

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

1737--A

2009-2010 Regular Sessions

I N S E N A T E

February 5, 2009

Introduced by Sens. STAVISKY, ADAMS, DIAZ, DUANE, HUNTLEY, C. JOHNSON, KRUEGER, MONSERRATE, PARKER, SAMPSON, SERRANO -- read twice and ordered printed, and when printed to be committed 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
18 PROTECTION AGENCY AND LABELED PURSUANT TO THE FEDERAL INSECTICIDE,
19 FUNGICIDE AND RODENTICIDE ACT FOR USE IN LAWN, GARDEN AND ORNAMENTAL
20 SITES OR AREAS.

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

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

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

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

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

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

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

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

1 S 4. This act shall take effect on the first of September next
2 succeeding the date on which it shall have become a law; provided,
3 however, that effective immediately, the addition, amendment and/or
4 repeal of any rule or regulation necessary for the implementation of
5 this act on its effective date are authorized and directed to be made
6 and completed on or before such effective date.