

# HOUSE BILL No. 1400

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-8.1; IC 15-16-2-36; IC 15-19-7; IC 15-20.

**Synopsis:** Companion animal sterilization program. Establishes the Indiana companion animal sterilization fund (fund) and the Indiana companion animal sterilization program under the administration of Spay-Neuter Services of Indiana, Inc., to provide at no charge to a Medicaid recipient spaying or neutering services for a dog or a cat owned or harbored by the Medicaid recipient. Adds the fund as a charitable purpose to which an individual may choose to give all or part of the individual's income tax refund. Imposes a fee of \$50 on the sale of an unsterilized cat or dog at retail. Increases the fee collected from distributors of pet food paid annually for inspection of pet food sold in packages of 10 pounds or less from \$50 to \$80. Provides that the fee imposed on sales of unsterilized cats and dogs at retail and the increases in the pet food inspection fee are paid into the fund. Appropriates money in the fund.

**Effective:** July 1, 2014.

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## Lawson L, Karickhoff, Errington

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January 16, 2014, read first time and referred to Committee on Ways and Means.

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Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

## HOUSE BILL No. 1400

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A BILL FOR AN ACT to amend the Indiana Code concerning agriculture and animals and to make an appropriation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-8.1-1-1, AS AMENDED BY P.L.277-2013,  
2 SECTION 15, AND AS AMENDED BY P.L.288-2013, SECTION 68,  
3 IS CORRECTED AND AMENDED TO READ AS FOLLOWS  
4 [EFFECTIVE JULY 1, 2014]: Sec. 1. "Listed taxes" or "taxes" includes  
5 only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the  
6 riverboat admissions tax (IC 4-33-12); the riverboat wagering tax  
7 (IC 4-33-13); the slot machine wagering tax (IC 4-35-8); the type II  
8 gambling game excise tax (IC 4-36-9); the gross income tax (IC 6-2.1)  
9 (repealed); the utility receipts and utility services use taxes (IC 6-2.3);  
10 the state gross retail and use taxes (IC 6-2.5); the adjusted gross income  
11 tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the  
12 county adjusted gross income tax (IC 6-3.5-1.1); the county option  
13 income tax (IC 6-3.5-6); the county economic development income tax  
14 (IC 6-3.5-7); the auto rental excise tax (IC 6-6-9); the financial  
15 institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); *the alternative*  
16 *fuel permit fee (IC 6-6-2.1)*; the special fuel tax (IC 6-6-2.5); the motor



1 carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a  
 2 reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax  
 3 (IC 6-6-5); *the aviation fuel excise tax (IC 6-6-13)*; the commercial  
 4 vehicle excise tax (IC 6-6-5.5); the excise tax imposed on recreational  
 5 vehicles and truck campers (IC 6-6-5.1); the hazardous waste disposal  
 6 tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); the beer excise tax  
 7 (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax  
 8 (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise  
 9 tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various  
 10 innkeeper's taxes (IC 6-9); the various food and beverage taxes  
 11 (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the  
 12 regional transportation improvement income tax (IC 8-24-17); the oil  
 13 inspection fee (IC 16-44-2); the emergency and hazardous chemical  
 14 inventory form fee (IC 6-6-10); the penalties assessed for oversize  
 15 vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for  
 16 overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage  
 17 tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); **the**  
 18 **companion animal sterilization service fee (IC 15-20-5)**; and any  
 19 other tax or fee that the department is required to collect or administer.

20 SECTION 2. IC 6-8.1-9-4, AS AMENDED BY P.L.288-2013,  
 21 SECTION 69, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 22 JULY 1, 2014]: Sec. 4. (a) Every individual (other than a nonresident)  
 23 who files an individual income tax return and who is entitled to a  
 24 refund from the department of state revenue because of the  
 25 overpayment of income tax for a taxable year may designate on the  
 26 individual's annual state income tax return that either a specific amount  
 27 or all of the refund to which the individual is entitled shall be paid over  
 28 to one (1) or more of the funds described in subsection (c). If the refund  
 29 to which the individual is entitled is less than the total amount  
 30 designated to be paid over to one (1) or more of the funds described in  
 31 subsection (c), all of the refund to which the individual is entitled shall  
 32 be paid over to the designated funds, but in an amount or amounts  
 33 reduced proportionately for each designated fund. If an individual  
 34 designates all of the refund to which the individual is entitled to be paid  
 35 over to one (1) or more of the funds described in subsection (c) without  
 36 designating specific amounts, the refund to which the individual is  
 37 entitled shall be paid over to each fund described in subsection (c) in  
 38 an amount equal to the refund divided by the number of funds  
 39 described in subsection (c), rounded to the lowest cent, with any part  
 40 of the refund remaining due to the effects of rounding to be deposited  
 41 in the nongame fund.

42 (b) Every husband and wife (other than nonresidents) who file a



1 joint income tax return and who are entitled to a refund from the  
 2 department of state revenue because of the overpayment of income tax  
 3 for a taxable year may designate on their annual state income tax return  
 4 that either a specific amount or all of the refund to which they are  
 5 entitled shall be paid over to one (1) or more of the funds described in  
 6 subsection (c). If the refund to which a husband and wife are entitled  
 7 is less than the total amount designated to be paid over to one (1) or  
 8 more of the funds described in subsection (c), all of the refund to which  
 9 the husband and wife are entitled shall be paid over to the designated  
 10 funds, but in an amount or amounts reduced proportionately for each  
 11 designated fund. If a husband and wife designate all of the refund to  
 12 which the husband and wife are entitled to be paid over to one (1) or  
 13 more of the funds described in subsection (c) without designating  
 14 specific amounts, the refund to which the husband and wife are entitled  
 15 shall be paid over to each fund described in subsection (c) in an  
 16 amount equal to the refund divided by the number of funds described  
 17 in subsection (c), rounded to the lowest cent, with any part of the  
 18 refund remaining due to the effects of rounding to be deposited in the  
 19 nongame fund.

20 (c) Designations under subsection (a) or (b) may be directed only to  
 21 the following funds:

22 (1) The nongame fund.

23 (2) The state general fund for exclusive use in funding public  
 24 education for kindergarten through grade 12.

25 **(3) The Indiana companion animal sterilization fund**  
 26 **established by IC 15-20-4-2.**

27 (d) The instructions for the preparation of individual income tax  
 28 returns shall contain a description of the purposes of the following:

29 (1) The nongame and endangered species program. The  
 30 description of this program shall be written in cooperation with  
 31 the department of natural resources.

32 (2) The funding of public education for kindergarten through  
 33 grade 12. The description of this purpose shall be written in  
 34 cooperation with the state superintendent of public instruction.

35 **(3) The Indiana companion animal sterilization fund. The**  
 36 **description of the program shall be written in cooperation**  
 37 **with Spay-Neuter Services of Indiana, Inc.**

38 (e) The department shall interpret a designation on a return under  
 39 subsection (a) or (b) that is illegible or otherwise not reasonably  
 40 discernible to the department as if the designation had not been made.

41 SECTION 3. IC 15-16-2-36, AS ADDED BY P.L.2-2008,  
 42 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



1 JULY 1, 2014]: Sec. 36. (a) Notwithstanding any other law, all excess  
2 funds accumulated from the fees collected by:

3 (1) the state chemist, under this chapter, IC 15-15-2, and  
4 IC 15-16-4; ~~and IC 15-19-7; and~~

5 **(2) the state chemist, under IC 15-19-7-24 and**  
6 **IC 15-19-7-30(a); and**

7 ~~(3)~~ (3) the state seed commissioner under IC 15-15-1;

8 shall be paid to the treasurer of Purdue University. The funds shall be  
9 administered by the board of trustees of Purdue University.

10 **(b) The pet food and specialty pet food annual inspection fee**  
11 **imposed under IC 15-19-7-30(b) shall be distributed as follows:**

12 **(1) Fifty dollars (\$50) of each pet food and specialty pet food**  
13 **annual inspection fee collected under IC 15-19-7-30(b) shall**  
14 **be paid to the treasurer of Purdue University and**  
15 **administered by the board of trustees of Purdue University.**

16 **(2) Thirty dollars (\$30) of each pet food and specialty pet food**  
17 **annual inspection fee collected under IC 15-19-7-30(b) shall**  
18 **be paid to the treasurer of state for further credit to the**  
19 **Indiana companion animal sterilization fund.**

20 ~~(b)~~ (c) On approval of the governor and the budget agency, the  
21 board of trustees may spend the excess funds **received under**  
22 **subsections (a) and (b)(1)** for the construction, operation,  
23 rehabilitation, and repair of buildings, structures, or other facilities  
24 used for:

25 (1) carrying out the purposes of those chapters referred to in  
26 subsection (a) under which the fees are collected; or

27 (2) the agricultural programs authorized by law and in support of  
28 the purposes of the chapters referred to in subsection (a).

29 SECTION 4. IC 15-19-7-30, AS AMENDED BY P.L.99-2012,  
30 SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
31 JULY 1, 2014]: Sec. 30. (a) **Except as provided in subsection (b)**, a  
32 distributor shall pay to the state chemist an inspection fee at the rate of  
33 forty cents (\$0.40) per ton on all commercial feeds distributed into or  
34 within Indiana, subject to the following:

35 (1) No fee shall be paid on a commercial feed if the payment has  
36 been made by a previous distributor.

37 (2) No fee shall be paid on a customer formula feed if the  
38 inspection fee has been paid on all of the commercial feeds that  
39 are ingredients of the customer formula feed.

40 (3) On commercial feeds that contain ingredients on which the  
41 inspection fee has already been paid, credit shall be given for that  
42 payment.



1 (4) The minimum inspection fee is five dollars (\$5) per quarter if  
 2 a quarterly feed tonnage report is required under section 31 of this  
 3 chapter.

4 (b) In the case of a pet food or a specialty pet food that is distributed  
 5 in Indiana in packages of ten (10) pounds or less, an annual inspection  
 6 fee of  ~~fifty eighty~~  dollars ( ~~\$50~~ ) (**\$80**) shall be paid instead of the  
 7 tonnage inspection fee specified in subsection (a).

8 SECTION 5. IC 15-19-7-31, AS AMENDED BY P.L.99-2012,  
 9 SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 10 JULY 1, 2014]: Sec. 31. (a) Except as provided in subsection (b), a  
 11 distributor who is liable for the payment of the tonnage inspection fee  
 12 under section 30 of this chapter shall file quarterly tonnage reports  
 13 setting forth the number of net tons of commercial feeds distributed in  
 14 Indiana during the preceding calendar quarter. The distributor shall file  
 15 the reports not later than January 31, April 30, July 31, and October 31  
 16 of each year. Upon filing a report, the distributor shall pay the  
 17 inspection fee at the rate stated in section 30 of this chapter. Inspection  
 18 fees that are due and owing and have not been remitted to the state  
 19 chemist within fifteen (15) days after the due date shall be increased by  
 20 a penalty fee of ten percent (10%) of the amount due or fifty dollars  
 21 (\$50), whichever is greater. The assessment of this penalty fee does not  
 22 prevent the state chemist from taking other actions under this chapter.

23 (b) A resident of Indiana who only manufactures and distributes  
 24 customer formula feeds and has met the requirements of section 30 of  
 25 this chapter is exempt from filing quarterly feed tonnage reports.

26 (c) A distributor who is subject to the inspection fees for small  
 27 packaged pet and specialty pet foods distributed in containers of ten  
 28 (10) pounds or less under section 30 of this chapter shall do the  
 29 following:

30 (1) Before beginning distribution, file with the state chemist a  
 31 listing of small packaged pet and specialty pet foods to be  
 32 distributed in Indiana in containers of ten (10) pounds or less, on  
 33 forms provided by the state chemist. The listing under this  
 34 subdivision shall be renewed annually before January 1 of each  
 35 year and is the basis for the payment of the annual inspection fee  
 36  ~~of fifty dollars (\$50)~~  per product  **specified in section 30(b) of**   
 37  **this chapter.**  New products added during the year must be  
 38 submitted to the state chemist as a supplement to the annual  
 39 listing before distribution.

40 (2) If the annual renewal of the listing is not received before  
 41 January 16 or if an unlisted product is distributed, pay a late filing  
 42 fee of ten dollars (\$10) per product in addition to the normal



1 charge for the listing. The late filing fee under this subdivision is  
 2 in addition to any other penalty under this chapter.

3 SECTION 6. IC 15-20-4 IS ADDED TO THE INDIANA CODE AS  
 4 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
 5 1, 2014]:

6 **Chapter 4. Indiana Companion Animal Sterilization Program**  
 7 **Sec. 1. The following definitions apply throughout this chapter:**

8 (1) "Administering entity" refers to Spay-Neuter Services of  
 9 Indiana, Inc.

10 (2) "Companion animal" means a dog or cat.

11 (3) "Fund" refers to the Indiana companion animal  
 12 sterilization fund established by section 2 of this chapter.

13 (4) "Program" refers to the Indiana companion animal  
 14 sterilization program established under section 4 of this  
 15 chapter.

16 (5) "Veterinary services provider" means:

17 (A) a veterinarian (as defined in IC 15-17-2-102), if the  
 18 veterinarian provides veterinary services as a sole  
 19 proprietor; or

20 (B) a professional services corporation or other business  
 21 entity authorized under Indiana law to provide veterinary  
 22 services, if a veterinarian provides veterinary services  
 23 through the veterinarian's affiliation with the professional  
 24 services corporation or other business entity.

25 **Sec. 2. (a) The Indiana companion animal sterilization fund is**  
 26 **established for the purpose of receiving money from the sources**  
 27 **listed in subsection (b) to provide for spaying or neutering services**  
 28 **for companion animals on behalf of Medicaid recipients under this**  
 29 **chapter. The administering entity shall administer the fund.**

30 **(b) The fund consists of the following:**

31 (1) Appropriations by the general assembly.

32 (2) Donations.

33 (3) Federal grants or other federal appropriations.

34 (4) Fee and penalty revenue distributed to the fund under  
 35 IC 15-16-2-36, IC 15-20-5, and any other law.

36 (5) Interest and other earnings derived from investment of  
 37 money in the fund.

38 (c) Expenses of administering the fund shall be paid from money  
 39 in the fund. The administering entity shall not expend more than  
 40 fifteen percent (15%) of the fund annually for administrative costs.

41 (d) The treasurer of state shall invest the money in the fund not  
 42 currently needed to meet the obligations of the fund in the same



1 manner as other public money may be invested. Interest that  
2 accrues from these investments shall be deposited in the fund.

3 (e) Money in the fund at the end of a state fiscal year does not  
4 revert to the state general fund.

5 (f) Money in the fund is continuously appropriated for the  
6 purposes of this chapter.

7 **Sec. 3.** All money coming into possession of the administering  
8 entity under this chapter shall be deposited, held, secured, invested,  
9 and paid in accordance with the general statutes concerning the  
10 handling of public funds. The handling and expenditure of money  
11 coming into possession of the administering entity is subject to  
12 audit and supervision by the state board of accounts.

13 **Sec. 4. (a)** The administering entity shall conduct a program to  
14 provide spaying or neutering services at no charge to a Medicaid  
15 recipient for companion animals owned or harbored by the  
16 Medicaid recipient.

17 (b) The administering entity may:

18 (1) contract with veterinary services providers that wish to  
19 participate in the program;

20 (2) determine the maximum reimbursement amount under the  
21 program for the performance of a spaying or neutering  
22 service by a veterinary services provider for a companion  
23 animal owned or harbored by a Medicaid recipient; and

24 (3) administer the fund and process reimbursement claims by  
25 veterinary services providers under the program.

26 SECTION 7. IC 15-20-5 IS ADDED TO THE INDIANA CODE AS  
27 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
28 1, 2014]:

29 **Chapter 5. Companion Animal Sterilization Service Fee**

30 **Sec. 1.** The following definitions apply throughout this chapter:

31 (1) "Companion animal" has the meaning set forth in  
32 IC 15-20-4-1.

33 (2) "Companion animal sterilization service fee" refers to the  
34 fee imposed by section 2 of this chapter.

35 (3) "Retail merchant" has the meaning set forth in  
36 IC 6-2.5-1-8.

37 (4) "Retail transaction" has the meaning set forth in  
38 IC 6-2.5-1-2(a).

39 **Sec. 2.** A person who purchases an unsterilized companion  
40 animal in a retail transaction is liable for a fee in the amount of  
41 fifty dollars (\$50) for each unsterilized companion animal acquired  
42 in the retail transaction.



1           **Sec. 3. A retail merchant who sells an unsterilized companion**  
2 **animal in a retail transaction shall collect from the purchaser the**  
3 **companion animal sterilization service fee.**

4           **Sec. 4. The companion animal sterilization service fee is**  
5 **excluded from the gross retail income (as defined in IC 6-2.5-1-5)**  
6 **received by a retail merchant in a retail transaction.**

7           **Sec. 5. For each reporting period, a retail merchant is liable to**  
8 **the state for the amount of:**

9           **(1) the product of:**

10           **(A) the number of unsterilized companion animals sold in**  
11 **a retail transaction by the retail merchant during the**  
12 **reporting period; multiplied by**

13           **(B) the amount of the companion animal sterilization**  
14 **service fee; minus**

15           **(2) any collection allowance the retail merchant may retain**  
16 **under section 7 of this chapter.**

17           **Sec. 6. A retail merchant shall file returns for and remit the**  
18 **companion animal sterilization service fee electronically through**  
19 **the department of state revenue's online tax filing system with the**  
20 **same frequency that the retail merchant is required to file returns**  
21 **for and remit state gross retail and use taxes under IC 6-2.5-6.**

22           **Sec. 7. (a) To compensate retail merchants for collecting and**  
23 **timely remitting the companion animal sterilization service fee,**  
24 **every retail merchant that timely remits companion animal**  
25 **sterilization service fees as required under section 6 of this chapter**  
26 **is entitled to deduct and retain a collection allowance from the**  
27 **amount of those fees otherwise required to be remitted under this**  
28 **chapter.**

29           **(b) The collection allowance under subsection (a) equals:**

30           **(1) the retail merchant's liability for companion animal**  
31 **sterilization service fees determined under section 5(1) of this**  
32 **chapter; multiplied by**

33           **(2) the collection allowance percentage applicable to the retail**  
34 **merchant under IC 6-2.5-6-10(b).**

35           **(c) The amount of companion animal sterilization service fees**  
36 **collected by a retail merchant during a calendar year is excluded**  
37 **from the determination of the retail merchant's collection**  
38 **allowance percentage under IC 6-2.5-6-10(b).**

39           **Sec. 8. The companion animal sterilization service fee is a listed**  
40 **tax for purposes of IC 6-8.1. The department of state revenue shall**  
41 **administer the fee in accordance with IC 6-8.1.**

42           **Sec. 9. The department of state revenue shall deposit companion**



1 **animal sterilization service fee revenue received by the department**  
2 **in the Indiana companion animal sterilization fund established by**  
3 **IC 15-20-4-2.**

