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I N A S S E M B L Y

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Introduced by M. of A. BRODSKY, ENGLEBRIGHT, DINOWITZ, CARROZZA, COLTON, PEOPLES-STOKES, P. RIVERA, FIELDS, JAFFEE, ROSENTHAL, BROOK-KRASNY, PAULIN, PERALTA, KAVANAGH -- Multi-Sponsored by -- M. of A. BOYLAND, CUSICK, GOTTFRIED, LUPARDO, MCENENY, PHEFFER, REILLY -- read once and referred to the Committee on Environmental Conservation -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

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,

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

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1 INDUSTRIAL PROCESSES OR SYSTEMS, SURFACES, WATER, OR OTHER CHEMICAL
2 SUBSTANCES FROM CONTAMINATION, FOULING, OR DETERIORATION CAUSED BY
3 BACTERIA, VIRUSES, FUNGI, PROTOZOA, ALGAE, OR SLIME; OR (C) IN THE
4 INTENDED USE IS EXEMPT FROM, OR OTHERWISE NOT SUBJECT TO, A TOLERANCE
5 UNDER APPROPRIATE PROVISIONS OF FEDERAL LAW.

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

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

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

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

29 3. EFFECTIVE JANUARY FIRST, TWO THOUSAND THIRTEEN, NO STATE DEPART-
30 MENT, AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR
31 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
32 PURPOSES SHALL APPLY ANY PESTICIDE ON STATE PROPERTY, EXCEPT AS PROVIDED
33 IN SUBDIVISION FOUR OF THIS SECTION.

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

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

40 (B) ANTIMICROBIAL PESTICIDES;

41 (C) PESTICIDES IN CONTAINED BAITS FOR THE PURPOSES OF RODENT CONTROL;
42 AND

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

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

54 6. SHOULD ANY STATE DEPARTMENT, AGENCY, OR PUBLIC BENEFIT CORPORATION
55 DETERMINE THAT A HUMAN HEALTH EMERGENCY WARRANTS THE USE OF A PESTICIDE
56 THAT WOULD OTHERWISE NOT BE ALLOWED UNDER THIS TITLE, IT MAY APPLY FOR A

1 SINGLE-USE WAIVER FROM THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF
2 HEALTH SHALL DETERMINE IF SUCH A WAIVER IS WARRANTED BASED ON THE
3 FOLLOWING CRITERIA:

4 (A) THE PEST SITUATION POSES AN IMMEDIATE THREAT TO HUMAN HEALTH; AND

5 (B) VIABLE ALTERNATIVES DO NOT EXIST (SUCH A DETERMINATION SHALL BE
6 MADE IN CONSULTATION WITH THE CORNELL COOPERATIVE EXTENSION SERVICE
7 INTEGRATED PEST MANAGEMENT PROGRAM).

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

12 7. THE FOLLOWING ACTIVITIES SHALL BE EXEMPT FROM THE PROVISIONS OF
13 THIS TITLE:

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

23 (B) 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.