

By: Representatives Chaney, Cameron, Janus,
Johnson, Ketchings, Rotenberry, Wells-Smith

To: Conservation and
Water Resources

HOUSE BILL NO. 1079

1 AN ACT TO PROHIBIT THE DISTRIBUTION, SALE, DELIVERY OR
2 TRANSPORTATION WITHIN THIS STATE OF ANY SUBSTANCE OR MIXTURE OF
3 SUBSTANCES CONTAINING INGREDIENTS KNOWN AS "CHLORINATED
4 HYDROCARBONS," IF THE CHLORINATED HYDROCARBONS ARE USED IN WOOD
5 TREATMENT OR PRESERVATION AND IF THEY HAVE NOT BEEN MANUFACTURED
6 IN THE UNITED STATES OF AMERICA; TO PROVIDE THAT A VIOLATION OF
7 THIS ACT SHALL BE A MISDEMEANOR AND THAT THE PENALTY SHALL BE THE
8 SAME AS THAT PROVIDED FOR VIOLATIONS OF THE MISSISSIPPI PESTICIDE
9 LAW; TO AMEND SECTION 69-23-5, MISSISSIPPI CODE OF 1972, IN
10 CONFORMITY TO THIS ACT; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. (1) It shall be unlawful for any person to
13 distribute, sell or offer for sale within this state, or to
14 deliver for transportation or transport in intrastate commerce or
15 between points within this state through any point outside this
16 state, any substance or mixture of substances containing
17 ingredients known as "chlorinated hydrocarbons," if the
18 chlorinated hydrocarbons are used in wood treatment or
19 preservation and if they have not been manufactured in the United
20 States of America.

21 (2) Any person violating the provisions of subsection (1) is
22 guilty of a misdemeanor and, upon conviction, shall be punished as
23 prescribed in Section 69-23-29, which sets forth the penalties for
24 violations of the Mississippi Pesticide Law.

25 SECTION 2. Section 69-23-5, Mississippi Code of 1972, is
26 amended as follows:

27 69-23-5. (1) It shall be unlawful for any person to
28 distribute, sell or offer for sale within this state or deliver
29 for transportation or transport in intrastate commerce or between
30 points within this state through any point outside this state any

31 of the following:

32 (a) Any pesticide which has not been registered
33 pursuant to the provisions of Section 69-23-7 or any pesticide if
34 any of the claims made for it or any of the directions for its use
35 differ from its composition or representations made in connection
36 with its registration; provided, that in the discretion of the
37 commissioner a change in the labeling or formula of a pesticide
38 may be made within a reregistration period within requiring
39 registration of the product if the registration is amended to
40 reflect such change and if the changes will not violate any
41 provisions of FIFRA or this chapter.

42 (b) Any pesticide unless it is in the registrant's or
43 the manufacturer's unbroken immediate container, and there is
44 affixed to such container, and to the outside container or wrapper
45 of the retail package, if there be one (1) through which the
46 required information on the immediate container cannot be clearly
47 read, a label bearing:

48 (i) The name and address of the manufacturer,
49 registrant or person for whom manufactured;

50 (ii) The name, brand, or trademark under which
51 said article is sold;

52 (iii) The net weight or measure of the content,
53 subject, however, to such reasonable variations as the
54 commissioner may permit;

55 (iv) A batch number from which the date of
56 packaging can be determined for certain pesticides which have been
57 determined to deteriorate in relatively short periods, when
58 requested by the commissioner;

59 (v) The EPA registration number assigned to each
60 establishment in which it was produced and the EPA registration
61 number assigned to the pesticide if required by regulation under
62 FIFRA;

63 (vi) Any other information required by this
64 chapter or regulation promulgated thereunder; except that this
65 subsection (b) shall not apply:

66 (i) To the transportation, within the meaning
67 of this section, of refined petroleum naphtha or refined petroleum

68 distillate, by tank truck, or by tank cars, or in tanks by rail;

69 (ii) To the delivery of refined petroleum
70 naphtha or refined petroleum distillate from a storage tank, or
71 tank truck, in a quantity of not less than fifty (50) gallons, if,
72 at the time of such delivery the person delivering the said
73 material delivers to the person to whom the delivery is made, or
74 his agent or representative, a written or printed statement
75 containing the information, with respect to the material
76 delivered, required by the provision of clauses (i), (ii) and
77 (iii) of this subsection (b).

78 Provided, however, that the commissioner may designate that
79 certain specific pesticides may be distributed or offered for sale
80 by the manufacturer and/or registrant in bulk, in which case the
81 label information required and any other statements required by
82 this chapter must be stated in or attached to the invoice; and in
83 addition, a copy of said invoice must be given to the purchaser at
84 the time the pesticide is delivered. In addition to the above,
85 the commissioner may set rules and regulations for the sale,
86 dispensing, storing, handling and transportation of pesticides in
87 bulk.

88 (c) Any pesticide which contains any substance or
89 substances in quantities highly toxic to man, determined as
90 provided in Section 69-23-9, unless the label shall bear, in
91 addition to any other matter required by this chapter:

92 (i) The skull and crossbones;

93 (ii) The word "poison" prominently, in red on a
94 background of distinctly contrasting color;

95 (iii) A statement of a practical treatment (first
96 aid or otherwise) in case of poisoning by the pesticide.

97 (d) Any pesticide which has not been colored or
98 discolored pursuant to the provisions of this chapter.

99 (e) Any pesticide which is adulterated or misbranded.

100 (f) Any pesticide in containers which are unsafe due to

101 damage.

102 (g) Any pesticide or insecticide containing ingredients
103 known as "Chlorinated hydrocarbons," if the chlorinated
104 hydrocarbons are used in wood treatment or preservation and if
105 they have not been manufactured in the United States of America.

106 (2) It shall be unlawful:

107 (a) For any person to detach, alter, deface or destroy,
108 in whole or in part, any label or labeling provided for in this
109 chapter or regulations promulgated hereunder, or to add any
110 substance to, or take any substance from, a pesticide in a manner
111 that may defeat the purpose of this chapter;

112 (b) For any person to use for his own advantage or to
113 reveal, other than to the commissioner or proper officials or
114 employees of the state or the EPA, or to the courts of this state
115 in response to a subpoena, or to physicians, or in emergencies to
116 pharmacists and other qualified persons, for use in preparation of
117 antidotes, any information relative to formulas of products
118 acquired by authority of this chapter or any information judged by
119 the commissioner as containing or relating to trade secrets or
120 commercial or financial information obtained by authority of this
121 chapter and marked as confidential by the registrant;

122 (c) For any person to distribute any pesticide labeled
123 for restricted use to any person, or his agent who is not
124 certified to use or purchase such pesticide;

125 (d) For any person to use or cause to be used any
126 pesticide in a manner inconsistent with its labeling or to
127 regulations of the commissioner if those regulations further
128 restrict the uses provided on the labeling;

129 (e) For any person to handle, transport, store,
130 display, distribute or dispose of any pesticide or container in
131 such a manner as to endanger man and his environment.

132 The commissioner is hereby authorized, empowered and directed
133 to authorize and grant a permit to any person, firm or corporation

134 to dispose of any existing stock of pesticide it may have on hand
135 at the time this chapter becomes effective, including all
136 packages, labels and containers; provided that such stock is
137 packaged and labeled in accordance with federal laws and
138 regulations governing the packaging and labeling of such products.

139 (3) In addition to any criminal remedy set forth in
140 subsection (2), remedies for misappropriation of a trade secret
141 shall be governed by the Mississippi Uniform Trade Secrets Act,
142 Sections 75-26-1 through 75-26-19.

143 SECTION 3. This act shall take effect and be in force from
144 and after July 1, 1999.