15.4-5. Definitions. As used in this Division:

13 "Agricultural product" means an agricultural,
14 horticultural, viticultural, aquacultural, or vegetable
15 product, either in its natural or processed state, that has
16 been produced, processed, or otherwise had value added to it
17 in this State. "Agricultural product" includes, but is not
18 limited to, growing of grapes that will be processed into
19 wine; bees; honey; fish or other aquacultural product;
20 planting seed; livestock or livestock product; forestry
21 product; and poultry or poultry product.

1 "Aquaculture" means the controlled propagation, growth and
2 harvest of aquatic organisms, including but not limited to
3 fish, shellfish, mollusks, crustaceans, algae and other
4 aquatic plants, by an aquaculturist and ~~"aquatic products"~~
5 ~~have the meanings given to those terms in Section 4 of the~~
6 ~~Aquaculture Development Act.~~

7 "Aquatic products" means any aquatic plants and animals or
8 their by-products that are produced, grown, managed, harvested
9 and marketed on an annual, semi-annual, biennial or short term
10 basis, in permitted aquaculture facilities.

11 "Department" means the Department of Agriculture.

12 "Livestock" means cattle; calves; sheep; swine; ratite
13 birds, including, but not limited to, ostrich and emu; aquatic
14 products obtained through aquaculture; llamas; alpaca;
15 buffalo; elk documented as obtained from a legal source and
16 not from the wild; goats; horses and other equines; or rabbits
17 raised in confinement for human consumption.

18 "Locally grown" means a product that was grown or raised
19 in the same county or adjoining county in which the urban
20 agricultural area is located.

21 "Partner organization" means a nonprofit organization that
22 meets standards set forth by Section 501(c)(3) of the Internal
23 Revenue Code and whose mission includes supporting small,
24 beginning, limited resource, or socially-disadvantaged farmers
25 within municipalities.

26 "Poultry" means any domesticated bird intended for human

1 consumption.

2 "Qualifying farmer" means an individual or entity that
3 meets at least one of the following:

4 (1) is a small or medium sized farmer;

5 (2) is a beginning farmer;

6 (3) is a limited resource farmer; or

7 (4) is a socially-disadvantaged farmer.

8 "Small or medium sized farmer", "beginning farmer",
9 "limited resource farmer", and "socially-disadvantaged farmer"
10 have the meanings given to those terms in rules adopted by the
11 Department as provided in Section 205-65 of the Department of
12 Agriculture Law.

13 "Urban agricultural area" means an area defined by a
14 municipality and entirely within that municipality's
15 boundaries within which one or more qualifying farmers are
16 processing, growing, raising, or otherwise producing
17 locally-grown agricultural products.

18 (Source: P.A. 100-1133, eff. 1-1-19.)

19 Section 20. The Illinois Pesticide Act is amended by
20 changing Section 4 as follows:

21 (415 ILCS 60/4) (from Ch. 5, par. 804)

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

23 1. "Director" means Director of the Illinois Department of
24 Agriculture or his authorized representative.

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

4 3. "Adulterated" shall apply to any pesticide if the
5 strength or purity is not within the standard of quality
6 expressed on the labeling under which it is sold, distributed
7 or used, including any substance which has been substituted
8 wholly or in part for the pesticide as specified on the
9 labeling under which it is sold, distributed or used, or if any
10 valuable constituent of the pesticide has been wholly or in
11 part abstracted.

12 4. "Agricultural Commodity" means produce of the land
13 including but not limited to plants and plant parts, livestock
14 and poultry and livestock or poultry products, seeds, sod,
15 shrubs and other products of agricultural origin including the
16 premises necessary to and used directly in agricultural
17 production. Agricultural commodity also includes aquatic
18 products, including any aquatic plants and animals or their
19 by-products that are produced, grown, managed, harvested and
20 marketed on an annual, semi-annual, biennial or short term
21 basis, in permitted aquaculture facilities ~~as defined in the~~
22 ~~Aquaculture Development Act.~~

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

26 6. "Beneficial Insects" means those insects which during

1 their life cycle are effective pollinators of plants,
2 predators of pests or are otherwise beneficial.

3 7. "Certified applicator".

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

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

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

26 D. "Commercial Not For Hire Applicator" means a

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

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

17 9. "Desiccant" means any substance or combination of
18 substances intended for artificially accelerating the drying
19 of plant tissue.

20 10. "Device" means any instrument or contrivance, other
21 than a firearm or equipment for application of pesticides when
22 sold separately from pesticides, which is intended for
23 trapping, repelling, destroying, or mitigating any pest, other
24 than bacteria, virus, or other microorganisms on or living in
25 man or other living animals.

26 11. "Distribute" means offer or hold for sale, sell,

1 barter, ship, deliver for shipment, receive and then deliver,
2 or offer to deliver pesticides, within the State.

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

6 13. "Equipment" means any type of instruments and
7 contrivances using motorized, mechanical or pressure power
8 which is used to apply any pesticide, excluding pressurized
9 hand-size household apparatus containing dilute ready to apply
10 pesticide or used to apply household pesticides.

11 14. "FIFRA" means the Federal Insecticide, Fungicide, and
12 Rodenticide Act, as amended.

13 15. "Fungi" means any non-chlorophyll bearing
14 thallophytes, any non-chlorophyll bearing plant of a lower
15 order than mosses or liverworts, as for example rust, smut,
16 mildew, mold, yeast and bacteria, except those on or in living
17 animals including man and those on or in processed foods,
18 beverages or pharmaceuticals.

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

22 17. "Imminent Hazard" means a situation which exists when
23 continued use of a pesticide would likely result in
24 unreasonable adverse effect on the environment or will involve
25 unreasonable hazard to the survival of a species declared
26 endangered by the U.S. Secretary of the Interior or to species

1 declared to be protected by the Illinois Department of Natural
2 Resources.

3 18. "Inert Ingredient" means an ingredient which is not an
4 active ingredient.

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

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

22 21. "Label" means the written, printed or graphic matter
23 on or attached to the pesticide or device or any of its
24 containers or wrappings.

25 22. "Labeling" means the label and all other written,
26 printed or graphic matter: (a) on the pesticide or device or

1 any of its containers or wrappings, (b) accompanying the
2 pesticide or device or referring to it in any other media used
3 to disseminate information to the public, (c) to which
4 reference is made to the pesticide or device except when
5 references are made to current official publications of the U.
6 S. Environmental Protection Agency, Departments of
7 Agriculture, Health, Education and Welfare or other Federal
8 Government institutions, the state experiment station or
9 colleges of agriculture or other similar state institution
10 authorized to conduct research in the field of pesticides.

11 23. "Land" means all land and water area including
12 airspace, and all plants, animals, structures, buildings,
13 contrivances, and machinery appurtenant thereto or situated
14 thereon, fixed or mobile, including any used for
15 transportation.

16 24. "Licensed Operator" means a person employed to apply
17 pesticides to the lands of others under the direction of a
18 "licensed commercial applicator" or a "licensed commercial
19 not-for-hire applicator".

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

25 26. "Permit" means a written statement issued by the
26 Director or his authorized agent, authorizing certain acts of

1 pesticide purchase or of pesticide use or application on an
2 interim basis prior to normal certification, registration, or
3 licensing.

4 27. "Person" means any individual, partnership,
5 association, fiduciary, corporation, or any organized group of
6 persons whether incorporated or not.

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

13 29. "Pesticide" means any substance or mixture of
14 substances intended for preventing, destroying, repelling, or
15 mitigating any pest or any substance or mixture of substances
16 intended for use as a plant regulator, defoliant or desiccant.

17 30. "Pesticide Dealer" means any person who distributes
18 registered pesticides to the user.

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

26 32. "Protect Health and Environment" means to guard

1 against any unreasonable adverse effects on the environment.

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

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

7 35. "SLN Registration" means registration of a pesticide
8 for use under conditions of special local need as defined by
9 FIFRA.

10 36. "State Restricted Pesticide Use" means any pesticide
11 use which the Director determines, subsequent to public
12 hearing, that an additional restriction for that use is needed
13 to prevent unreasonable adverse effects.

14 37. "Structural Pest" means any pests which attack and
15 destroy buildings and other structures or which attack
16 clothing, stored food, commodities stored at food
17 manufacturing and processing facilities or manufactured and
18 processed goods.

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

24 39. "USEPA" means United States Environmental Protection
25 Agency.

26 40. "Use inconsistent with the label" means to use a

1 pesticide in a manner not consistent with the label
2 instruction, the definition adopted in FIFRA as interpreted by
3 USEPA shall apply in Illinois.

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

6 42. "Wildlife" means all living things, not human,
7 domestic, or pests.

8 43. "Bulk pesticide" means any registered pesticide which
9 is transported or held in an individual container in undivided
10 quantities of greater than 55 U.S. gallons liquid measure or
11 100 pounds net dry weight.

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

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

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

1 47. "Chemigation" means the application of a pesticide
2 through the systems or equipment employed for the primary
3 purpose of irrigation of land and crops.

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

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

10 Section 25. The Agricultural Areas Conservation and
11 Protection Act is amended by changing Section 3.02 as follows:

12 (505 ILCS 5/3.02) (from Ch. 5, par. 1003.02)

13 Sec. 3.02. "Crops, livestock and livestock and aquatic
14 products" include but are not limited to the following:
15 legume, hay, grain, fruit, and truck or vegetable crops,
16 floriculture, horticulture, mushroom growing, nurseries,
17 orchards, forestry, greenhouses and aquatic products,
18 including any aquatic plants and animals or their by-products
19 that are produced, grown, managed, harvested and marketed on
20 an annual, semi-annual, biennial or short term basis, in
21 permitted aquaculture facilities ~~as defined in the Aquaculture~~
22 ~~Development Act~~; the keeping, raising and feeding of livestock
23 or poultry, including dairying, poultry, swine, sheep, beef
24 cattle, pony and horse production, fur and wildlife farms,

1 farm buildings used for growing, harvesting and preparing crop
2 products for market, or for use on the farm; roadside stands,
3 farm buildings for storing and protecting farm machinery and
4 equipment from the elements, for housing livestock or poultry
5 and for preparing livestock or poultry products for market;
6 farm dwellings occupied by farm owners, operators, tenants or
7 seasonal or year-round hired workers.

8 (Source: P.A. 85-856.)

9 Section 30. The County Cooperative Extension Law is
10 amended by changing Section 2a as follows:

11 (505 ILCS 45/2a) (from Ch. 5, par. 242a)

12 Sec. 2a. Information and assistance.

13 (a) The Cooperative Extension Service of the University of
14 Illinois shall provide information and assistance to person
15 who are timber growers and to persons who may be unaware of the
16 economic and soil and water conservation benefits that can be
17 attained through forestry management on marginal agricultural
18 lands.

19 (b) The Department of Agriculture, in cooperation with the
20 Cooperative Extension Service of the University of Illinois,
21 in conjunction with the Agriculture Experiment Station and
22 Southern Illinois University at Carbondale, shall provide
23 information on aquaculture and shall explore the establishment
24 of an aquaculture resource center for disseminating

1 information and demonstrating the viability of aquaculture as
2 a part of the diversified agriculture of this State.

3 ~~The Department of Agriculture in cooperation with the (i)~~
4 ~~Cooperative Extension Service of the University of Illinois,~~
5 ~~(ii) Southern Illinois University at Carbondale, (iii)~~
6 ~~Illinois State University at Bloomington Normal, (iv) Western~~
7 ~~Illinois University at Macomb, and (v) community colleges~~
8 ~~organized under the Public Community College Act shall provide~~
9 ~~information and assistance to the aquaculture industry in the~~
10 ~~State concerning the Aquaculture Cooperative established under~~
11 ~~the Aquaculture Development Act and incorporated under the~~
12 ~~Agricultural Co-Operative Act.~~

13 (Source: P.A. 91-530, eff. 8-13-99.)

14 Section 35. The Fish and Aquatic Life Code is amended by
15 changing Section 5-5 as follows:

16 (515 ILCS 5/5-5) (from Ch. 56, par. 5-5)

17 Sec. 5-5. Ownership and title; violations; penalties. The
18 ownership of and title to all aquatic life within the
19 boundaries of the State, are hereby declared to be in the
20 State, and no aquatic life shall be taken or killed, in any
21 manner or at any time, unless the person or persons so taking
22 or killing the aquatic life shall consent that the title to the
23 aquatic life shall be and remain in the State for the purpose
24 of regulating the taking, killing, possession, use, sale, and

1 transportation of aquatic life after taking or killing, as set
2 forth in this Code.

3 Aquatic products, including any aquatic plants and animals
4 or their by-products that are produced, grown, managed,
5 harvested and marketed on an annual, semi-annual, biennial or
6 short term basis, in permitted aquaculture facilities ~~as~~
7 ~~defined in the Aquaculture Development Act~~, bred, hatched,
8 propagated, or raised by the owner of a body of water, with the
9 consent of the Department of Natural Resources through the
10 issuance of an aquaculture permit and consistent with this
11 Section, in permitted aquaculture facilities in or on that
12 body of water are the property of the person who bred, hatched,
13 propagated, or raised them or that person's successor in
14 interest. Ownership of aquatic products reverts to the State
15 upon revocation or expiration of an aquaculture permit as
16 prescribed by administrative rule.

17 If any person causes any waste, sewage, thermal effluent,
18 or any other pollutant to enter into, or causes or allows
19 pollution of, any waters of this State so as to kill aquatic
20 life, the Department, through the Attorney General, may bring
21 an action against that person and recover the value of and the
22 related costs in determining the value of the aquatic life
23 destroyed by the waste, sewage, thermal effluent, or
24 pollution. Any money so recovered shall be placed into the
25 Wildlife and Fish Fund in the State Treasury.

26 If any person shall abandon, deposit, or otherwise place

1 any wire, can, bottle, glass, paper, trash, rubbish,
2 cardboard, wood cartons, boxes, trees, parts of trees, brush,
3 or other insoluble material, including animal or vegetable
4 material, into the waters or upon the ice of any waters of this
5 State, or in any place on the bank of waters of this State
6 where it shall be liable to be washed into the waters either by
7 storms, floods, or other causes, the person shall be in
8 violation of the offense of polluting. Employees of the
9 Department, however, may place or direct the placement, in the
10 waters of the State, of insoluble materials deemed suitable
11 for the purposes of enhancing aquatic habitat. Any person who
12 shall be found guilty under this Section shall be guilty of a
13 petty offense, and the Court shall further order that the
14 guilty person shall employ every practical means of removing
15 the debris within a time specified by the Court. Failure to
16 comply with an order under this Section shall constitute a
17 Class B misdemeanor.

18 (Source: P.A. 89-445, eff. 2-7-96.)

19 Section 40. The Unemployment Insurance Act is amended by
20 changing Section 214 as follows:

21 (820 ILCS 405/214) (from Ch. 48, par. 324)

22 Sec. 214. The term "employment" does not include
23 agricultural or aquacultural labor, except as provided in
24 Section 211.4. With respect to the period prior to January 1,

1 1972, the term "agricultural labor" means the services
2 included within the term by this Act as amended and in effect
3 on September 15, 1969. On and after January 1, 1972, the term
4 "agricultural labor" means all services performed:

5 A. On a farm, in the employ of any person, in connection
6 with cultivating the soil or in connection with raising or
7 harvesting any agricultural or horticultural commodity,
8 including the raising, shearing, feeding, caring for,
9 training, and management of live stock, bees, poultry, and
10 fur-bearing animals and wildlife;

11 B. In the employ of the owner or tenant or other operator
12 of a farm, in connection with the operation, management,
13 conservation, improvement, or maintenance of such farm and its
14 tools and equipment;

15 C. In connection with the ginning of cotton, or the
16 operation or maintenance of ditches, canals, reservoirs, or
17 waterways not owned or operated for profit, used exclusively
18 for supplying and storing water for farming purposes;

19 D. In the employ of the operator of a farm, or of a group
20 of operators of farms (or a cooperative organization of which
21 such operators are members), in handling, planting, drying,
22 packing, packaging, processing, freezing, grading, storing or
23 delivering to storage or to market or to a carrier for
24 transportation to market, in its unmanufactured state, any
25 agricultural or horticultural commodity; but only if such
26 operator or operators produced more than one-half of the

1 commodity with respect to which such service is performed. The
2 provisions of this subsection shall not be deemed to be
3 applicable with respect to service performed in connection
4 with commercial canning or commercial freezing or in
5 connection with any agricultural or horticultural commodity
6 after its delivery to a terminal market for distribution for
7 consumption.

8 As used in this Section, the term "farm" includes stock,
9 dairy, poultry, fruit, fur-bearing animal, and truck farms,
10 plantations, ranches, nurseries, ranges, greenhouses or other
11 similar structures used primarily for the raising of
12 agricultural or horticultural commodities, and orchards.

13 The term "aquacultural labor" means all services performed
14 in connection with the production of aquatic products,
15 including any aquatic plants and animals or their by-products
16 that are produced, grown, managed, harvested and marketed on
17 an annual, semi-annual, biennial or short term basis, in
18 permitted aquaculture facilities ~~as defined in the Aquaculture~~
19 ~~Development Act.~~

20 (Source: P.A. 85-856.)