

MAINE STATE LEGISLATURE

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ACTS AND RESOLVES

AS PASSED BY THE

One Hundredth Legislature

OF THE

STATE OF MAINE

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PUBLIC LAWS
OF THE
STATE OF MAINE

As Passed by the One Hundredth Legislature

1961

Chapter 55

AN ACT Exempting Certain Salesmen from the Minimum Wage Law.

Effective September 16, 1961

Director's note: Repealed by P. L., 1961, c. 277, § 9. Reenacted as part of R. S., c. 30, § 132-B, sub-§ III, ¶ C by P. L., c. 277, § 3.

Chapter 56

AN ACT Revising the Maine Economic Poisons Law.

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

Sec. 1. R. S., c. 32, § 238, amended. Section 238 of chapter 32 of the Revised Statutes is amended to read as follows:

'Sec. 238. Definitions. As used in sections 237 to 247, the following words and phrases shall have the following meanings:

I. Active ingredient. "Active ingredient" means ~~an ingredient which will prevent, destroy, repel or mitigate insects, fungi, rodents, weeds or other pests:~~

A. In the case of an economic poison other than a plant regulator, defoliant or desiccant, an ingredient which will prevent, destroy, repel or mitigate insects, nematodes, fungi, rodents, weeds or other pests;

B. In the case of a plant regulator, an ingredient which, through physiological action will accelerate or retard the rate of growth or rate of maturation or otherwise alter the behavior of ornamental or crop plants or the produce thereof;

C. In the case of a defoliant, an ingredient which will cause the leaves or foliage to drop from a plant;

D. In the case of a desiccant, an ingredient which will artificially accelerate the drying of plant tissue.

II. Adulterated. "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.

III. Antidote. "Antidote" means the most practical immediate treatment in case of poisoning and includes first aid treatment.

IV. Commissioner. "Commissioner" means the Commissioner of Agriculture or his authorized agents.

V. Defoliant. "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

VI. Desiccant. "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissues.

VII. Device. "Device" means any instrument or contrivance intended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling or mitigating fungi, weeds, nematodes or such other pests as may be designated by the commissioner, but not including equipment used for the application of economic poisons when sold separately therefrom.

VIII. Economic poison. "Economic poison" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects, rodents, nematodes, 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 and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

IX. Fungi. "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.

X. Fungicide. "Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

XI. Herbicide. "Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

XII. Inert ingredient. "Inert ingredient" means an ingredient which is not an active ingredient.

XIII. Ingredient statement. "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.

XIV. Insect. "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 arthropods whose members are wingless and usually have more than 6 legs, as spiders, mites, ticks, centipedes and wood lice.

XV. Insecticide. "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.

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

XVII. Labeling. "Labeling" means all labels and other written, printed or graphic matter upon the economic poison or device or any of its containers or wrappers accompanying the economic poison or device at any time to which reference is made on the label or in literature accompanying the economic poison or device, 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.

XVIII. Misbranded. "Misbranded" shall apply to any economic poison or device if:

~~I~~ **A.** Its labeling bears any statement, design or graphic representation relative thereto or to its ingredients which is false or misleading in any particular;

~~II~~ **B.** It is an imitation of or is offered for sale under the name of another economic poison or device;

~~III~~ **C.** 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~~ **D.** This labeling bears any reference to registration under ~~the provisions of~~ this chapter;

~~V~~ **E.** 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~~ **F.** 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~~ **G.** 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~~ **H.** In the case of an insecticide, rodenticide, fungicide ~~or~~, herbicide or nematocide, 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;

I. In the case of a plant regulator, defoliant or desiccant when used as directed it shall be injurious to living man or other vertebrate animals, or vegetation to which it is applied, or to the person applying such economic

poison. Physical or physiological effects on plants or parts thereof shall not be deemed to be injury, when this is the purpose for which the plant regulator, defoliant or desiccant was applied, in accordance with the label claims and recommendations; or

J. Distributed in bulk and a written or printed statement of the information required on labels of economic poisons in packaged form does not accompany delivery and is not supplied to the purchaser at the time of delivery.

XIX. Nematocide. "Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes.

XX. Nematode. "Nematode" means invertebrate animals of the phylum nemathelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

XXI. Person. "Person" means any individual, partnership, association, corporation or organized group of persons whether incorporated or not.

XXII. Plant regulator. "Plant regulator" means any substance or mixture of substances, intended through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments.

XXIII. Registrant. "Registrant" means the person registering any economic poison pursuant to sections 237 to 247.

XXIV. Rodenticide. "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.

XXV. Weed. "Weed" means any plant which grows where not wanted.'

Sec. 2. R. S., c. 32, § 242, amended. Section 242 of chapter 32 of the Revised Statutes is amended to read as follows:

'Sec. 242. Powers of commissioner; rules and regulations. The commissioner is authorized to make necessary rules and regulations for carrying out ~~the provisions of~~ sections 237 to 247, including rules and regulations providing for the collection and examination of samples of economic poisons or devices; 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. 3. R. S., c. 32, § 243, sub-§ V, amended. Subsection V of section 243 of chapter 32 of the Revised Statutes is amended to read as follows:

'V. Adulterated or misbranded. Any economic poison which is adulterated or misbranded or any device which is misbranded.'

Sec. 4. R. S., c. 32, § 246, amended. Section 246 of chapter 32 of the Revised Statutes is amended to read as follows:

'Sec. 246. Seizure; forfeiture. Any economic poison or device 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 237 to 247, 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 or device to be in violation of ~~the provisions of~~ sections 237 to 247, and orders its condemnation, it shall be denatured, processed, relabeled, destroyed or otherwise disposed of as provided in sections 237 to 247; ~~provided, however, that in~~. In no instance shall the court order such disposition of economic poisons or devices without first having given the claimant an opportunity to apply to the court for the release of said economic poisons or devices or permission to process or relabel them to bring them into compliance with ~~the provisions of~~ sections 237 to 247.'

Sec. 5. R. S., c. 32, § 247, amended. Section 247 of chapter 32 of the Revised Statutes is amended to read as follows:

'Sec. 247. 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, as have been or may be prescribed by the Federal Government or any other state, or agency thereof, with respect to economic poisons or devices.'

Effective September 16, 1961

Chapter 57

AN ACT Relating to Definition of Retail Sale Under Sales and Use Tax Law.

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

R. S., c. 17, § 2, amended. The 12th paragraph of section 2 of chapter 17 of the Revised Statutes which defines "retail sale" or "sale at retail," as amended, is further amended by inserting before the last sentence, a new sentence, as follows:

'It shall be considered that tangible personal property is "consumed or destroyed" or "loses its identity" in such manufacture, if it has a normal physical life expectancy of less than one year as a usable item in the use to which it is applied.'

Effective September 16, 1961