

A BILL FOR AN ACT

To prevent the manufacture and sale of adulterated or misbranded insecticides, and fungicides, within the state.

Be it Enacted by the General Assembly of the State of Iowa:

1 Section 1. That it shall be unlawful for any person to
2 manufacture within the state any insecticide or fungicide
3 which is adulterated or misbranded within the meaning of this
4 act; and any person who shall violate any of the provisions
5 of this section shall be guilty of a misdemeanor, and for
6 each offense shall, upon conviction thereof, be fined not to
7 exceed two hundred dollars, and for each subsequent offense
8 and conviction thereof shall be fined not less than three
9 hundred dollars.

1 Sec. 2. That the introduction into this state from
2 any other state or territory or from any foreign country,
3 of any insecticide, or fungicide which is adulterated or
4 misbranded within the meaning of this act is hereby prohibited;
5 and any person having so received shall deliver, in original
6 unbroken packages, for pay or otherwise, or offer to deliver
7 to any other person, any such article so adulterated or mis-
8 branded within the meaning of this act, or any person who
9 shall sell or offer for sale in this state any such adulterated
10 or misbranded insecticide, or fungicide, shall be guilty of
11 a misdemeanor and for such offense be fined not exceeding two

12 hundred dollars for the first offense, and upon conviction for
13 each subsequent offense not exceeding three hundred dollars, or
14 be imprisoned not exceeding one year, or both, in the discretion
15 of the court: Provided, that no article shall be deemed misbranded
16 or adulterated within the provisions of this act when intended
17 for sale in another state or for export to any foreign country
18 and prepared or packed according to specifications or directions
19 of the foreign purchaser; but if said article shall be in
20 fact sold or offered for sale for use in this state, then
21 this proviso shall not exempt said article from the operation
22 of any of the other provisions of this act.

1 Sec. 3. That the state dairy and food commissioner shall
2 make rules and regulations for carrying out the provisions of
3 this act, including the collection and examination of specimens
4 of insecticides and fungicides manufactured or offered for sale
5 in this state.

1 Sec. 4. That the examination of specimens of insecticides
2 and fungicides shall be made in a laboratory of the state dairy
3 and food commissioner for the purpose of determining from such
4 examination whether such articles are adulterated or misbranded
5 within the meaning of this act; and if it shall appear from
6 any such examination that any of such specimens are adulterated
7 or misbranded within the meaning of this act; the state dairy
8 and food commissioner may cause notice thereof to be given to
9 the party from whom such sample was obtained. Any party so
10 notified shall be given an opportunity to be heard, under such

11 rules and regulations as may be prescribed as aforesaid, and if
12 it appears that any of the provisions of this act have been
13 violated by such party, then the state dairy and food commis-
14 sioner shall at once certify the facts to the county attorney,
15 with a copy of the findings of the analyst or officer making
16 such examination, under the oath of such officer.

1 Sec. 5. That it shall be the duty of each county
2 attorney to whom the state dairy and food commissioner shall
3 report any violations of this act, to cause appropriate proceed-
4 ings to be commenced and prosecuted in the district court of the
5 state, without delay, for the enforcement of the penalties as
6 in such case herein provided.

1 Sec. 6. The term "insecticide" as used in this act
2 shall include Paris green, lead arsenate and any other sub-
3 stance or mixture of substances intended to be used for preven-
4 ting, destroying, repelling, or mitigating any and all insects
5 which may infest vegetation, man or other animals or households,
6 or be present in any environment whatsoever. The term "Paris
7 green" as used in this act shall include the product sold in com-
8 merce as Paris green and chemically known as aceto-arsenite of
9 copper. The term "lead arsenate" as used in this act shall
10 include the product or products sold in commerce as lead arsenate
11 and consisting chemically of products derived from arsenic acid
12 (H_3AsO_4) by re-placing one or more hydrogen atoms by lead.
13 That the term "fungicide" as used in this act shall include any
14 substance or mixture of substances intended to be used for pre-

15 venting, destroying, repelling, or mitigating any and all fungi
16 that may infest vegetation or be present in any environment
17 whatsoever.

1 Sec. 7. That for the purpose of this act an article shall
2 be deemed to be adulterated—

3 In the case of Paris green: First if it does not con-
4 tain at least fifty per centum of arsenious oxide; second, if it
5 contains arsenic in water-soluble forms equivalent to more than
6 three and one-half per centum of arsenious oxide; third, if any
7 substance has been mixed and packed with it so as to reduce or
8 lower or injuriously affect its quality or strength.

9 In the case of lead arsenate: First, if it contains
10 more than fifty per centum of water; second, if it contains
11 total arsenic equivalent to less than twelve and one-half per
12 centum of arsenic oxide (As_2O_5); third, if it contains arsenic in
13 water-soluble forms equivalent to more than seventy-five one
14 hundredths of one per centum arsenic oxide (As_2O_5); fourth, if
15 any substance has been mixed and packed with it so as to reduce,
16 or lower, or injuriously affect its quality or strength.

17 In the case of insecticides or fungicides, other than Paris
18 green and lead arsenate: First, if its strength or purity falls
19 below the professed standard or quality under which it is sold;
20 second, if any substance has been substituted wholly or in
21 part for the article; third, if any valuable constituent of
22 the article has been wholly or in part abstracted; fourth, if
23 it is intended for use on vegetation and shall contain any

24 substance or substances which, although preventing, destroying,
25 repelling, mitigating insects or fungi, shall be injurious to
26 such vegetation when used as recommended by the manufacturer.

1 Sec. 8. That the term "misbranded" as used herein shall
2 apply to all insecticides or fungicides or articles which enter
3 into the composition of insecticides or fungicides. For the
4 purpose of this act an article shall be deemed to be misbranded:

5 First: If the package or label shall bear any statement,
6 design or device regarding such article, or the ingredients, or
7 substances contained therein which shall be false or misleading
8 in any particular.

9 Second: If sold, offered or exposed for sale in package
10 form and the quantity of the contents be not plainly and cor-
11 rectly marked on the outside of the package in terms of weight,
12 measure or numerical count; provided, however, that reasonable
13 variations shall be permitted and tolerances shall be established
14 by rules and regulations made by the state dairy and food com-
15 missioner.

16 Third: If it be an imitation or offered for sale under the
17 name of another article.

18 Fourth: If it be labeled or branded so as to deceive or
19 mislead the purchaser, or if the contents of the package as
20 originally put up shall have been removed in whole or in part
21 and other contents shall have been placed in such package.

22 In the case of insecticides, other than Paris green,
23 and lead arsenate, and fungicide:

24 First: If it contains arsenic in any of its combinations
25 or in the elemental form and the total amount of arsenic
26 present, expressed as per centum of metallic arsenic, is not
27 stated on the label.

28 Second: If it contains arsenic in any of its combinations
29 or in the elemental form and the amount of arsenic in water-
30 soluble form, expressed as per centum of metallic arsenic, is not
31 stated on the label.

32 Third: If it consists partially or completely of an inert
33 substance or substances which do not effectively prevent, de-
34 stroy, repel, or mitigate insects or fungi and does not have the
35 names and percentage amounts of each and every one of such in-
36 ert ingredients and the fact that they are inert plainly and
37 correctly stated on the label: Provided, however, that in lieu
38 of naming and stating the percentage amounts of each and every
39 one of such ingredients the producer may at his discretion state
40 plainly on the label the correct names and percentage amounts
41 of each and every ingredient of the insecticide or fungicide
42 having insecticidal or fungicidal properties, and make no men-
43 tion of the inert ingredients, except in so far as to state the
44 total percentage of inert ingredients present.

1 Sec. 9. That no dealer shall be prosecuted under the pro-
2 visions of this act when he can establish a guaranty signed by
3 the wholesaler, jobber, manufacturer, or other party from whom
4 he purchased such article, to the effect that the same is not
5 adulterated or misbranded in the original unbroken package in

6 which said article was received by said dealer within the mean-
7 ing of this act, designating it. Said guaranty to afford pro-
8 tection, shall contain the name and address of the party or
9 parties making the sale of such article to such dealers and in
10 such case said party or parties shall be amenable to the pros-
11 ecutions, fines and other penalties as provided for in this act,
12 if the dealer shall continue to sell after notice by the state
13 dairy and food commissioner that such article is adulterated or
14 misbranded within the meaning of this act.

1 Sec. 10. All spray solution known as a lime and sulphur
2 liquid shall be conspicuously labeled as to the strength of the
3 solution, showing a guaranteed strength of lime and sulphur com-
4 bined in solution as sulphates and sulphides, of which solution
5 not less than seventy per cent, 70 per cent, by weight shall be
6 sulphur, and such label or labels shall also contain a direction
7 as to the proportions of water to be used in any mixture contain-
8 ing a four per cent, 4 per cent, solution by weight of lime and
9 sulphur combined as sulphates and sulphides, of which solution
10 not less than seventy per cent, 70 per cent, by weight shall be
11 sulphur.

12 Every package of such compound or solution sold, offered
13 or exposed for sale shall be plainly labeled with black faced
14 type, in letters of not less than one-half of an inch in height
15 stating the contents of the compound or solution and the gravity
16 test thereof.

1 Sec. 11. That any insecticides or fungicides that is adult-

2 erated or misbranded within the meaning of this act shall be
3 liable to be proceeded against in any district court of the state
4 within the district wherein the same is found and seized for con-
5 fiscation by a process of libel for condemnation.

6 And if such article is condemned as being adulterated or
7 misbranded, within the meaning of this act, the same shall be dis-
8 posed of by destruction or sale as the said court may direct,
9 and the proceeds thereof, if sold, less the legal costs, and
10 charges, shall be paid into the treasury of the state, but such
11 goods shall not be sold in any jurisdiction contrary to the pro-
12 visions of this act or the laws of that jurisdiction: Provided,
13 however, that upon the payment of the costs of such libel proceed-
14 ings and the execution and delivery of a good and sufficient bond
15 to the effect that such articles shall not be sold or otherwise
16 disposed of contrary to the provisions of this act or the laws
17 of the state, the court may by order direct that such articles
18 be delivered to the owner thereof.

1 Sec. 12. When construing and enforcing the provisions of
2 this act, the act, omission, or failure of any officer, agent,
3 or any other person acting for or employed by any corporation,
4 company, society or association, within the scope of his employ-
5 ment or office, shall in every case be also deemed to be the act,
6 omission, or failure of such corporation, company, society or
7 association as well as that of the other person.