S T A T E O F N E W Y O R K

1703

2009-2010 Regular Sessions

I N A S S E M B L Y

January 9, 2009

Introduced by M. of A. ENGLEBRIGHT, COLTON, SCHIMEL -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the application of pesticides to fresh water and tidal wetlands; to amend the public service law, in relation to prohibiting the application of pesticides to public utility company right-of-ways; and to repeal subdivision 2 of section 25-0103 of the environmental conservation law relating to the definition of "commissioner"

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 24-0107 of the environmental conservation law is amended by adding a new subdivision 9 to read as follows:

9. "PESTICIDE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SUBDIVISION THIRTY-FIVE OF SECTION 33-0101 OF THIS CHAPTER.

S 2. The environmental conservation law is amended by adding a new section 24-1302 to read as follows:

S 24-1302. PROHIBITION ON THE APPLICATION OF PESTICIDES.

1. NOTWITHSTANDING ANY PROVISION OF ARTICLE THIRTY-THREE OF THIS CHAPTER TO THE CONTRARY, THE APPLICATION OF ANY PESTICIDE TO A FRESHWATER WETLAND SHALL BE PROHIBITED, EXCEPT UPON THE DECLARATION OF THE COMMISSIONER OF HEALTH OF A PUBLIC HEALTH EMERGENCY REQUIRING THE APPLICATION OF A PESTICIDE TO SPECIFIC FRESHWATER WETLANDS.

2. EVERY APPLICATION OF A PESTICIDE TO FRESHWATER WETLANDS DURING A PUBLIC HEALTH EMERGENCY SHALL BE PERFORMED NOT LESS THAN THREE DAYS AFTER SUCH PUBLIC NOTIFICATION THEREOF AS SHALL BE REQUIRED BY THE RULES AND REGULATIONS OF THE COMMISSIONER.

S 3. Subdivision 2 of section 25-0103 of the environmental conservation law is REPEALED and a new subdivision 2 is added to read as follows:

2. "PESTICIDE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SUBDIVISION THIRTY-FIVE OF SECTION 33-0101 OF THIS CHAPTER.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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S 4. The environmental conservation law is amended by adding a new section 25-0303 to read as follows:

S 25-0303. PROHIBITION ON THE APPLICATION OF PESTICIDES.

1. NOTWITHSTANDING ANY PROVISION OF ARTICLE THIRTY-THREE OF THIS CHAPTER TO THE CONTRARY, THE APPLICATION OF ANY PESTICIDE TO A TIDAL WETLAND SHALL BE PROHIBITED, EXCEPT UPON THE DECLARATION OF THE COMMISSIONER OF HEALTH OF A PUBLIC HEALTH EMERGENCY REQUIRING THE APPLICATION OF A PESTICIDE TO SPECIFIC TIDAL WETLANDS.

2. EVERY APPLICATION OF A PESTICIDE TO TIDAL WETLANDS DURING A PUBLIC HEALTH EMERGENCY SHALL BE PERFORMED NOT LESS THAN THREE DAYS AFTER SUCH PUBLIC NOTIFICATION AS SHALL BE REQUIRED BY THE RULES AND REGULATIONS OF THE COMMISSIONER.

S 5. The public service law is amended by adding a new section 119-d to read as follows:

S 119-D. PROHIBIT PUBLIC UTILITY RIGHT-OF-WAY PESTICIDE APPLICATION.

1. NO PUBLIC UTILITY COMPANY SHALL APPLY OR ALLOW TO BE APPLIED ANY PESTICIDE TO ANY RIGHT-OF-WAY OF SUCH UTILITY COMPANY.

2. FOR THE PURPOSES OF THIS SECTION, THE TERM "PESTICIDE" SHALL HAVE THE SAME MEANING AS IS ASCRIBED TO SUCH TERM BY SUBDIVISION THIRTY-FIVE OF SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW.

S 6. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated and completed on or before such date.

REPEAL NOTE.--Subdivision 2 of section 25-0103 of the environmental conservation law, proposed to be repealed by section three of this act, defines "commissioner" to be the commissioner of environmental conservation for the purposes of such law. Such subdivision is redundant since "commissioner" is so defined for the entirety of the environmental conservation law by section 1-0303 of such law.