



**THE ATTORNEY GENERAL
OF TEXAS**

AUSTIN 11, TEXAS

**WAGGONER CARR
ATTORNEY GENERAL**

January 13, 1966

Honorable John C. White
Commissioner of Agriculture
Texas Department of Agriculture
Austin, Texas

Opinion No. C-583

Re: Construction of Subsection
(2)(a) of Section 3A of
Article 135b-5, Vernon's
Civil Statutes, as to
whether the name of the
registrant must appear
on the label placed on
economic pesticides.

Dear Mr. White:

You have requested the opinion of this office concerning whether Subsection (2)(a) of Section 3A of Article 135b-5, Vernon's Civil Statutes, requires that an economic pesticide contain on the label affixed thereto the name of the individual, partnership, association or corporation registering such pesticide with the Texas Department of Agriculture pursuant to the provisions of Section 4 of Article 135b-5.

In connection with the question posed, you have set forth a situation where one company is manufacturing a particular economic pesticide and has registered this product with the Texas Department of Agriculture in its name. The company manufacturing and registering this particular economic pesticide is in turn selling this product to another company which affixes its label to the pesticide. The label affixed to the pesticide does not include either the name of the company actually registering or manufacturing the pesticide.

Section 3 of Article 135b-5, provides in part as follows:

"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 economic pesticide which has not been registered pursuant to the provisions of Section 4 of this Act. . . .

"(2) Any economic 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:

"(a) The name and address of the manufacturer, registrant, or person for whom manufactured.
... " (Emphasis added).

In view of the use of the disjunctive word "or" rather than a conjunctive word such as "and", in the foregoing provisions of Subsection (2)(a) of Section 3A of Article 135b-5, we are of the opinion that the Legislative intent was for the label affixed to an economic pesticide to have set forth thereon, in addition to other information, the name and address of any one of the following--the manufacturer, the registrant, or the person for whom the product was manufactured. Had it been the desire of the Legislature to require that the label affixed to an economic pesticide include, in addition to the person for whom manufactured, either the manufacturer or registrant or both, we are of the opinion that the disjunctive terminology "or" would not have been used.

In addition to the foregoing, Section 4 of Article 135b-5 provides in part that:

". . .The registrant shall file with the Commissioner a statement including:

(1) The name and address of the registrant and the name and address of the person whose name will appear on the label, if other than the registrant. . . ." (Emphasis added).

The above quoted provisions of Section 4 of Article 135b-5 clearly disclose that it was not contemplated that the name and address of all of the parties mentioned in Subsection (2)(a) of Section 3A of Article 135b-5 would be included on the label affixed to an economic pesticide.

We are, therefore, of the opinion that Subsection (2)(a) of Section 3A of Article 135b-5 does not require that the name and address of the registrant of an economic pesticide appear upon the label affixed to the economic pesticide in

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addition to the name and address of the manufacturer of the product or the person for whom it is manufactured. As long as the name and address of either the registrant, the manufacturer or the person for whom the economic pesticide is manufactured appears upon the label affixed to the product, the requirements of Subsection (2)(a) of Section 3A of Article 135b-5 have been complied with.

S U M M A R Y

Subsection (2)(a) of Section 3A of Article 135b-5, Vernon's Civil Statutes, does not require that the name and address of the registrant of an economic pesticide appear upon the label affixed to the economic pesticide in addition to the name and address of the manufacturer of the product or the person for whom it is manufactured.

The requirements of Subsection (2)(a) of Section 3A of Article 135b-5, Vernon's Civil Statutes, have been met if the label affixed to the economic pesticide includes either the name and address of the registrant of the product, the manufacturer of the product or the person for whom the product is manufactured.

Very truly yours,

WAGGONER CARR
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By: 
Pat Bailey
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PB:mkh

APPROVED:
OPINION COMMITTEE

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