

# MAINE STATE LEGISLATURE

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**Legislative Document**

**No. 808**

S. P. 342

In Senate, February 21, 1951.

Referred to the Committee on Agriculture, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Tabb of Kennebec.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
FIFTY-ONE

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**AN ACT Creating the Maine Economic Poisons Law.**

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Be it enacted by the People of the State of Maine, as follows:

**Sec. 1. R. S., c. 27, §§ 187-I - 187-S, additional.** Chapter 27 of the revised statutes is hereby amended by adding thereto 11 new sections, to be numbered 187-I to 187-S, inclusive, to read as follows:

**‘Maine Economic Poisons Law**

**Sec. 187-I. Short title.** Sections 187-I to 187-S, inclusive, shall be known and may be cited as the “Maine economic poisons law.”

**Sec. 187-J. Definitions.** As used in sections 187-I to 187-S, inclusive, the following words and phrases shall have the following meanings:

“Active ingredient” means an ingredient which will prevent, destroy, repel or mitigate insects, fungi, rodents, weeds or other pests.

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

**“Antidote”** means the most practical immediate treatment in case of poisoning and includes first aid treatment.

**“Economic poison”** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, fungi, weeds or other forms of plant or animal life or viruses, except viruses on or in living man or other animals, which the commissioner shall declare to be a pest.

**“Fungi”** means all non-chlorophyll-bearing thallophytes (that is, all non-chlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living man or other animals.

**“Fungicide”** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

**“Herbicide”** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

**“Inert ingredient”** means an ingredient which is not an active ingredient.

**“Ingredient statement”** means either a statement of the name and percentage of each active ingredient, together with the total percentage of the inert ingredients in the economic poison, which ingredient statement must be used if the preparation is highly toxic to man; or a statement of the name of each active ingredient, together with the name of each and total percentage of the inert ingredients if there are any in the economic poison; and in addition, in case the economic poison contains arsenic in any form, a statement of the percentages of total and water soluble arsenic, each calculated as elemental arsenic.

**“Insect”** means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, as beetles, bugs, bees and flies, and to other allied classes of arthropoids whose members are wingless and usually have more than 6 legs, as spiders, mites, ticks, centipedes and wood lice.

**“Insecticide”** means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever.

**“Label”** means the written, printed or graphic matter on, or attached to, the economic poison or the immediate container thereof, and the outside container or wrapper of the retail package of the economic poison.

**“Labeling”** means all labels and other written, printed or graphic matter upon the economic poison or any of its containers or wrappers accompanying the economic poison at any time to which reference is made on the label or in literature accompanying the economic poison, except when accurate, non-misleading reference is made to current official publications of the federal government, state experiment stations or any other similar federal or state institutions or official agencies authorized by law to conduct research in the field of economic poisons.

**“Misbranded”** shall apply to any economic poison if:

- I. Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;
- II. It is an imitation of or is offered for sale under the name of another economic poison;
- III. The labeling accompanying it does not contain instructions for use which are necessary and, if complied with, adequate for the protection of the public;
- IV. The labeling bears any reference to registration under the provisions of this chapter;
- V. The label does not contain a warning or caution statement which may be necessary and, if complied with, adequate to prevent injury to living man and other vertebrate animals;
- VI. The label of the retail package which is presented or displayed under customary conditions of purchase does not bear an ingredient statement, unless the outside container or wrapper is of such material that the ingredient statement on the immediate container can be clearly read;
- VII. Any required word, statement or other information is not prominently placed on the label with such conspicuousness as compared with other words, statements, designs or graphic matter in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or
- VIII. In the case of an insecticide, rodenticide, fungicide or herbicide, when used as directed or in accordance with commonly recognized practice, it shall be injurious to living man or other vertebrate animals or vegetation, except weeds, to which it is applied, or to the person applying such economic poison.

“Rodenticide” means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal which the commissioner shall declare to be a pest.

“Weed” means any plant which grows where not wanted.

Sec. 187-K. Requirements for registration. The registrant shall file with the commissioner a statement including the name and address of the registrant and the name and address of the person whose name will appear on the label if other than the registrant; the name of the economic poison; a complete copy of the labeling accompanying the economic poison and a statement of all claims to be made for it, including directions for use; and, if requested by the commissioner, a full description of the tests made and the results thereof upon which the claims are based.

Whenever he deems it necessary, the commissioner may require the submission of the complete formula of any economic poison. If it appears to the commissioner that the composition of the article is such as to warrant the proposed claims for it and if the article and its labeling and other material required to be submitted comply with the requirements of this chapter, he shall register the article.

Sec. 187-L. Corrections before registration; registration under protest. If it does not appear to the commissioner that the article is such as to warrant the proposed claims for it or if the article and its labeling and other material required to be submitted do not comply with the provisions of this chapter, he shall so notify the registrant and afford him an opportunity to make the necessary corrections. If, upon receipt of such notice, the registrant insists that such corrections are not necessary and requests in writing that the article be registered, the commissioner shall register the article, under protest, and such registration shall be accompanied by a warning, in writing, to the registrant of the apparent failure of the article to comply with the provisions of this chapter. In order to protect the public, the commissioner, on his own motion, may at any time cancel the registration of an economic poison and in lieu thereof issue a registration under protest in accordance with the foregoing procedure. In no event shall registration of an article, whether or not protested, be construed as a defense for the commission of any offense prohibited under the provisions of this chapter.

Sec. 187-M. Registration; exception, renewal, fees. Every economic poison which is distributed, sold or offered for sale within this state, or delivered for transportation or transported in intrastate or interstate com-

merce, shall be registered in the office of the commissioner; provided, however, that registration is not required in the case of an economic poison shipped from one plant within this state to another plant within this state operated by the same person.

The registrant shall pay to the commissioner an annual registration fee of \$10 for each economic poison registered. Such registration shall expire on December 31 and shall be renewed annually.

Sec. 187-N. Powers of commissioner; rules and regulations. The commissioner is authorized to make necessary rules and regulations for carrying out the provisions of sections 187-I to 187-S, inclusive, including rules and regulations providing for the collection and examination of samples of economic poisons; and, after opportunity for a hearing, to declare as a pest any form of plant or animal life or virus which is injurious to plants, men, domestic animals, articles or substances; to determine whether economic poisons are highly toxic to man; to determine standards of coloring or discoloring for economic poisons; and to subject economic poisons to all the requirements of this chapter.

Sec. 187-O. Prohibitions. It shall be unlawful for any person to distribute, sell or offer for sale within this state or deliver for transportation or transport in intrastate or interstate commerce:

I. Any economic poison which has not been registered pursuant to the provisions of sections 187-I to 187-S, inclusive, or any economic poison if any of the claims made for it or any of the directions for its use differ in substance from the representations made in connection with its registration, or if the composition of an economic poison differs from its composition as represented in connection with its registration; provided, however, that in the discretion of the commissioner a change in the labeling or formula of an economic poison may be made within a registration period without requiring re-registration of the product;

II. Any economic poison unless it is in the registrant's or the manufacturer'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 bearing the name and address of the manufacturer, registrant or person for whom manufactured; the name, brand or trade-mark under which said article is sold; and the net weight or measure of the content; subject, however, to such reasonable variations as the commissioner may permit;

III. Any economic poison which contains any substance in quantities highly toxic to man as determined by the commissioner, unless the label shall bear, in addition to any other required matter: the skull and cross-bones; the word "POISON" in red, prominently displayed on a background of distinctly contrasting color; and a statement of an antidote for the economic poison;

IV. The economic poisons commonly known as standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite, sodium fluoride, sodium fluosilicate or barium fluosilicate, unless they have been distinctly colored or discolored as provided by regulations issued in accordance with this chapter, or any other white powder economic poison which the commissioner, after investigation and public hearing, by regulation requires to be colored or discolored, unless it has been so colored or discolored; provided, however, that the commissioner may exempt from such coloring or discoloring any economic poison intended for a particular use or uses when he deems the same is not necessary for the protection of the public health;

V. Any economic poison which is adulterated or misbranded.

It shall be unlawful for any person to detach, alter, deface or destroy, in whole or in part, any label or labeling provided for herein or regulations promulgated hereunder, or to add any substance to, or take any substance from, an economic poison in a manner that may defeat the purpose of sections 187-I to 187-S, inclusive.

It shall be unlawful for any person to use for his own advantage or to reveal, other than to the commissioner or proper officials or employees 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 under the provisions of sections 187-I to 187-S, inclusive.

Sec. 187-P. Exemptions. The penalties provided for violations of sections 187-I to 187-S, inclusive, shall not apply to:

I. Any carrier while lawfully engaged in transporting an economic poison within this state, if such carrier shall, upon request, permit the commissioner or his duly authorized agent to copy all records showing the transactions in and movement of the articles;

II. Public officials of this state and the federal government engaged in the performance of their official duties;

III. The manufacturer or shipper of an economic poison for experimental use only by or under supervision of an agency of this state or of the federal government authorized by law to conduct research in the field of economic poisons, or by others if the economic poison is not sold and if the container thereof is plainly and conspicuously marked "FOR EXPERIMENTAL USE ONLY—NOT TO BE SOLD," together with the manufacturer's name and address; provided, however, that if a written permit has been obtained from the commissioner, economic poisons may be sold for experimental purposes subject to such restrictions and conditions as may be set forth in the permit;

IV. The manufacturer or shipper of an economic poison intended solely for export to a foreign country, when the same is prepared or packed according to the specifications or directions of the purchaser. If not so exported, such penalties shall apply.

Sec. 187-Q. Penalties. Any person violating any of the provisions of sections 187-I to 187-S, inclusive, shall be punished by a fine of not more than \$100 for the 1st offense, and for a 2nd offense within a period of 3 years by a fine of not less than \$100 nor more than \$500.

Notwithstanding any other provision of this section, any person, with intent to defraud, who uses or reveals information relative to formulas or products acquired under authority hereof shall be punished by a fine of not more than \$100, or by imprisonment for not more than 1 year, or by both such fine and imprisonment.

Sec. 187-R. Seizure; forfeiture. Any economic poison that is distributed, sold, offered for sale within this state, or delivered for transportation or transported in intrastate or interstate commerce, not in compliance with the provisions of sections 187-I to 187-S, inclusive, shall be subject to seizure on complaint of the commissioner to any court of competent jurisdiction in the locality where it may be found. If the court finds the economic poison to be in violation of the provisions of sections 187-I to 187-S, inclusive, and orders its condemnation, it shall be denatured, processed, re-labeled, destroyed or otherwise disposed of as provided in sections 187-I to 187-S, inclusive; provided, however, that in no instance shall the court order such disposition of economic poisons without first having given the claimant an opportunity to apply to the court for the release of said economic poisons or permission to process or relabel them to bring them into compliance with the provisions of sections 187-I to 187-S, inclusive.

Sec. 187-S. Cooperation with federal government and other states. In



order to avoid confusion endangering the public health resulting from diverse requirements, particularly as to the labeling and coloring of economic poisons; to avoid increased costs to the people of this state due to the necessity of complying with diverse requirements in the manufacture and sale of such poisons; and to secure uniformity between the requirements of the several states and the federal government relating to such poisons, the commissioner is authorized to cooperate with and, after due public hearing, to adopt such rules and regulations, applicable to and in conformity with the primary standards established hereby, as have been or may be prescribed by the federal government or any other state, or agency thereof, with respect to economic poisons.'

**Sec. 2. R. S., c. 27, § 3, amended.** The last sentence of section 3 of chapter 27 of the revised statutes is hereby amended to read as follows:

'He may also fix standards of purity, quality or strength when such standards are not specified or fixed by law, and shall publish them together with such other information concerning articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug or food fungicide, and insecticide as he may deem to be of public benefit.'

**Sec. 3. R. S., c. 27, § 4, amended.** The 1st sentence of section 4 of chapter 27 of the revised statutes, as amended by section 53 of chapter 349 of the public laws of 1949, is hereby further amended to read as follows:

'When the commissioner becomes cognizant of the violation of any provision of sections 3 to 8, inclusive, 34 to 40, inclusive, 124 to 127, inclusive, 129, 157 to 187, inclusive, 187-I to 187-S, inclusive, 196 to 211, inclusive, and 213 to 224, inclusive, he shall cause notice of such fact, stating the date, hour and place of hearing, with a copy of the findings, or, in case of a packer of food, a copy of the charge to be preferred, to be given to the person concerned and the person from whom the sample was obtained, and the person whose name appears upon the label, (if a resident of the state), who shall be given an opportunity to be heard under such rules and regulations as may be prescribed by the said commissioner.'

**Sec. 4. R. S., c. 27, § 157, amended.** Section 157 of chapter 27 of the revised statutes is hereby amended to read as follows:

'**Sec. 157. Sale of certain adulterated articles prohibited.** No person shall manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation, any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug or food fungicide, or insecticide which is adulterated or misbranded within the meaning of this chapter.'

**Sec. 5. R. S., c. 27, § 158, amended.** Section 158 of chapter 27 of the revised statutes, as amended by section 1 of chapter 343 of the public laws of 1949, is hereby further amended by repealing the last 2 paragraphs thereof.

**Sec. 6. R. S., c. 27, § 165, repealed.** Section 165 of chapter 27 of the revised statutes is hereby repealed.

**Sec. 7. R. S., c. 27, § 166, repealed.** Section 166 of chapter 27 of the revised statutes is hereby repealed.

**Sec. 8. R. S., c. 27, § 167, amended.** The last 2 sentences of section 167 of chapter 27 of the revised statutes are hereby amended to read as follows:

'He may also cancel the registration of any feeding stuff or commercial fertilizer ~~fungicide, or insecticide~~ that he deems to be manufactured, sold, distributed, transported, offered or exposed for sale, distribution or transportation in violation of any of the provisions of this chapter. The registration of each brand of commercial feeding stuff or commercial fertilizer ~~fungicide, or insecticide~~ shall terminate on the 31st day of December of each year.'

**Sec. 9. R. S., c. 27, § 168, amended.** Section 168 of chapter 27 of the revised statutes, as amended by section 4 of chapter 343 of the public laws of 1949, is hereby further amended by repealing subsections VII, VIII and IX, which subsections relate to fungicides and insecticides.

**Sec. 10. R. S., c. 27, § 169, amended.** The 1st paragraph of section 169 of chapter 27 of the revised statutes is hereby amended to read as follows:

'The term "misbranded" as used herein shall apply to all articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drug or food, ~~fungicide, and insecticide~~ the package or label of which shall bear any statement, design or device regarding such article, or the ingredients or substances contained therein which shall be false or misleading in any particular, or which is falsely branded in any particular.'

**Sec. 11. R. S., c. 27, § 169, amended.** Section 169 of chapter 27 of the revised statutes is hereby amended by repealing subsection VI thereof.

**Sec. 12. R. S., c. 27, § 180, amended.** Section 180 of chapter 27 of the revised statutes is hereby amended to read as follows:

'**Sec. 180. Annual analysis; results of analyses to be published.** The director of the Maine Agricultural Experiment Station shall annually

analyze, or cause to be analyzed, samples of articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, foods ~~fungicide, and insecticide~~ and economic poisons at such time and to such extent as the commissioner may determine. Said commissioner, in person or by deputy, shall have free access, ingress and egress at all reasonable hours to any place or any building wherein articles of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, food ~~fungicide, or insecticide~~ or economic poisons are manufactured, stored, transported, sold, offered or exposed for sale. He may also, in person or by deputy, open any case, package, or other container, and may, upon tendering the market price, take samples for analysis. The results of all analyses of agricultural seed, commercial feeding stuff, commercial fertilizer, drugs, food ~~fungicide, and insecticide~~ and economic poisons made by said director shall be published by him in the bulletins or reports of the experiment station, together with the names of the persons from whom the samples were obtained, the names of the manufacturers thereof, and such additional information as to him may seem advisable.'

**Sec. 13. R. S., c. 27, § 185, amended.** Section 185 of chapter 27 of the revised statutes is hereby amended to read as follows:

'**Sec. 185. Certificate signed by director, presumptive evidence.** Every certificate duly signed and acknowledged by the director of the Maine Agricultural Experiment Station, relating to the collection and analysis of any sample of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food ~~fungicide, or insecticide~~ or economic poison, shall be presumptive evidence of the facts therein stated.' ◀

**Sec. 14. R. S., c. 27, § 186, amended.** The 1st sentence of section 186 of chapter 27 of the revised statutes is hereby amended to read as follows:

'No person shall adulterate or misbrand, within the meaning of this chapter, any agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food ~~fungicide, insecticide~~ or vinegar, or manufacture, sell, distribute, transport, offer or expose for sale, distribution or transportation any article of agricultural seed, commercial feeding stuff, commercial fertilizer, drug, food ~~fungicide, insecticide~~ or vinegar in violation of any of the provisions of this chapter.'