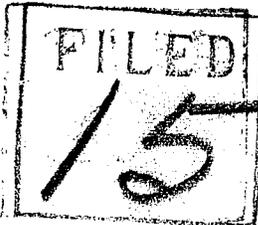


ECONOMIC POISONS:
AGRICULTURE:
INSECTICIDES:

Mixture of fertilizer and insecticide is an
"economic poison".

December 5, 1955



Honorable L. C. Carpenter
Commissioner of Agriculture
Department of Agriculture
Jefferson City, Missouri

Dear Sir:

This is in answer to your recent request for an opinion of this office, which request reads as follows:

"A question has arisen in my mind as to whether or not a certain mixture of substances is an economic poison, and if so, whether it ought to come within the purview of H.B. 101 enacted by the 68th General Assembly and now Chapter 263.270-263.380, Revised Statutes of Missouri, 1949.

"Agricultural fertilizer is customarily sold in sacks with about eighty (80) pounds to the sack or in bulk sold by the ton. However, price is usually quoted by the ton whether sold by sack or in bulk. Over the past few years a practice has arisen where an insecticide, namely Aldrin, has been added to and mixed with the fertilizer in an amount of about ten (10) pounds to a ton. When this insecticide is added a separate charge is made for it and the amount of the charge usually increases the price of the product about twenty per cent (20%). The clear purpose of the addition of the insecticide is to combat insects and not to preserve or enhance the quality or quantity of the fertilizer or any of the fertilizer components. The sack container may or may not make individual claims for the added insecticide.

"An opinion, therefore, is requested as to whether or not this mixture of fertilizer and insecticide is an economic poison within the law cited above and, therefore, must comply with the law."

Honorable L. C. Carpenter

APPLICABLE:

The term "economic poison" is defined in Section 263.270 V.A.M.S., September Pamphlet, as follows:

"The term 'economic poison' means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any insects, rodents, 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, after a hearing, shall declare to be a pest; * * *"

It is to be noted that under the definition of "economic poison" a mixture of substances is included. If, therefore, the mixture of substances is used for the purposes found in said definition, such mixture is an "economic poison". The fact that the mixture also contains a fertilizer does not exempt such mixture from coming within the purview of the definition of "economic poison".

Since you state in your opinion request that the mixture is used to combat insects, it is clear that the mixture involved does come within the definition of "economic poison". It follows, therefore, that, since such mixture comes within the definition, the provisions of the Economic Poisons Act, Secs. 263.270 to 263.380 V.A.M.S. are applicable to such mixture.

CONCLUSION

It is the opinion of this office that a mixture of substances coming within the definition of "economic poison", and which mixture is used for the purpose of combating insects is an "economic poison" and that such mixture is subject to the provisions of the Economic Poisons Act.

The foregoing opinion, which I hereby approve, was prepared by my assistant, C. B. Burns, Jr.

Very truly yours,

John M. Dalton
Attorney General

CEB/ld