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4:8A-4

August 26, 1969

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Legislative Notes on A.S. 4:3A-4
(Economic Poison Act - changes fee & method)
(1969 Amendments)

No similar bills were introduced in previous years.

L. 1969, Chapter 116 - A531
Introduced Feb. 17, 1969 by Littell
Statement was made (copy enclosed)
Not amended during passage.

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ASSEMBLY, No. 581

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 17, 1969

By Assemblyman LITTELL

Referred to Committee on Air and Water Pollution and Public Health

AN ACT to amend "The Economic Poison Act of 1951," approved
July 17, 1951 (P. L. 1951, c. 316).

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 4 of P. L. 1951, chapter 316 (C. 4:8A-4) is amended
2 to read as follows:

3 4. (a) Every economic poison which is distributed, sold, or
4 offered for sale within this State or delivered for transportation or
5 transported in intrastate commerce or between points within this
6 State through any point outside this State shall be registered
7 annually in the office of the State Chemist. All registration of prod-
8 ucts shall expire on December 31, following date of issuance,
9 unless such registration shall be renewed annually, in which event
10 expiration date shall be extended for each year of renewal registra-
11 tion, or until otherwise terminated; provided, that within the dis-
12 cretion of the State Chemist, or his authorized representative, a
13 change in the labeling or formulas of an economic poison may be
14 made within the current period of registration, without requiring
15 a re-registration of the product;

15A (b) The registrant shall file with the State Chemist a statement
15B including:

16 (1) The name and address of the registrant and the name
17 and address of the person whose name will appear on the label,
18 if other than the registrant;

19 (2) The name of the economic poison;

20 (3) A complete copy of the labeling accompanying the
21 economic poison and a statement of all claims made and to be
22 made for it and a statement of directions for use; and

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill
is not enacted and is intended to be omitted in the law.**

23 (4) If requested by the State Chemist, or his authorized
24 representative, a full description of the tests made and the re-
25 sults thereof upon which the claims are based. In the case of
26 renewal of registration, a statement shall be required only with
27 respect to information which is different from that furnished
28 when the product was registered or last reregistered.

29 (c) The registrant before selling or offering for sale any economic
30 poison in this State, shall register each brand of economic poison
31 with the State Chemist upon forms furnished by that office, and
32 for the purpose of defraying expenses connected with the enforce-
33 ment of this act, shall pay an inspection fee of \$5.00 for each such
34 brand registered and for each such registration which is renewed,
35 in any calendar year [up to and including a total of 10 brands so
36 registered, or the registry of which is renewed, or both, by one
37 registrant, in any 1 calendar year and each additional brand, over
38 10, registered, or the registration of which is renewed by such regis-
39 trant, during such calendar year shall be registered or the registra-
40 tion renewed upon the payment of an inspection fee of \$2.00].
41 A certificate of registration shall be issued when a registration has
42 been accepted.

43 (d) The State Chemist, or his authorized representative, when-
44 ever it is deemed essential in the administration of this act, may
45 require the submission of the complete formula of any economic
46 poisons. If it appears to the State Chemist, or his authorized repre-
47 sentative, that the composition of the article is such as to warrant
48 the proposed claims for it and if the product and its labeling and
49 other material required to be submitted comply with the require-
50 ments of this act, he shall register the product.

51 (e) If it does not appear to the State Chemist, or his authorized
52 representative, that the product is such as to warrant the proposed
53 claims for it or if the product and its labeling and other material re-
54 quired to be submitted do not comply with the provisions of this act
55 or the rules and regulations issued thereunder, he shall notify the
56 registrant of the manner in which the product, labeling, or other
57 material required to be submitted fail to comply with the act or the
58 rules and regulations issued thereunder, so as to afford the regis-
59 trant an opportunity to make the necessary corrections. If, upon
60 receipt of such notice, the registrant insists that such corrections
61 are not necessary and requests in writing that the article be regis-
62 tered, the State Chemist shall register the article, under protest,
63 and such registration shall be accompanied by a warning, in writing,
64 to the registrant of the apparent failure of the article to comply

65 with the provisions of this act, or the rules and regulations issued
66 thereunder.

67 (f) The State Chemist is authorized and empowered to refuse
68 to register, or to cancel the registration of, any brand of economic
69 poison as herein provided, upon satisfactory proof that the regis-
70 trant has been guilty of fraudulent and deceptive practices in the
71 evasions or attempted evasions of the provisions of this act or any
72 rules and regulations promulgated thereunder: Provided, that no
73 registration shall be revoked or refused until the registrant shall
74 have been given a hearing by the State Chemist.

75 (g) Nothing in this act shall be construed to restrict or avoid
76 sales or exchanges of economic poisons to each other by importers,
77 manufactures, or manipulators who mix economic poison materials
78 for sale or as preventing the free and unrestricted shipment of
79 economic poisons to manufacturers or manipulators who have regis-
80 tered their brands as required by the provisions of this act.

1 2. Section 8 of P. L. 1951, chapter 316 (C. 4:8A-8) is amended to
2 read as follows:

3 8. (a) Any person violating section 3 (a) (1) of this act shall be
4 subject to a penalty of not more than \$200.00.

5 (b) Any person violating any provisions of this act other than
6 section 3 (a) (1) or failing to comply with any of the provisions
7 of this act other than section 3 (a) (1) or violating or failing to
8 comply with any rule or regulation adopted under the provisions of
9 this act, shall be subject to a penalty of not more than \$100.00 for
10 the first offense and upon conviction for a subsequent offense shall
11 be subject to a penalty of not less than \$100.00 or more than \$500.00
12 for each subsequent offense; provided, that any offense committed
13 more than 5 years after a previous conviction shall be considered
14 a first offense. The registration of the article with reference to
15 which the violation occurred shall terminate automatically upon
16 entry of judgment by the court against the violator, An article
17 the registration of which has been terminated may not again be
18 registered unless the article, its labeling, and other material re-
19 quired to be submitted appear to the State Chemist, or his author-
20 ized representative, to comply with all the requirements of this act.

21 (c) Notwithstanding any other provisions of this section, in case
22 any person, with intent to defraud, uses or reveals information
23 relative to formulas of products acquired under authority of section
24 4 of this act, he shall be subject to a penalty of not more than \$500.00
25 or shall be imprisoned for not more than 1 year or both.

26 (d) Upon receiving any information of a violation of any
27 part of this act other than a violation involving a weighed or
28 measured deficiency or the rules and regulations issued there-
29 under, the secretary, or any assistant designated by him for
30 such purpose, is empowered to hold hearings, formal or informal,
31 upon said violation and upon finding the violation to have been
32 committed, to assess a penalty against the person alleged to
33 have committed such violation, in an amount not to exceed the
34 maximum limit set forth in this section as the secretary deems prop-
35 er under the circumstances. In the event the violator makes
36 satisfactory settlement, no further prosecution shall be had upon
37 that violation. Payment of a penalty, in the form of a settlement,
38 shall be deemed equivalent to a conviction for a violation of this
39 act. Violations not settled in this manner, may be referred to the
40 court of competent jurisdiction. Nothing in this act shall be con-
41 strued as requiring the State board or its authorized agent to report
42 for prosecution or for the institution of seizure proceedings as a
43 result of minor violations of the act when it believes that the public
44 interest will best be served by a suitable written warning.

1 3. This act shall take effect January 1, 1970.

STATEMENT

The purposes to be accomplished by these proposed amendments are first to increase the income by approximately \$6,000.00 per year by restructuring the registration fee schedule; secondly, to provide a simplified modern administrative procedure whereby minor violations can be handled in the same manner as is provided by the 1968 Agricultural Liming Materials Act and as contained in the commercial fertilizer and soil conditioner bill which has been proposed to the 1969 session of the Legislature.

The pesticide industry supports the fee increase since it recognizes the need for an increase in the level of inspection and the general increase of operational costs since 1951 when the present fee schedule was established. Letters favoring the amendment are on file from the Pesticide Association of New Jersey, the New Jersey Pest Control Association, the Chemical Specialties Manufacturers Association and the National Agricultural Chemicals Association.