

Assembly Bill 609

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**Chapter 588**

AN ACT to amend 94.675 (intro. par.) and (1), 94.676 (intro. par.), (2) and (5), 94.70 (1) (d), (e) and (g), (2) (c) 2 and (3) (b) and 94.71 (3); to repeal and recreate 94.68 and 94.69; and to create 94.675 (4), 94.676 (8) and 94.71 (3) (b) of the statutes, relating to the registration and labeling of pesticides; the adoption of rules establishing standards for pesticides and the labeling thereof; and the enforcement of such statutes and rules.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 94.675 (intro. par.) and (1) of the statutes are amended to read:

94.675 PESTICIDES; ADULTERATION. ~~An economic poison~~  
A pesticide is "adulterated":

(1) If ~~the~~ its strength ~~or~~, quality, purity or effectiveness falls below the ~~standard or quality standards~~ expressed on labeling ~~or under which it is sold~~ the label;

SECTION 2. 94.675 (4) of the statutes is created to read:

94.675 (4) If it does not bear an identifying label or it does not conform to the name or description of ingredients given on the label.

SECTION 3. 94.676 (intro. par.), (2) and (5) of the statutes are amended to read:

94.676 PESTICIDES; MISBRANDING. ~~An economic poison~~ A pesticide is "misbranded":

(2) If it is an imitation of, or is sold or offered or exposed for sale under the name of, another ~~economic poison~~ pesticide;

(5) If the label does not contain a warning or caution statement which, if complied with, is adequate to prevent injury to man and ~~vertebrate animals~~ other vertebrates, vegetation other than weeds, and useful invertebrate animals;

SECTION 4. 94.676 (8) of the statutes is created to read:

94.676 (8) If its labeling contains statements, claims or directions for use which, if complied with, would be a violation of any laws of this state or the rules of any state agency relating to the sale or use of pesticides.

SECTION 5. 94.68 of the statutes is repealed and recreated to read:

94.68 PESTICIDES; REGISTRATION. (1) Every pesticide which is distributed, sold, offered or exposed for sale within this state or delivered for transportation or transported in intrastate commerce or between points within this state through any point outside this state shall be registered annually with the department.

(2) The applicant for registration shall file with the department, for each product to be registered, a statement including:

(a) The name and address of the applicant for registration and his designation as manufacturer, packer, distributor or dealer.

(b) The name and address of the manufacturer or packer, if other than the applicant.

(c) The name and address of the person whose name will appear on the label, if other than the applicant, as manufacturer, packer, distributor or dealer.

(d) The name, brand or trade-mark of the pesticide.

(e) A complete copy of the labeling accompanying the pesticide and a statement of all claims made and to be made for it, including directions for use.

(f) When determined necessary by the department, upon request, the complete formula and a full description of the tests made and the results thereof upon which the claims are based.

(3) Any manufacturer, packer, distributor or dealer may register pesticides manufactured, packed, sold or distributed by him. Products which have the same formula, are manufactured or packed by the same person, the labeling of which contains the same claims and directions for use, and which are labeled with the same name, brand or trade-mark, identifying the product as the same pesticide, may be registered as a single pesticide. Each pesticide shall be considered a separate and distinct product subject to registration and the payment of fees hereunder, if it was manufactured or packed by a different manufacturer or packer and if it differs from any other product with respect to its formula, the name, brand or trade-mark appearing on the label, or by labeling claims and directions for use. A registrant who is also the manufacturer or packer may register additional labels for products manufactured or packed and registered by him bearing the name and address of a distributor or dealer. Such labels may be registered without the payment of additional fees, pro-

vided the product label differs from the manufacturer's or packer's label only with respect to the name and address of the person appearing on the label.

(4) Applications for initial registration of a product and for annual renewal thereof shall be submitted on forms prescribed by the department and shall be accompanied by a fee of \$10 for each product registered. Registration shall expire on December 31 of each year. Changes in the labeling, other than changes in the formula or the name, brand or trademark of a pesticide, may be made within the current license year by filing an amended application without the payment of additional registration fees. After any registrant has paid fees aggregating \$100 in any calendar year, no fee shall be required for the registration of additional products.

(5) If it appears to the department that the composition of the product is such as to warrant the claims made for it, and if the product and its labeling and other material required to be submitted comply with the requirements of ss. 94.67 to 94.71 and rules thereunder, the department shall register the product.

(6) If insufficient data has been submitted or it does not appear to the department that the composition of the product is such as to warrant claims made for it, or if the product and its labeling and other material required to be submitted do not comply with ss. 94.67 to 94.71 and rules thereunder, or if registration has been denied or canceled under the federal insecticide, fungicide and rodenticide act (7 USC 135-135k), the department may refuse to register the product. The department shall notify the applicant of the reasons for refusal so as to afford the applicant an opportunity to make necessary corrections. If the applicant does not withdraw the application or make the required corrections within 30 days after date of notification, the department shall deny the application, subject to a hearing upon request pursuant to s. 93.18.

(7) The department may at any time cancel the registration of any product effective within 10 days after service of written notice thereof on the registrant. Registration may be canceled for the following reasons:

(a) If it does not conform to ss. 94.67 to 94.71 or rules thereunder, or if it is sold, offered or exposed for sale, or distributed in violation of any state law or rule of any state agency.

(b) If registration has been canceled under authority of the federal insecticide, fungicide and rodenticide act (7 USC 135-135k).

(c) If it should be determined that an excessive hazard exists in the continued sale or use of the product under current labeling as the result of new developments in scientific research on pesticides, or changes in pesticide residue tolerances established for foods or feeds.

(8) Other provisions of this section notwithstanding, the department may, when such action is necessary to prevent an imminent hazard to the public, cancel the registration of any pesticide by summary order, effective on date of service of the order on the registrant. Whenever registration of a product is denied or canceled, the registrant may within 10 days after notice thereof, request a hearing under s. 93.18, but enforcement shall not be stayed during the pendency of the hearing, except as the department otherwise determines.

(9) Registration is not required for a pesticide shipped from one plant to another plant operated by the same person and used solely at such plant as a constituent part in the manufacture of pesticides registered hereunder.

SECTION 6. 94.69 of the statutes is repealed and recreated to read:

94.69 PESTICIDE; RULES. The department may adopt rules, after public hearing:

(1) To declare as a pest any form of plant or animal life or virus which is injurious to plants, man, animals or substances.

(2) To determine which pesticides and substances contained therein are highly toxic to man.

(3) To determine standards of coloring or discoloring for pesticides.

(4) To carry out the provisions of ss. 94.67 to 94.71, including the sale, distribution or storage of pesticides, the collection and examination of pesticide samples, and the removal of pesticides from sale after registration has been canceled or if otherwise being sold, offered or exposed for sale in violation of the law or rules of the department.

(5) To govern the labeling of pesticides, including the use of precautionary or warning statements, the declaration of ingredients, and the giving of adequate instructions or directions for use.

(6) To establish reasonable standards for the packaging of those pesticides which the department finds require special care in packaging and to the extent found necessary to prevent injury to the public.

(7) To require permits or notice to the department prior to the shipment or use of pesticides for experimental or research purposes, including conditions under which such permits may be granted or notice required.

SECTION 7. 94.70 (1) (d), (e) and (g), (2) (c) 2 and (3) (b) of the statutes are amended to read:

94.70 (1) (d) Unless it is in the registrant's, manufacturer's or packer's unbroken immediate container, and there is affixed to such container and to the outside container or wrapper of the retail package (if there is one through which the required information on the immediate container cannot be clearly read) a label stating: the name and address of the ~~registrant~~ manufacturer, packer, registrant, or person for whom manufactured or packed, and his designation as manufacturer, packer, distributor or dealer; the name, brand or trade-mark of the ~~economic poison~~ pesticide; the minimum net weight or measure of the contents.

(e) Which contains any substance in quantities highly toxic to man, determined as provided in ~~under~~ s. 94.69, unless the label bears in addition to any other required matter: the skull and crossbones; the word "poison" prominently, in red, on a background of distinct contrasting color; and a statement of an antidote for the poison, ~~which means prescribing~~ the most practical immediate treatment in case of poisoning.

(g) Which is adulterated or misbranded, ~~or violates any other provision of ss. 94.67 to 94.71 and rules thereunder.~~

(2) (c) 2. By others, subject to a permit or notice when required by department rules, if the ~~economic poison~~ pesticide is not sold and if the container thereof bears the name and address of the manufacturer and is plainly and conspicuously marked "For experimental use only—Not to be sold," ~~together with the manufacturer's name and address. If a written permit is obtained from the department, an economic poison . Pesticides may be sold for experimental purposes only under a permit from the department,~~ subject to such restrictions and conditions as are set forth in the permit.

(3) (b) Use for his own advantage or reveal, other than to the department or proper officials or employes of the state or to the courts of this state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons, for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of s. 94.68 (2) (f).

SECTION 8. 94.71 (3) of the statutes is amended to read:

94.71 (3) (a) Examination of ~~economic poisons~~ pesticides shall be made under the direction of the department for the purpose of determining whether they comply with the requirements of ss. 94.67 to 94.71. The department or any person may refer the facts to the district attorney

for the county in which the violation ~~shall have~~ occurred. *In addition to or in lieu of any other remedies provided herein, the department may apply to a circuit court for a temporary or permanent injunction to prevent, restrain or enjoin violations of ss. 94.67 to 94.71 and any rules or special or summary orders issued thereunder.*

SECTION 9. 94.71 (3) (b) of the statutes is created to read:

94.71 (3) (b) Every registrant or other person whose name and address appears on the label of any pesticide as the manufacturer, packer, distributor or dealer, shall, to the extent that he is able to furnish to the department, on request, when found by the department to be necessary to prevent or control an imminent hazard to the public, a listing of all sales locations or warehouse locations maintained by him in this state for the sale or distribution of products registered by him or bearing his name and address as such manufacturer, packer, distributor or dealer; the name and address of all distributors or dealers selling or distributing such products in this state; and the name and address of all outside sales representatives employed by him in this state for the sale or distribution of such products.

SECTION 10. Wherever the terms "economic poisons" and "economic poison" are used in sections 20.140 (45), 94.67, 94.675, 94.676, 94.70 and 94.71 of the statutes, the terms "pesticides" or "pesticide" are substituted.

Approved June 24, 1966.

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