

[Third Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, No. 2070

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED OCTOBER 8, 2020

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District 33 (Hudson)

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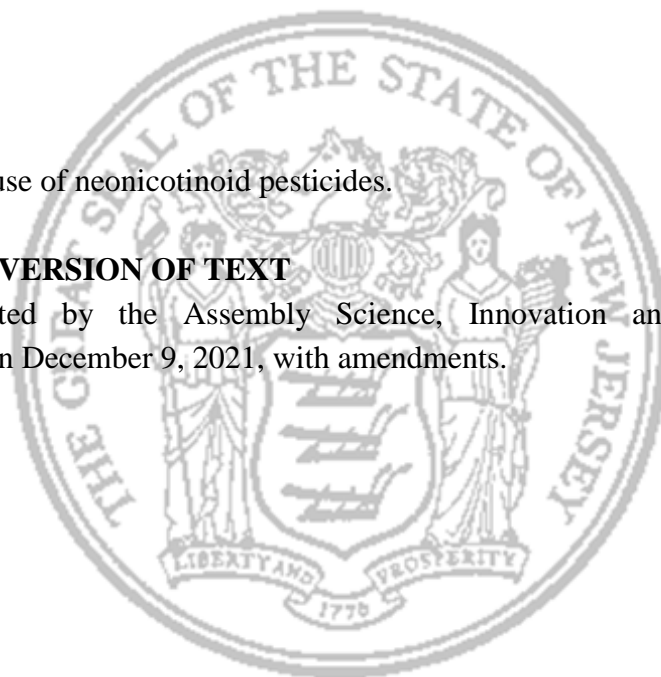
Karabinchak, Spearman and Assemblywoman Downey

SYNOPSIS

Restricts use of neonicotinoid pesticides.

CURRENT VERSION OF TEXT

As reported by the Assembly Science, Innovation and Technology Committee on December 9, 2021, with amendments.



(Sponsorship Updated As Of: 1/10/2022)

1 AN ACT concerning the use of neonicotinoid pesticides and
2 supplementing P.L.1971, c.176 (C.13:1F-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in sections 1 through 3 of P.L. , c. (C.)
8 (pending before the Legislature as this bill):

9 “Agricultural plant” means any plant, or part thereof, grown,
10 maintained, or otherwise produced for commercial purposes,
11 including any plant grown, maintained, or otherwise produced for sale
12 or trade, for research or experimental purposes, or for use in part or
13 their entirety in another location. “Agricultural plant” includes, but is
14 not limited to, grains, fruits, and vegetables; wood fiber or timber
15 products; flowering and foliage plants and trees; seedlings and
16 transplants; and turf grass produced for sod. “Agricultural plant” does
17 not include pasture or rangeland used for grazing.

18 “Environmental emergency” means an occurrence of any pest
19 which presents a significant risk of harm or injury to the
20 environment, or significant harm, injury, or loss to agricultural
21 crops, including, but not limited to, any exotic or foreign pest which
22 may need preventative quarantine measures to avert or prevent that
23 risk, as determined by the Department of Environmental Protection in
24 consultation with the New Jersey Department of Agriculture and
25 Rutgers, the State University.

26 “Neonicotinoid pesticide” means any pesticide containing a
27 chemical belonging to the neonicotinoid class of chemicals,
28 including, but not limited to, acetamiprid, clothianidin, dinotefuran,
29 flonicamid, imidacloprid, nitenpyram, nithiazine, thiacloprid,
30 thiamethoxam, or any other chemical designated by the department
31 as belonging to the neonicotinoid class of chemicals.

32 “Restricted use pesticide” means a pesticide that can be
33 purchased and used only by a certified and licensed pesticide
34 applicator, as determined by the department pursuant to the
35 “Pesticide Control Act of 1971,” P.L.1971, c.176 (C.13:1F-1 et
36 seq.), or persons working under the direct supervision of a certified
37 and licensed pesticide applicator.

38

39 2. a. No later than 12 months after the effective date of ³[this
40 act] P.L. , c. (C.) (pending before the Legislature as this
41 bill)³, the department shall adopt, pursuant to the “Administrative
42 Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
43 regulations classifying neonicotinoid pesticides as restricted use
44 pesticides.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly AAP committee amendments adopted January 7, 2021.

²Assembly floor amendments adopted June 3, 2021.

³Assembly AST committee amendments adopted December 9, 2021.

1 b. No later than 12 months after the effective date of
2 P.L. , c. (C.) (pending before the Legislature as this bill),
3 and every three years thereafter, the department shall review the
4 latest scientific information concerning neonicotinoid pesticides,
5 and classify as a restricted use pesticide any neonicotinoid pesticide
6 that the department determines will cause harm to populations of
7 pollinating bees, birds, other pollinating wildlife, or aquatic
8 invertebrates. Any person may petition the department at any time
9 to classify a pesticide pursuant to this section.

10 c. provisions of this section shall not apply to:

11 (1) any pet care, veterinary, personal care, or indoor pest control
12 pesticide product;

13 (2) ³**[any pesticide-treated wood product]** an application for the
14 commercial production of a preserved wood product³;

15 (3) the application by a licensed pesticide applicator of a
16 neonicotinoid pesticide within ¹**[seven feet]** one foot¹ of a building
17 foundation perimeter to manage structural pests provided that the
18 neonicotinoid pesticide is not applied on any plant;

19 (4) any direct action taken by certified and licensed responsible
20 pesticide applicators or by persons working under their direct
21 supervision within the New Jersey Department of Agriculture or its
22 agents, or within the Department of Environmental Protection or its
23 agents, against any invasive plant or pest; or

24 (5) any application to protect agricultural seeds.

25 ¹Notwithstanding the provisions of paragraph (3) of this
26 subsection to the contrary, the application by a licensed pesticide
27 applicator of a neonicotinoid pesticide adjacent to a building
28 foundation perimeter to manage structural pests may be extended by
29 an additional four feet, if such additional area is necessary to treat
30 the source of the infestation and the application is limited to a spot
31 targeted treatment of the source of the infestation only.

32 d. Nothing in this section shall be construed to impose liability
33 on any news media that accept or publish advertising for any
34 product or activity that would otherwise be subject to the provisions
35 of this section.¹

36
37 3. a. ³**[No]** Beginning October 31, 2023, no³ person shall sell,
38 offer for sale, or use within the State any neonicotinoid pesticide,
39 unless such pesticide is registered and will only be applied by a
40 licensed pesticide applicator to ³**[,]**³ an agricultural plant.

41 b. Notwithstanding the provisions of subsection a. of this
42 section to the contrary, the commissioner, in consultation with the
43 New Jersey Department of Agriculture, may, by written order,
44 ²**[permit a]** authorize one or more² licensed pesticide ²**[applicator]**
45 applicators² to use a pesticide that is prohibited under subsection a.
46 of this section if the commissioner finds that:

47 (1) a valid environmental emergency exists;

- 1 (2) the pesticide would be effective in addressing the
2 environmental emergency; and
- 3 (3) no other, less harmful pesticide or pest management practice
4 would be effective in addressing the environmental emergency.
- 5 c. Any order issued by the commissioner pursuant to
6 subsection b. of this section shall include the basis for the
7 commissioner's determination and specify the approved time
8 period, geographic scope, and purpose of the permitted sale or use
9 of a pesticide. An order issued pursuant to this section shall be
10 valid for a period not to exceed one year.
- 11 d. The provisions of this section shall not apply to:
- 12 (1) any pet care, veterinary, personal care, or indoor pest control
13 pesticide product;
- 14 (2) ³~~any pesticide-treated wood product~~ an application for the
15 commercial production of a preserved wood product³;
- 16 (3) the application by a licensed pesticide applicator of a
17 neonicotinoid pesticide within ¹~~seven feet~~ one foot¹ of a building
18 foundation perimeter to manage structural pests provided that the
19 neonicotinoid pesticide is not applied on any plant;
- 20 (4) any direct action taken by certified and licensed responsible
21 pesticide applicators or by persons working under their direct
22 supervision within the New Jersey Department of Agriculture or its
23 agents, or within the Department of Environmental Protection or its
24 agents, against any invasive plant or pest; or
- 25 (5) any application to protect agricultural seeds.
- 26 ¹Notwithstanding the provisions of paragraph (3) of this
27 subsection to the contrary, the application by a licensed pesticide
28 applicator of a neonicotinoid pesticide adjacent to a building
29 foundation perimeter to manage structural pests may be extended by
30 an additional four feet, if such additional area is necessary to treat
31 the source of the infestation and the application is limited to a spot
32 targeted treatment of the source of the infestation only.
- 33 e. Nothing in this section shall be construed to impose liability
34 on any news media that accept or publish advertising for any
35 product or activity that would otherwise be subject to the provisions
36 of this section.¹
- 37
- 38 4. This act shall take effect immediately.