

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

1974--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. KELLNER, ENGLEBRIGHT, EDDINGTON, ESPAILLAT, KOON, ORTIZ, PAULIN, P. RIVERA, ROBINSON, REILLY, ROSENTHAL, JAFFEE -- Multi-Sponsored by -- M. of A. ALFANO, BALL, BENEDETTO, BOYLAND, BROOK-KRASNY, CAMARA, CHRISTENSEN, CLARK, GALEF, GIGLIO, GLICK, GOTTFRIED, LATIMER, LUPARDO, MAISEL, MAYERSOHN, McDONOUGH, MILLMAN, PEOPLES, PHEFFER, SCHIMEL, THIELE, WALKER -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the education law, in relation to regulating the use of pesticides for aesthetic purposes on public and private school grounds

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York pesticides-free schools act".
3 S 2. Subdivision 1 of section 3-0301 of the environmental conservation
4 law is amended by adding a new paragraph kk to read as follows:
5 KK. CONSULT AND CO-OPERATE WITH THE DEPARTMENT OF HEALTH TO PROMULGATE
6 RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ABATEMENT OF HARMFUL
7 PESTICIDES USED ON SCHOOL GROUNDS AS DEFINED IN SECTION FOUR HUNDRED
8 NINE-K OF THE EDUCATION LAW.
9 S 3. The education law is amended by adding a new section 409-k to
10 read as follows:
11 S 409-K. PROHIBITION OF PESTICIDES FOR AESTHETIC PURPOSE ON PUBLIC AND
12 PRIVATE SCHOOL GROUNDS. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOW-
13 ING TERMS SHALL HAVE THE MEANINGS SET FORTH BELOW:
14 (A) "PESTICIDE" SHALL MEAN A FUNGICIDE USED ON PLANTS, AN INSECTICIDE,
15 A HERBICIDE OR A RODENTICIDE BUT DOES NOT MEAN A SANITIZER, DISINFEC-
16 TANT, ANTIMICROBIAL AGENT OR A PESTICIDE BAIT, AND "LAWN CARE PESTICIDE"
17 MEANS A PESTICIDE REGISTERED BY THE UNITED STATES ENVIRONMENTAL

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

LBD00009-04-9

1 PROTECTION AGENCY AND LABELED PURSUANT TO THE FEDERAL INSECTICIDE,
2 FUNGICIDE AND RODENTICIDE ACT FOR USE IN LAWN, GARDEN AND ORNAMENTAL
3 SITES OR AREAS.

4 (B) "SCHOOL" MEANS ALL FACILITIES, BOTH PUBLIC AND PRIVATE EDUCATIONAL
5 INSTITUTIONS, FOR GRADES KINDERGARTEN THROUGH TWELVE OPERATED IN THIS
6 STATE.

7 (C) "GROUNDS" MEANS SCHOOL LAND, INCLUDING PLAYING FIELDS AND GREEN
8 SPACES OF ALL PUBLIC OR PRIVATE SCHOOL OR EDUCATIONAL INSTITUTIONS OPER-
9 ATED IN THIS STATE.

10 (D) "INTEGRATED PEST MANAGEMENT" AND "IPM" MEAN A DECISION-MAKING
11 PROCESS FOR PEST CONTROL THAT UTILIZES REGULAR MONITORING TO DETERMINE
12 IF AND WHEN CONTROLS ARE NEEDED; EMPLOYS PHYSICAL, MECHANICAL, CULTURAL,
13 BIOLOGICAL AND EDUCATIONAL TACTICS TO CONTROL CONDITIONS THAT PROMOTE
14 PEST INFESTATIONS AND TO KEEP PEST POPULATIONS AT TOLERABLE DAMAGE OR
15 ANNOYANCE LEVELS; AND ONLY AS A LAST RESORT, UTILIZES LEAST TOXIC PESTI-
16 CIDE CONTROLS. THE OVERALL GOAL OF IPM IS TO ELIMINATE THE UNNECESSARY
17 USE OF PESTICIDES AND REDUCE THE USE OF ALL PESTICIDES.

18 2. BY THE FIRST OF SEPTEMBER AFTER THE EFFECTIVE DATE OF THIS SECTION,
19 ALL SCHOOLS SHALL HAVE INTEGRATED PEST MANAGEMENT PLANS FOR ALL PEST
20 CONTROL ACTIVITIES, WHICH HAVE BEEN SUBJECT TO PUBLIC REVIEW AND
21 APPROVED BY THE SCHOOL BOARD. SUCH PLANS SHALL UTILIZE IPM TECHNIQUES TO
22 MANAGE AND CONTROL PESTS AND PROBLEMS. ALL IPM PLANS SHALL INCLUDE A
23 PROVISION FOR PUBLIC ACCESS TO ALL INFORMATION ABOUT THE IMPLEMENTATION
24 OF THE PLAN. SCHOOL DISTRICTS MAY CREATE ADVISORY COMMITTEES TO ASSIST
25 IN THE DEVELOPMENT OF THE IPM PLANS, AND TO MONITOR THE IMPLEMENTATION
26 OF SUCH PLANS. NO SCHOOL SHALL CONDUCT OR HAVE CONDUCTED ANY PESTICIDE
27 APPLICATION TO SCHOOL GROUNDS WHICH APPLICATION IS SOLELY FOR AESTHETIC
28 PURPOSES OR WHICH IS PREVENTATIVE IN NATURE AND WHICH DOES NOT RESPOND
29 TO VERIFIABLE PEST PROBLEMS.

30 3. BY THE FIRST OF SEPTEMBER IN THE YEAR NEXT SUCCEEDING THE EFFECTIVE
31 DATE OF THIS SECTION, ALL APPLICATIONS OF PESTICIDES MADE ON THE GROUNDS
32 OF ANY PUBLIC OR PRIVATE SCHOOL SOLELY FOR AESTHETIC PURPOSES SHALL BE
33 PROHIBITED. SUCH PROHIBITION SHALL NOT INCLUDE ANY APPLICATION OF PESTI-
34 CIDES DEEMED NECESSARY BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION
35 TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, PESTICIDES NEEDED TO
36 PROTECT THE BUILDING AND STRUCTURAL INTEGRITY OF THE SCHOOL FACILITY OR
37 SUCH APPLICATION OF PESTICIDES INCLUDING BACILLUS POPILLAE SPORES REGIS-
38 TERED PURSUANT TO SECTION ONE HUNDRED THIRTY-SIX-A OF TITLE SEVEN OF THE
39 UNITED STATES CODE. SUCH NECESSARY APPLICATION MAY BE MADE OUTSIDE OF
40 REGULAR BUSINESS HOURS PROVIDED IT IS THE LEAST TOXIC ALTERNATIVE AND
41 DOES NOT INVOLVE A RESTRICTED USE PESTICIDE, AS DEFINED IN SECTION
42 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW. NO CHILD ENROLLED AT SUCH
43 SCHOOL MAY ENTER AN AREA WHERE PESTICIDES HAVE BEEN APPLIED UNTIL IT IS
44 SAFE TO DO SO ACCORDING TO THE PROVISIONS OF THE PESTICIDE LABEL.

45 4. A SCHOOL DISTRICT MAY PETITION THE DEPARTMENT OF ENVIRONMENTAL
46 CONSERVATION IN THE EVENT THAT THE DISTRICT DETERMINES AN EXTENSION FOR
47 THE ABATEMENT OF PESTICIDES IS NEEDED PROVIDED THE SCHOOL DISTRICT HAS
48 MADE A GOOD FAITH EFFORT TO COMPLY WITH THE PROVISIONS OF THIS SECTION.

49 5. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION THE
50 DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN CO-OPERATION WITH THE
51 DEPARTMENT OF HEALTH SHALL ISSUE RULES AND REGULATIONS NECESSARY TO
52 IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO A
53 MODEL PLAN, A COMPLIANCE SCHEDULE AND APPROPRIATE PENALTIES FOR NONCOM-
54 PLIANCE. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED
55 TO STANDARDS FOR TECHNICAL CAPABILITY AND DEFINITIONS FOR "PESTICIDE
56 APPLICATIONS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND

1 WELFARE" AND "PESTICIDE APPLICATIONS NECESSARY TO PROTECT THE BUILDING
2 AND STRUCTURAL INTEGRITY OF A FACILITY".
3 S 4. This act shall take effect on the first of September next
4 succeeding the date on which it shall have become a law; provided,
5 however, that effective immediately, the addition, amendment and/or
6 repeal of any rule or regulation necessary for the implementation of
7 this act on its effective date are authorized and directed to be made
8 and completed on or before such effective date.