

ASSEMBLY, No. 1091

STATE OF NEW JERSEY 220th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2022 SESSION

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District 33 (Hudson)

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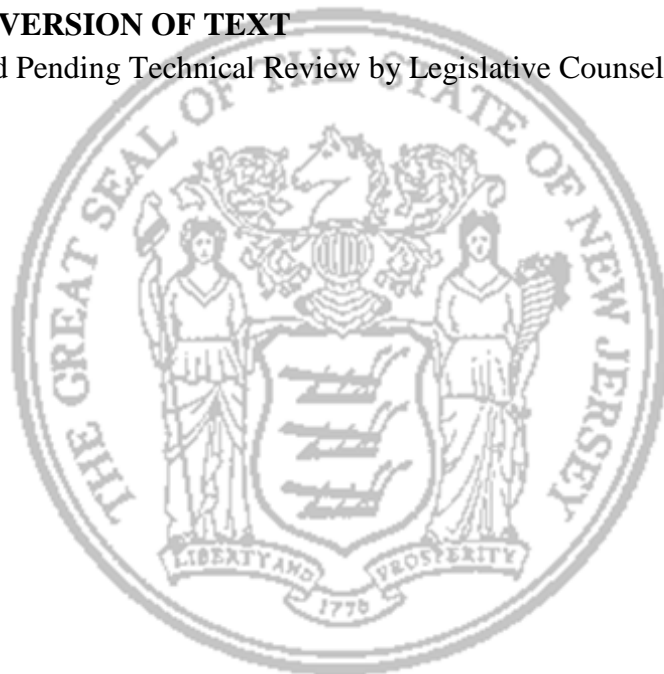
Assemblymen Conaway, Giblin, Assemblywoman Jasey, Assemblyman Danielsen, Assemblywoman Reynolds-Jackson, Assemblymen Karabinchak and Spearman

SYNOPSIS

Restricts use of neonicotinoid pesticides.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



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 P.L. ,
40 c. (C.) (pending before the Legislature as this bill), the
41 department shall adopt, pursuant to the “Administrative Procedure
42 Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations
43 classifying neonicotinoid pesticides as restricted use pesticides.

44 b. No later than 12 months after the effective date of
45 P.L. , c. (C.) (pending before the Legislature as this bill),
46 and every three years thereafter, the department shall review the
47 latest scientific information concerning neonicotinoid pesticides,
48 and classify as a restricted use pesticide any neonicotinoid pesticide

1 that the department determines will cause harm to populations of
2 pollinating bees, birds, other pollinating wildlife, or aquatic
3 invertebrates. Any person may petition the department at any time
4 to classify a pesticide pursuant to this section.

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

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

8 (2) an application for the commercial production of a preserved
9 wood product;

10 (3) the application by a licensed pesticide applicator of a
11 neonicotinoid pesticide within one foot of a building foundation
12 perimeter to manage structural pests provided that the neonicotinoid
13 pesticide is not applied on any plant;

14 (4) any direct action taken by certified and licensed responsible
15 pesticide applicators or by persons working under their direct
16 supervision within the New Jersey Department of Agriculture or its
17 agents, or within the Department of Environmental Protection or its
18 agents, against any invasive plant or pest; or

19 (5) any application to protect agricultural seeds.

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

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

31

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

36 b. Notwithstanding the provisions of subsection a. of this
37 section to the contrary, the commissioner, in consultation with the
38 New Jersey Department of Agriculture, may, by written order,
39 authorize one or more licensed pesticide applicators to use a
40 pesticide that is prohibited under subsection a. of this section if the
41 commissioner finds that:

42 (1) a valid environmental emergency exists;

43 (2) the pesticide would be effective in addressing the
44 environmental emergency; and

45 (3) no other, less harmful pesticide or pest management practice
46 would be effective in addressing the environmental emergency.

47 c. Any order issued by the commissioner pursuant to
48 subsection b. of this section shall include the basis for the

1 commissioner's determination and specify the approved time
2 period, geographic scope, and purpose of the permitted sale or use
3 of a pesticide. An order issued pursuant to this section shall be
4 valid for a period not to exceed one year.

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

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

8 (2) an application for the commercial production of a preserved
9 wood product;

10 (3) the application by a licensed pesticide applicator of a
11 neonicotinoid pesticide within one foot of a building foundation
12 perimeter to manage structural pests provided that the neonicotinoid
13 pesticide is not applied on any plant;

14 (4) any direct action taken by certified and licensed responsible
15 pesticide applicators or by persons working under their direct
16 supervision within the New Jersey Department of Agriculture or its
17 agents, or within the Department of Environmental Protection or its
18 agents, against any invasive plant or pest; or

19 (5) any application to protect agricultural seeds.

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

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

31

32 4. This act shall take effect immediately.

33

34

35 STATEMENT

36

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

1 under the direct supervision of the certified and licensed pesticide
2 applicator.

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

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