

5848

2009-2010 Regular Sessions

I N A S S E M B L Y

February 20, 2009

Introduced by M. of A. BRODSKY, ENGLEBRIGHT, DINOWITZ, CARROZZA, COLTON, PEOPLES, P. RIVERA, FIELDS, JAFFEE, ROSENTHAL, BROOK-KRASNY, PAULIN, PERALTA, KAVANAGH -- Multi-Sponsored by -- M. of A. BOYLAND, CUSICK, DIAZ, GOTTFRIED, LUPARDO, McENENY, PHEFFER, REILLY -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the phase-out of state use of pesticides

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that pesticides are linked to a number of acute and chronic health prob-
3 lems and that it is therefore the policy of the state to phase-out
4 pesticide use by the government for many pest control purposes and to
5 adopt a pest control policy that substantially relies on non-chemical
6 pest control strategies.

7 S 2. Article 33 of the environmental conservation law is amended by
8 adding a new title 8 to read as follows:

9 TITLE 8

10 PHASE-OUT OF STATE

11 USE OF PESTICIDES

12 SECTION 33-0801. DEFINITIONS.

13 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

14 S 33-0801. DEFINITIONS.

15 AS USED IN THIS TITLE:

16 1. "ANTIMICROBIAL PESTICIDE" MEANS A PESTICIDE THAT: (A) IS INTENDED
17 TO DISINFECT, SANITIZE, REDUCE, OR MITIGATE GROWTH OR DEVELOPMENT OF
18 MICROBIOLOGICAL ORGANISMS; (B) IS INTENDED TO PROTECT INANIMATE OBJECTS,
19 INDUSTRIAL PROCESSES OR SYSTEMS, SURFACES, WATER, OR OTHER CHEMICAL
20 SUBSTANCES FROM CONTAMINATION, FOULING, OR DETERIORATION CAUSED BY
21 BACTERIA, VIRUSES, FUNGI, PROTOZOA, ALGAE, OR SLIME; OR (C) IN THE

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

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1 INTENDED USE IS EXEMPT FROM, OR OTHERWISE NOT SUBJECT TO, A TOLERANCE
2 UNDER APPROPRIATE PROVISIONS OF FEDERAL LAW.

3 2. "ANTIMICROBIAL PESTICIDE" DOES NOT INCLUDE: (A) A WOOD PRESERVATIVE
4 OR ANTIFOULING PAINT PRODUCT FOR WHICH A CLAIM OF PESTICIDAL ACTIVITY IS
5 MADE; (B) AN AGRICULTURAL FUNGICIDE PRODUCT; OR (C) AN AQUATIC HERBICIDE
6 PRODUCT.

7 S 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

8 1. EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, NO STATE DEPARTMENT,
9 AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR
10 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
11 PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS
12 TOXICITY CATEGORY I BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-
13 CY, OR ANY PESTICIDE CLASSIFIED AS A KNOWN, LIKELY, OR PROBABLE HUMAN
14 CARCINOGEN BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, EXCEPT
15 AS PROVIDED FOR IN SUBDIVISION FOUR OF THIS SECTION.

16 2. EFFECTIVE JANUARY FIRST, TWO THOUSAND ELEVEN, NO STATE DEPARTMENT,
17 AGENCY, OR PUBLIC BENEFIT CORPORATION, OR ANY PESTICIDE APPLICATOR
18 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
19 PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS
20 TOXICITY CATEGORY II BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-
21 CY, ANY PESTICIDE CLASSIFIED AS A POSSIBLE HUMAN CARCINOGEN BY THE
22 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, OR ANY PESTICIDE CLASSI-
23 FIED AS RESTRICTED USE BY THE UNITED STATES ENVIRONMENTAL PROTECTION
24 AGENCY OR THE DEPARTMENT, EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS
25 SECTION.

26 3. EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, NO STATE DEPARTMENT,
27 AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR
28 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
29 PURPOSES SHALL APPLY ANY PESTICIDE ON STATE PROPERTY, EXCEPT AS PROVIDED
30 IN SUBDIVISION FOUR OF THIS SECTION.

31 4. THE PROVISIONS OF SUBDIVISIONS ONE, TWO, AND THREE OF THIS SECTION
32 SHALL NOT APPLY TO THE FOLLOWING:

33 (A) PESTICIDES OTHERWISE LAWFULLY USED FOR THE PURPOSE OF MAINTAINING
34 A SAFE DRINKING WATER SUPPLY AT DRINKING WATER TREATMENT PLANTS, WASTE-
35 WATER TREATMENT PLANTS, RESERVOIRS, AND RELATED COLLECTION, DISTRIB-
36 UTION, AND TREATMENT FACILITIES;

37 (B) ANTIMICROBIAL PESTICIDES;

38 (C) PESTICIDES IN CONTAINED BAITS FOR THE PURPOSES OF RODENT CONTROL;
39 AND

40 (D) PESTICIDES CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL
41 PROTECTION AGENCY AS EXEMPT MATERIALS UNDER 40 CFR 152.25.

42 5. ON OR BEFORE JANUARY FIRST, TWO THOUSAND TEN, THE DEPARTMENT SHALL
43 ADOPT A PEST MANAGEMENT PLAN FOR EVERY STATE DEPARTMENT, AGENCY, AND
44 PUBLIC BENEFIT CORPORATION. SUCH PLAN SHALL TAKE EFFECT ON JANUARY
45 FIRST, TWO THOUSAND TEN AND SHALL BE CONSISTENT WITH THE PROVISIONS OF
46 THIS TITLE. SUCH PLAN SHALL ADDRESS PEST POPULATION MONITORING,
47 LEAST-TOXIC PESTICIDES FOR USE PRIOR TO JANUARY FIRST, TWO THOUSAND
48 TWELVE, AND NON-CHEMICAL PEST CONTROL STRATEGIES FOR USE AFTER SUCH
49 DATE, WHICH WILL EFFECTIVELY MANAGE PEST PROBLEMS IN A COMPREHENSIVE
50 MANNER.

51 6. SHOULD ANY STATE DEPARTMENT, AGENCY, OR PUBLIC BENEFIT CORPORATION
52 DETERMINE THAT A HUMAN HEALTH EMERGENCY WARRANTS THE USE OF A PESTICIDE
53 THAT WOULD OTHERWISE NOT BE ALLOWED UNDER THIS TITLE, IT MAY APPLY FOR A
54 SINGLE-USE WAIVER FROM THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF
55 HEALTH SHALL DETERMINE IF SUCH A WAIVER IS WARRANTED BASED ON THE
56 FOLLOWING CRITERIA:

1 (A) THE PEST SITUATION POSES AN IMMEDIATE THREAT TO HUMAN HEALTH; AND
2 (B) VIABLE ALTERNATIVES DO NOT EXIST (SUCH A DETERMINATION SHALL BE
3 MADE IN CONSULTATION WITH THE CORNELL COOPERATIVE EXTENSION SERVICE
4 INTEGRATED PEST MANAGEMENT PROGRAM).

5 AS A CONDITION OF APPROVAL, THE DEPARTMENT OF HEALTH SHALL REQUIRE A
6 COMMITMENT FROM EVERY STATE DEPARTMENT, AGENCY, AND PUBLIC BENEFIT
7 CORPORATION THAT THE UNDERLYING CAUSES OF THE PEST OUTBREAK WILL BE
8 ADDRESSED IN ORDER TO PREVENT FUTURE OUTBREAKS.

9 7. THE FOLLOWING ACTIVITIES SHALL BE EXEMPT FROM THE PROVISIONS OF
10 THIS TITLE:

11 (A) PESTICIDES USED FOR AGRICULTURAL RESEARCH PURPOSES AT THE STATE
12 UNIVERSITY COLLEGE OF TECHNOLOGY AT ALFRED, THE STATE UNIVERSITY COLLEGE
13 OF TECHNOLOGY AT CANTON, THE STATE UNIVERSITY COLLEGE OF AGRICULTURE AT
14 COBLESKILL, THE STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT DELHI, THE
15 STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT FARMINGDALE, THE STATE UNIVER-
16 SITY COLLEGE OF AGRICULTURE AT MORRISVILLE, THE STATE UNIVERSITY COLLEGE
17 OF TECHNOLOGY AT UTICA/ROME, AND THE NEW YORK STATE STATUTORY COLLEGES
18 AT CORNELL, INCLUDING THE AGRICULTURAL EXPERIMENT STATION AT GENEVA AND
19 ITS FIELD OFFICES.

20 (B) PESTICIDES USED AT BETHPAGE STATE PARK FOR ACTIVITIES DIRECTLY
21 RELATED TO THE UNITED STATES OPEN GOLF CHAMPIONSHIP IN TWO THOUSAND
22 NINE.

23 (C) THE USE OF ROTENONE AND ASSOCIATED RESINS AS A PISCICIDE FOR
24 PURPOSES DIRECTLY RELATED TO THE RECLAMATION OF FRESHWATER WATER BODIES
25 TO PREPARE FOR THE REINTRODUCTION OF NATIVE SPECIES. WATER TREATED WITH
26 ROTENONE SHALL NOT BE USED AS POTABLE WATER OR FOR IRRIGATION OF CROPS.

27 S 3. This act shall take effect immediately.