

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 231

Short Title: Arsenic Pesticides Ban.

(Public)

Sponsors: Representative Bowman; and Decker.

Referred to: Agriculture.

March 11, 1991

A BILL TO BE ENTITLED

AN ACT TO BAN THE SALE OR USE OF PESTICIDES CONTAINING ARSENIC COMPOUNDS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 143-443 reads as rewritten:

"§ 143-443. Miscellaneous prohibited acts.

(a) 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 commerce or between points within this State through any point outside this State any of the following:

(1) Any pesticide which has not been registered pursuant to the provisions of G.S. 143-442, or any pesticide 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 the registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: Except that, in the discretion of the Board, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product.

(2) Any pesticide 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 be one through which the required information on the immediate container cannot be clearly read, a label bearing:

- 1 a. The name and address of the manufacturer, registrant, or person  
2 for whom manufactured;
- 3 b. The name, brand, or trademark under which said article is sold;  
4 and
- 5 c. The net weight or measure of the content subject, however, to  
6 such reasonable variations as the Board may permit.
- 7 (3) Any pesticide which contains any substance or substances in quantities  
8 highly toxic to man, determined as provided in G.S. 143-444, unless  
9 the label shall bear, in addition to any other matter required by this  
10 Part:
- 11 a. The skull and crossbones;
- 12 b. The word 'poison' prominently, in red, on a background of  
13 distinctly contrasting color; and
- 14 c. A statement of an antidote for the pesticide.
- 15 (4) The pesticides commonly known as standard lead arsenate, basic lead  
16 arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc  
17 arsenite, sodium fluoride, sodium fluosilicate, and barium fluosilicate  
18 unless they have been distinctly colored or discolored as provided by  
19 regulations issued in accordance with this Part, or any other white or  
20 lightly colored pesticide which the Board, after investigation of and  
21 after public hearing on the necessity for such action for the protection  
22 of the public health and the feasibility of such coloration or  
23 discoloration, shall, by regulation, require to be distinctly colored or  
24 discolored; unless it has been so colored or discolored, provided, that  
25 the Board may exempt any pesticide to the extent that it is intended for  
26 a particular use or uses from the coloring or discoloring required or  
27 authorized by this section if the Board determines that such coloring or  
28 discoloring for such use or uses is not necessary for the protection of  
29 the public health.
- 30 (5) Any pesticide which is adulterated or misbranded, (or any device  
31 which is misbranded).
- 32 (6) Any pesticide in containers violating regulations adopted pursuant to  
33 G.S. 143-441. Pesticides found in containers which are unsafe due to  
34 damage or defective construction may be seized and impounded.
- 35 (7) Any pesticide containing inorganic arsenical or arsenic compounds (i)  
36 for which registration by the United States Environmental Protection  
37 Agency has been cancelled, or (ii) that is labeled for use in or around  
38  dwellings, golf courses, ornamental plants, lawns, or noncrop areas.
- 39 (b) It shall be unlawful:
- 40 (1) For any person to detach, alter, deface, or destroy, in whole or in part,  
41 any label or labeling provided for in this Part or regulations  
42 promulgated hereunder, or to add any substance to, or take any  
43 substance from a pesticide in a manner that may defeat the purpose of  
44 this Part;

- 1 (2) For any person to use for his own advantage or to reveal, other than to  
2 the Board or proper officials or employees of the State or federal  
3 government or to the courts of this State in response to a subpoena, or  
4 to physicians, or in emergencies to pharmacists and other qualified  
5 persons, for use in the preparation of antidotes, any information  
6 relative to formulas of products acquired by authority of G.S. 143-442.  
7 (2a) Repealed by Session Laws 1981, c. 592, s. 3.  
8 (3) For any person to use any pesticide in a manner inconsistent with its  
9 labeling.  
10 (4) For any person who contracts for the aerial application of a pesticide to  
11 permit the application of any pesticide that is designated on its labeling  
12 as toxic to bees without first notifying, based on available listings, the  
13 owner or operator of any apiary registered under the North Carolina  
14 Bee and Honey Act of 1977 that is within a distance designated by the  
15 Pesticide Board as necessary and appropriate to prevent damage or  
16 injury.  
17 (5) For any person to distribute, sell or offer for sale any restricted use  
18 pesticide to any dealer who does not hold a valid North Carolina  
19 Pesticide Dealer License.  
20 (6) For any person to purchase or use any of the pesticides prohibited  
21 under subdivision (7) of subsection (a) of this section."  
22 Sec. 2. This act becomes effective October 1, 1991.