ASSEMBLY, No. 1091

STATE OF NEW JERSEY

220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

Sponsored by:
Assemblyman CLINTON CALABRESE
District 36 (Bergen and Passaic)
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District 33 (Hudson)
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District 14 (Mercer and Middlesex)

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Assemblymen Conaway, Giblin, Assemblywoman Jasey, Assemblyman Danielsen, Assemblywoman Reynolds-Jackson, Assemblymen Karabinchak and Spearman

SYNOPSIS
Restricts use of neonicotinoid pesticides.

CURRENT VERSION OF TEXT
Introduced Pending Technical Review by Legislative Counsel.
AN ACT concerning the use of neonicotinoid pesticides and
supplementing P.L.1971, c.176 (C.13:1F-1 et seq.).

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

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

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

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

“Neonicotinoid pesticide” means any pesticide containing a
chemical belonging to the neonicotinoid class of chemicals,
including, but not limited to, acetamiprid, clothianidin, dinotefuran,
flocamid, imidacloprid, nitenpyram, nithiazine, thiacloprid,
thialmethoxam, or any other chemical designated by the department
as belonging to the neonicotinoid class of chemicals.

“Restricted use pesticide” means a pesticide that can be
purchased and used only by a certified and licensed pesticide
applicator, as determined by the department pursuant to the
seq.), or persons working under the direct supervision of a certified
and licensed pesticide applicator.

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

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

   c. provisions of this section shall not apply to:
      (1) any pet care, veterinary, personal care, or indoor pest control
pesticide product;
      (2) an application for the commercial production of a preserved
wood product;
      (3) the application by a licensed pesticide applicator of a
neonicotinoid pesticide within one foot of a building foundation
perimeter to manage structural pests provided that the neonicotinoid
pesticide is not applied on any plant;
      (4) any direct action taken by certified and licensed responsible
pesticide applicators or by persons working under their direct
supervision within the New Jersey Department of Agriculture or its
agents, or within the Department of Environmental Protection or its
agents, against any invasive plant or pest; or
      (5) any application to protect agricultural seeds.

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

3. a. Beginning October 31, 2023, no person shall sell, offer
for sale, or use within the State any neonicotinoid pesticide, unless
such pesticide is registered and will only be applied by a licensed
pesticide applicator to an agricultural plant.

   b. Notwithstanding the provisions of subsection a. of this
section to the contrary, the commissioner, in consultation with the
New Jersey Department of Agriculture, may, by written order,
authorize one or more licensed pesticide applicators to use a
pesticide that is prohibited under subsection a. of this section if the
commissioner finds that:
      (1) a valid environmental emergency exists;
      (2) the pesticide would be effective in addressing the
environmental emergency; and
      (3) no other, less harmful pesticide or pest management practice
would be effective in addressing the environmental emergency.

   c. Any order issued by the commissioner pursuant to
subsection b. of this section shall include the basis for the
commissioner’s determination and specify the approved time period, geographic scope, and purpose of the permitted sale or use of a pesticide. An order issued pursuant to this section shall be valid for a period not to exceed one year.

d. The provisions of this section shall not apply to:

(1) any pet care, veterinary, personal care, or indoor pest control pesticide product;
(2) an application for the commercial production of a preserved wood product;
(3) the application by a licensed pesticide applicator of a neonicotinoid pesticide within one foot of a building foundation perimeter to manage structural pests provided that the neonicotinoid pesticide is not applied on any plant;
(4) any direct action taken by certified and licensed responsible pesticide applicators or by persons working under their direct supervision within the New Jersey Department of Agriculture or its agents, or within the Department of Environmental Protection or its agents, against any invasive plant or pest; or
(5) any application to protect agricultural seeds.

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

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

4. This act shall take effect immediately.

STATEMENT

This bill would direct the Department of Environmental Protection (DEP) to adopt, within 12 months after the bill is enacted into law, rules and regulations classifying neonicotinoid pesticides as restricted use pesticides. The bill would also direct the DEP, every three years, to review the latest scientific information concerning neonicotinoid pesticides, and classify as a restricted use pesticide any neonicotinoid pesticide that the DEP determines will cause harm to populations of pollinating bees, birds, other pollinating wildlife, or aquatic invertebrates. A restricted use pesticide is a pesticide that can be purchased and used only by a certified and licensed pesticide applicator, or persons working
under the direct supervision of the certified and licensed pesticide applicator.

Under the bill, a person would be restricted from selling, offering for sale, or using within the State any neonicotinoid pesticide, unless the pesticide is registered and will only be applied by a licensed pesticide applicator to an agricultural plant. The bill would also authorize the DEP Commissioner, in consultation with the Department of Agriculture, to permit a licensed pesticide applicator to use a pesticide that is prohibited under the bill if the commissioner finds that: (1) a valid environmental emergency exists; (2) the pesticide would be effective in addressing the environmental emergency; and (3) no other, less harmful pesticide or pest management practice would be effective in addressing the environmental emergency. The bill defines “environmental emergency” as an occurrence of any pest which presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops, including, but not limited to, any exotic or foreign pest which may need preventative quarantine measures to avert or prevent that risk, as determined by the DEP in consultation with the Department of Agriculture and Rutgers, the State University.

The provisions of the bill would not apply to: (1) any pet care, veterinary, personal care, or indoor pest control pesticide product; (2) any pesticide-treated wood product; (3) the application by a licensed pesticide applicator of a neonicotinoid pesticide within one foot of a building foundation perimeter to manage structural pests provided that the neonicotinoid pesticide is not applied on any plant; (4) any direct action taken by certified and licensed responsible pesticide applicators or by persons working under their direct supervision within the New Jersey Department of Agriculture or its agents, or within the Department of Environmental Protection or its agents, against any invasive plant or pest; or (5) any application to protect agricultural seeds. The bill provides that, notwithstanding the provisions of the bill to the contrary, the application by a licensed pesticide applicator of a neonicotinoid pesticide adjacent to a building foundation perimeter to manage structural pests may be extended by an additional four feet, if such additional area is necessary to treat the source of the infestation and the application is limited to a spot targeted treatment of the source of the infestation only.