

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES
107TH LEGISLATURE

COMMITTEE AMENDMENT "A" to H.P. 653, L.D.
826, Bill, "AN ACT Creating the Maine Pesticide
Control Act of 1975."

Amend said Bill in section 3 in that part
designated "§604." by striking out all of
subsection 2 and inserting in place thereof the
following:

'2. Adulterated. "Adulterated" shall apply to
any pesticide if its strength or purity falls below
the professed standard of quality as expressed on
its labeling under which it is sold, or if any
substance has been substituted wholly or in part for
the pesticide, or if any valuable constituent of the
pesticide has been wholly or in part abstracted.'

Further amend said Bill in section 3 by adding
a new sentence at the end of subsection 25 of that
part designated "§604." to read: 'This definition
also includes "highly toxic pesticide."'

Further amend said Bill in section 3 in that part
designated "§604." by inserting after subsection 30
the following: '31. Rodent. "Rodent" means any
member of the animal group of the order rodentia
including but not limited to rats, mice, gophers,
porcupines and squirrels.'

Further amend said Bill in section 3 in that
part designated "§604." by renumbering subsections
31, 32 and 33 to be subsections 32, 33 and 34.

Further amend said Bill in section 3 in that
part designated "§606." by striking out all of
paragraph A and subparagraphs (1) and (2) of
paragraph A of subsection 1 and inserting in place
thereof the following:

'A. Any pesticide which has not been registered
pursuant to the provisions of this subchapter.'

Further amend said Bill in section 3 in that part
designated "§606." by adding in the 4th line (3rd
line of L.D.) of paragraph C of subsection 2 after
the underlined word "State" the underlined words
'or of the United States'

Further amend said Bill in section 3 in that part designated "§607." by striking out all of subsection 8 and inserting in place thereof the following:

'8. Approval of application for registration.

A. Provided the State is certified by the Administrator of EPA to register pesticides pursuant to Section 24 (c) of FIFRA, the commissioner shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall, subject to the terms and conditions of the EPA certification, register such pesticide if he determines that:

- (1) Its composition is such as to warrant the proposed claims for it;
- (2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;
- (3) It will perform its intended function without unreasonable adverse effects on the environment;
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and
- (5) A special local need for the pesticide exists.

B. Prior to registering a pesticide for a special local need, the commissioner shall classify the uses of the pesticide for general or restricted use in conformity with Section 3 (d) of FIFRA; provided, that the commissioner shall not make any lack of essentiality a criterion for denying registration of any pesticide. Where 2 pesticides meet the requirements of this paragraph, one should not be registered in preference to the other.

C. The commissioner may develop and promulgate such other requirements by regulation as are necessary for the state plan to receive certification from EPA.'

Further amend said Bill in section 3 by striking out all of that part designated "§608." and inserting in place thereof the following:

'§608. Experimental use permits

1. Commissioner's powers. Provided the State is authorized by the Administrator of EPA to issue experimental use permits, the commissioner may:

A. Issue an experimental use permit to any person applying for an experimental use permit, if he determines that the applicant needs such permit in order to accumulate information necessary to register a pesticide under section 607. An application for an experimental use permit may be filed at the time of or before or after an application for registration is filed.

B. Prescribe terms, conditions and period of time for the experimental use permit, which shall be under the supervision of the commissioner.

C. Revoke or modify any experimental use permit, at any time, if he finds that its terms or conditions are being violated, or that its terms and conditions are inadequate to avoid unreasonable adverse effects on the environment.

2. Development and promulgation of other requirements. The commissioner may develop and promulgate such other requirements by regulation as are necessary for the state plan to receive such authorization from EPA.

3. Limitation or prohibition of experimental use pesticides. The commissioner may limit or prohibit the use of any pesticide for which an experimental use permit has been issued by EPA pursuant to Section 5 (a) of FIFRA, and which the commissioner finds may cause unreasonable adverse effects on the environment.'

Further amend said Bill in section 3 in that part designated "\$609." by inserting in the 4th line of paragraph B of subsection 1 (3rd line of L.D.) after the underlined word "pesticide" the underlined words 'or change its classification'

Further amend said Bill in section 3 in that part designated "\$609." by striking out all of subsection 2 and inserting in place thereof the following:

'2. Federally registered pesticides. If the commissioner determines that any federally registered pesticide, with respect to the use of such pesticide within this State, does not warrant the claims for it, or might cause unreasonable adverse effects on the environment, he may refuse to register the pesticide as required in section 607, or if the pesticide is registered under section 607, the registration may be cancelled or suspended as provided in subsection 1. If the commissioner believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted thereunder, he shall advise EPA of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of FIFRA, and suggest necessary corrections.'

Further amend said Bill in section 3 in that part designated "\$610." by striking out all of subsection 3 and inserting in place thereof the following:

'3. Uniformity of requirements; restricted uses. For the purpose of uniformity of requirements between the states and the Federal Government, the commissioner may, after a public hearing, adopt regulations in conformity with the primary pesticide standards, particularly as to labeling, registration requirements and criteria for classifying pesticides for restricted use as established by EPA or other federal or state agencies.'

Further amend said Bill in section 3 in that part designated "§617." by striking out all of paragraph B and C of subsection 1 and inserting in place thereof the following:

'B. Public officials of this State and the Federal Government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations;

C. The manufacturer, shipper or other distributor of a pesticide for experimental use only, provided that such person holds or is covered by a valid experimental use permit as provided for by section 608 or issued by EPA, and provided further that such permit covers the conduct in question.'

Further amend said Bill in section 3 in that part designated "§620." by striking out all of subsections 2 and 5 and inserting in place thereof the following:

2. Cooperative agreements with EPA. Prepare and submit state plans and enter into cooperative agreements with EPA to register pesticides under the authority of this subchapter and FIFRA;

5. Preparation of state plans. Prepare and submit state plans to meet federal certification standards for issuing experimental use permits.'

Further amend said Bill by inserting at the end before the Statement of Fact the following:

'Sec. 4. Effective date. This Act shall be effective on the effective date of section 3 of FIFRA, as amended, and regulations promulgated pursuant thereto; provided that any intrastate pesticide registration under Title 7, chapter 103, subchapter II which is in effect on that date shall, if the registrant has within 60 days of the effective date of such section 3 filed with EPA a notice of application for federal registration for such pesticide, remain in effect, or be renewed under Title 7, chapter 103, subchapter II, until 60 days after the completion of the federal registration process; provided further that during such period no pesticide shall be considered misbranded which would not have been so considered

prior to the effective date of this Act. Notwithstanding any provision to the contrary in this section, the commissioner shall, upon the effective date of this Act, be empowered to cancel or suspend any pesticide registration which he finds, pursuant to the procedures of this Act, will cause unreasonable adverse effects on the environment.

Statement of Fact

This amendment brings the bill into conformity with the Federal Insecticide, Fungicide and Rodenticide Act.

Reported by the Committee on Agriculture.

Reproduced and distributed under the direction of the Clerk of the House.
5/20/75

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