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

995

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to permitting local regulation of pesticide use in special groundwater protection areas

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

Section 1. Legislative findings. The legislature finds that it is the policy of the state to protect drinking water supplies and prevent any unnecessary degradation that would endanger human health. The state has undertaken groundwater monitoring on Long Island which demonstrates the frequent detection of pesticides in drinking water supplies.

It is understood that pesticides can provide public benefits, but those benefits must be evaluated in the context of the risks to health that they may pose. The use of pesticides for purely aesthetic, cosmetic or ornamental purposes confers no public health or environmental benefit, but poses a major risk to public health because of the unnecessary risk to groundwater and drinking water supplies.

It is the purpose of this act to permit more stringent regulation by local government of such nonessential pesticide uses under standards devised by the department of environmental conservation, in order to better protect public health and drinking water supplies.

S 2. The environmental conservation law is amended by adding a new section 55-0121 to read as follows:

S 55-0121. LOCAL REGULATION OF ORNAMENTAL, AESTHETIC AND COSMETIC PESTICIDE USE BY COUNTIES.

1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY COUNTY MAY PETITION THE DEPARTMENT FOR THE AUTHORITY TO REGULATE OR PROHIBIT ORNAMENTAL, AESTHETIC AND COSMETIC PESTICIDE USE PURSUANT TO THIS SECTION. THE DEPARTMENT SHALL GRANT SUCH PETITION, IF IT DETER-

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

LBD03124-01-9

MINES THAT THE COUNTY HAS THE TECHNICAL CAPABILITY TO IMPLEMENT AND ENFORCE SUCH REGULATIONS AND THAT THE COUNTY GOVERNMENT HAS DEMONSTRATED, TO THE SATISFACTION OF THE DEPARTMENT, THE NEED FOR SUCH REGULATION BASED UPON ENVIRONMENTAL, HEALTH, AND SAFETY CRITERIA ESTABLISHED BY THE DEPARTMENT.

2. WHERE THE DEPARTMENT HAS APPROVED THE PETITION OF THE COUNTY PURSUANT TO THIS SECTION, SUCH COUNTY SHALL BE AUTHORIZED TO REGULATE BY LOCAL LAW, THE APPLICATION OF PESTICIDES TO LAWNS AND WOODLANDS FOR ORNAMENTAL, AESTHETIC, OR COSMETIC USES. SUCH AUTHORITY SHALL NOT INCLUDE THE APPLICATION OF PESTICIDES FOR AGRICULTURAL PURPOSES OR ANY APPLICATION DEEMED NECESSARY BY THE DEPARTMENT TO PROTECT THE PUBLIC HEALTH, SAFETY, OR WELFARE. THE DEPARTMENT'S APPROVAL SHALL SPECIFICALLY STATE THE TYPES OF PESTICIDE APPLICATIONS WHERE LOCAL REGULATION MAY BE IMPLEMENTED.

3. THE COUNTY, IN ENACTING OR ENFORCING A LOCAL LAW REGULATING PESTICIDE USE, MAY COOPERATE WITH ANY OTHER AGENCY OF THE STATE OR ITS SUBDIVISIONS OR OF THE FEDERAL GOVERNMENT FOR THE PURPOSE OF SECURING UNIFORMITY OF LAWS AND REGULATIONS.

4. A LOCAL LAW ENACTED UNDER THIS SECTION SHALL NOT IMPOSE OR CONTINUE IN EFFECT ANY REQUIREMENTS FOR LABELING OR PACKAGING IN ADDITION TO OR DIFFERENT FROM THOSE REQUIRED BY FEDERAL LAW.

5. THE DEPARTMENT SHALL BE AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO COUNTY PETITION REQUIREMENTS, STANDARDS FOR TECHNICAL CAPABILITY AND DEFINITIONS FOR "NEED BASED UPON ENVIRONMENTAL, HEALTH, AND SAFETY CRITERIA", "ORNAMENTAL, AESTHETIC, OR COSMETIC USE OF PESTICIDES", "APPLICATION OF PESTICIDES FOR AGRICULTURAL PURPOSES" AND "PESTICIDE APPLICATIONS NECESSARY TO PROTECT PUBLIC HEALTH, SAFETY, AND WELFARE".

6. THE DEPARTMENT SHALL PROMULGATE A MODEL LOCAL LAW AS PART OF ITS RULES AND REGULATIONS FOR USE BY COUNTIES.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.