

## CHAPTER 230.

[H. B. 378.]

## REGULATING ECONOMIC POISONS.

AN ACT relating to the Department of Agriculture; providing for the licensing, registration, labeling and branding of economic poisons, naming a board to promulgate rules and regulations, and providing fees and penalties, and repealing sections 6, 7 and 8 of chapter 166 of the Laws of 1915 as amended by section 2 of chapter 195 of the Laws of 1919 and section 4 of chapter 37 of the Laws of 1923 (sections 2844, 2845 and 2846 of Remington's Revised Statutes) and declaring an emergency.

*Be it enacted by the Legislature of the State of Washington:*

Definitions  
to apply.

SECTION 1. The definitions as given in this act shall apply as defined, unless the context clearly indicates otherwise:

Definitions.

(a) "Economic poisons" includes any substance, or mixture of substances intended to be used for preventing, destroying, repelling, or mitigating any and all insects, fungi, bacteria, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the Director may declare to be, a pest, which may infest or be detrimental to vegetation, man, animals or households, or be present in any environment whatsoever;

(b) "Insect" means any of the animals known as "insecta" and similar animals such as centipedes, spiders, mites, ticks and lice;

(c) "Weed" means any plant which grows where not wanted;

(d) "Rodent" means all members of the order Rodentia and all rabbits and hares;

(e) "Registrant" means a person who has registered an economic poison and has obtained a certificate of registration or license from the department;

(f) "Department" means the department of agriculture; Definitions.

(g) "Director" means the Director of the Department of Agriculture;

(h) "Person" includes firm, corporation, company, or association;

(i) "Sell" includes "offer for sale," "expose for sale," "have in possession for sale," "exchange," "barter" or "trade."

SEC. 2. The provisions of this article do not apply to any of the preparations, drugs or chemicals intended to be used or sold for medicinal or toilet purposes which conforms to the standard tests prescribed in the latest edition of the United States Pharmacopoeia or National Formulary, nor to any preparations or substances manufactured and intended to be used or sold exclusively for toilet or medicinal purposes. Exceptions.  
Drugs, etc.

SEC. 3. Economic poison is adulterated when: Adulteration.

(a) Its strength or purity falls below the standard or quality under which it is represented to have.

(b) Any ingredient necessary to its effectiveness has been wholly or in part abstracted or omitted in its manufacture, or other materials substituted therefor.

(c) It is intended for use on vegetation and contains any substance or substances which is seriously injurious to vegetation, except weeds, when used according to the directions furnished therewith.

SEC. 4. Economic poison is misbranded when: Misbrand.

(a) The package or label thereon bears any false or misleading statement, design, or device regarding such article or the ingredients or substances contained therein.

(b) The package or label is falsely branded as to the place of manufacture or production.

Misbrand.

(c) It is an imitation or offered for sale under the name of another article.

(d) It is labeled or branded so as to deceive or mislead the purchaser.

(e) The contents of the package as originally put up have been removed in whole or in part and other contents placed in such packages, or the contents of the package are of a quality below that of the guarantee on the label or on the application for registration of the economic poison or of the analysis of the representative sample delivered in connection with the application for registration of the economic poison.

(f) In package form, and the contents, if stated in terms of weight or measure, are not plainly and correctly stated on the outside of the package.

(g) It consists partially or completely of any inert ingredients which are not effective as economic poisons, and does not have the names and percentage of each such inert ingredient plainly and correctly stated on the label. In lieu of naming and stating the percentage of each such inert ingredient, the producer may state the correct names and percentages of each active ingredient which is effective as economic poisons, and the total percentage of such inert ingredients present, except that the name and percentage of every ingredient of an economic poison intended for use on or sold for application to any food crop in such a way as to leave a residue declared deleterious to health by the United States Food and Drug Administration or by the Director, must be plainly stated on the label.

Duty of registrant.

Sealed package.

Label.

SEC. 5. The registrant of economic poisons shall attach to every separate lot, and every separate, finished, sealed or closed container or package of economic poisons which he intends to sell, a plainly printed label, stating the name, brand or trademark,

if any, under which sold, and the name and address of the registered manufacturer, importer, or vendor.

Sales of economic poisons other than non-poisonous insecticidal preparations for spraying animals in any other than the registrants sealed or closed container or package are prohibited, except as herein provided. The Director may, in his discretion, in accordance with regulations prescribed by him, authorize sales of economic poisons to be made out of registrant's opened but properly labeled lot, container or package. The Director shall serve notice of his proposed action, by depositing a copy thereof in a United States post office, enclosed in a sealed envelope with postage prepaid thereon and addressed to each economic poisons registrant at his last address on file with Department, and allow fifteen (15) days during which any protest may be filed. In the case of all sales from opened containers the purchaser must be furnished with tag, label or statement setting forth all of the information required by law to be stated on labels or packages.

Sales prohibited unless sealed and labeled.

Exception.

Copy of notice.

Protest.

Label for bulk sales.

SEC. 6. It is unlawful to sell any adulterated or misbranded economic poison.

Unlawful act

SEC. 7. In any prosecution of any agent or dealer under the provisions of section 6 it is a complete defense to prove that the adulterated or misbranded economic poison which is the basis of said prosecution was guaranteed by the party from whom said agent or dealer purchased the same to be not adulterated or misbranded.

Guarantee of manufacturer relieves dealer.

SEC. 8. The Director shall consult with a board consisting of himself, the professor of entomology and head of the Department of Zoology, the professor and head of the Department of Plant Pathology, the professor and head of the Department of Horticulture, all of the State College of Washington, and the State Chemist, to make rules and regulations

Consulting board created.

Rules by board.

for carrying out the provisions of this act. No rule or regulation shall be promulgated except by a vote of the majority of said board. No rule or regulation shall become effective until the expiration of thirty (30) days after it shall have been first promulgated by a proclamation signed by the Director. A copy of such rules and regulations shall be mailed to each person registered in compliance with the provisions of this act on the day the rules and regulations are promulgated. The failure to receive such copy is no defense to a violation of such rules or regulations.

Time effective.

Examinations of poisons.

SEC. 9. The Director shall take samples of economic poisons, make analyses or examinations thereof, and make such investigations as are necessary for the full enforcement of this act.

Printed analysis of poisons.

SEC. 10. The Director shall periodically, at least annually, print and distribute the results of examinations or chemical analyses of official samples of economic poisons taken by him, and such additional information as he deems advisable.

License for manufacturer or importer of poisons.

SEC. 11. Every manufacturer of, importer of, or dealer in any economic poison, except dealers or agents selling economic poison which has been registered by the manufacturer or wholesaler thereof and persons selling raw material to manufacturers of economic poisons, before the same is offered for sale shall obtain a license from the Department. The annual fee is ten dollars (\$10), payable to the Department of Agriculture. The payment of such fee shall permit the registrant to manufacture, import, or deal in one (1) definitely labeled economic poison of a definite name or a definite composition, and for each such variety over one (1) an additional fee of five dollars (\$5) shall be paid. County, State and Federal officers or employees selling economic poison at cost shall not be required to pay a license fee. Each applicant for a license shall also file a state-

Annual fee.

Privileges under license.

Additional fee for each variety.

Federal officers exempt from license fee.

ment of the brands, trade-marks, and kinds of economic poisons intended to be manufactured or sold, the correct name and percentage of each active ingredient and the total percentage of inert ingredients contained therein. In lieu of the statement of the correct name and percentage of each active ingredient and the total percentage of inert ingredients contained therein, there may be delivered to the Director a representative sample of not less than one (1) pound of each economic poison desired to be registered. Additions or corrections to the above statement may be submitted at any time.

Statement of applicant.

SEC. 13. When any manufacturer, importer, or dealer in economic poisons has complied with this act and the rules and regulations provided for therein and applies for registration of economic poisons, and for a license, the Director shall register each economic poison sought to be registered and issue a license to the applicant authorizing the manufacture and sale of economic poison, or, if necessary, shall call a hearing. All licenses and registrations expire on December thirty-first of each year. If re-registration is not obtained within one (1) calendar month after the expiration of a registration, there shall be added to the fee a penalty of ten per cent (10%), to which shall be added an additional penalty of five per cent (5%) of the original amount due, for each succeeding calendar month, but the total penalty shall not exceed fifty per cent (50%) of the original amount due. No penalty shall be collected if the person re-registered makes an affidavit that no business was done during the period of non-registration. The payment of such fee or penalty is not a bar to any prosecution for doing business without proper registry.

Duty of Director.

License for calendar year.

Penalty for non-payment.

Exception.

Payment of fee no bar to prosecution.

It shall be unlawful to manufacture, deliver, or sell, any economic poison, any substance or mixture of substances that is represented to be an economic

Acts unlawful without license.

poison or retail any formula for an economic poison in conjunction with the sale or gift of materials represented to be the essential ingredients necessary to constitute an economic poison, without a license or which is not registered as required by this act: *Provided, however,* That this paragraph shall not apply to economic poisons products of a registrant, which products are manufactured solely for export outside this state and are so exported.

Exception.

Exports.

Director may cancel.

SEC. 14. The Director may, after hearing, cancel the registration of, or refuse to register, any economic poison:

Causes.

(a) Which is of little or no value for the purpose for which it is intended, or which is detrimental to vegetation, except weeds, to domestic animals, or to the public health and safety when properly used, and may require such practical demonstration as may be necessary to determine said facts.

(b) Concerning which false or misleading statements are made or implied by the registrant or his agent, either verbally or in writing or in the form of advertising literature.

Violation of rules.

The Director may cancel the license of, or, refuse to license any manufacturer, importer, or dealer in economic poison who repeatedly violates any of the provisions of this article or the rules and regulations of the Director.

Notice to licensee of violation.

SEC. 15. When the Director becomes cognizant of an apparent violation of any provision of this act or of any rule or regulation promulgated hereunder, he may cause notice of such fact, together with a copy of the charges to be served on the person suspected of the violation. The person notified shall be given an opportunity to be heard under rules and regulations promulgated for that purpose. The provisions of this section shall not be a condition precedent to the institution of any action to prosecute a violation of this act.

May be heard.

SEC. 16. The Director may seize and quarantine any economic poison which is adulterated, or misbranded within the meaning of this act, or detrimental to agriculture or to the public health, or which is otherwise not in conformity with any provision of this act. It shall be unlawful for any person to transport, destroy or dispose of any quarantined economic poison without securing a permit from the Director.

Director may seize poison not conforming to act.

SEC. 17. No person charged with the enforcement or execution of any of the provisions of this act shall be directly or indirectly interested in the sale, manufacture or distribution of any economic poison.

No enforcement official to have interest in any such business.

SEC. 18. The Prosecuting Attorney of any county in which a violation of any provision of this code occurs shall, upon request of any enforcing officer or other interested person, prosecute such violation.

Prosecuting Attorney to enforce.

SEC. 19. All money received by the Director under the provisions of this act shall be paid into the State Treasury and shall be expended by the Director in carrying out the provisions of this act.

Funds collected to be used for carrying out act.

SEC. 20. Sections 6, 7 and 8 of chapter 166 of the Laws of 1915, as amended by section 2 of chapter 195 of the Laws of 1919 and section 4 of chapter 37 of the Laws of 1923 (sections 2844, 2845 and 2846 of Remington's Revised Statutes), are hereby repealed.

Statutes repealed.

SEC. 21. This act is necessary for the immediate preservation of the public peace, health and safety and shall take effect immediately.

Effective immediately.

Passed the House March 11, 1941.

Passed the Senate March 10, 1941.

Approved by the Governor March 25, 1941.