

3295

2009-2010 Regular Sessions

I N S E N A T E

March 13, 2009

Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Agriculture

AN ACT to amend the agriculture and markets law, the environmental conservation law and the public service law, in relation to the prohibition of the use of herbicides on utility rights of way

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

1 Section 1. Paragraphs c and d of subdivision 1 of section 148 of the  
2 agriculture and markets law, as added by chapter 390 of the laws of  
3 1985, are amended and a new paragraph e is added to read as follows:

4 c. economic threshold; [and]

5 d. chemical and biological control[.]; AND

6 E. UTILITY RIGHT OF WAY VEGETATION MANAGEMENT TO BE CONDUCTED IN A  
7 MANNER TO ACHIEVE THE FOLLOWING: (I) IDENTIFYING PEST HERBICIDES, DEFO-  
8 LIANTS, DESICCANTS AND PLANT REGULATOR PRACTICES AND THE IMPACT OF THESE  
9 PRACTICES UPON SOIL AND WATER POLLUTION AND HUMAN HEALTH; (II) DEVELOP-  
10 ING PRACTICAL BIOLOGICAL AND MECHANICAL CONTROL MEASURES; AND (III)  
11 PROVIDING THE UTILITY INDUSTRY WITH TRAINING, INFORMATION AND EDUCA-  
12 TIONAL MATERIALS.

13 S 2. Paragraphs e and f of subdivision 2 of section 148 of the agri-  
14 culture and markets law, as added by chapter 390 of the laws of 1985,  
15 are amended and a new paragraph g is added to read as follows:

16 e. minimized levels of pesticides in feed, food and the environment;  
17 [and]

18 f. minimized economic losses due to crop, animal and stored grain  
19 pests[.]; AND

20 G. ASSISTANCE ON THE TRANSITION FROM A DEPENDENCY UPON HERBICIDES,  
21 DEFOLIANTS, DESICCANTS, AND PLANT REGULATORS TO CONTROL VEGETATION THAT  
22 GROWS IN UTILITY RIGHTS OF WAY TO MECHANICAL ALTERNATIVES, CROP MANAGE-  
23 MENT, AND BIOLOGICAL CONTROLS.

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

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1 S 3. Section 33-1301 of the environmental conservation law is amended  
2 by adding a new subdivision 12 to read as follows:

3 12. FOR ANY PERSON, AGENCY, CORPORATION OR CERTIFIED APPLICATOR TO  
4 USE, APPLY, TREAT, DISPERSE OR DISPOSE OF ANY HERBICIDE, DEFOLIANT,  
5 DESICCANT, OR PLANT REGULATOR UPON ANY UTILITY RIGHT OF WAY OF ANY TELE-  
6 PHONE, TELEGRAPH, PIPELINE, GAS OR ELECTRIC CORPORATION USING GROUND  
7 EQUIPMENT OR AIRCRAFT. THE PROHIBITION SHALL FOLLOW A SCHEDULE ESTAB-  
8 LISHED IN SUBDIVISION ONE-A OF SECTION SIXTY-FIVE OF THE PUBLIC SERVICE  
9 LAW, EXCEPT FOR THE PURPOSE OF RESIDENTIAL APPLICATION AND PRIVATE OR  
10 COMMERCIAL APPLICATIONS USED SOLELY FOR THE PURPOSE OF PRODUCING AN  
11 AGRICULTURAL COMMODITY.

12 S 4. Section 65 of the public service law is amended by adding a new  
13 subdivision 1-a to read as follows:

14 1-A. THE USE OF ANY HERBICIDES, DEFOLIANTS, DESICCANTS AND PLANT REGU-  
15 LATORS IS PROHIBITED UPON ANY UTILITY RIGHT OF WAY OF ANY TELEPHONE,  
16 TELEGRAPH, PIPELINE, GAS OR ELECTRIC CORPORATION PURSUANT TO THE FOLLO-  
17 WING SCHEDULE: DISTRIBUTION LINES AFTER JANUARY FIRST, TWO THOUSAND  
18 THIRTEEN; TRANSMISSION LINES AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN;  
19 MAJOR UTILITY TRANSMISSION FACILITIES AFTER JANUARY FIRST, TWO THOUSAND  
20 SEVENTEEN. ON AND AFTER THESE DATES THE AFFECTED UTILITY SHALL NO LONG-  
21 ER BE ABLE TO INCLUDE OR HAVE THESE ACTIVITIES INCLUDED AS PART OF ANY  
22 JUST OR REASONABLE CHARGE FOR SERVICE NOR RECOVER ANY SUCH COSTS.

23 S 5. Section 130 of the public service law is amended by adding a new  
24 undesignated paragraph to read as follows:

25 NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE  
26 COMMISSION AND THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION SHALL NOT BE  
27 PROHIBITED FROM BANNING THE USE OF HERBICIDES, DEFOLIANTS, DESICCANTS  
28 AND PLANT REGULATORS CONSISTENT WITH SECTION 33-1301 OF THE ENVIRON-  
29 MENTAL CONSERVATION LAW ACCORDING TO THE TIME SCHEDULE ESTABLISHED IN  
30 SUBDIVISION ONE-A OF SECTION SIXTY-FIVE OF THIS CHAPTER.

31 S 6. This act shall take effect January 1, 2012.