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

1334--A

Cal. No. 360

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT, COLTON, FIELDS, JAFFEE, ROSENTHAL, KAVANAGH, PAULIN, PERALTA -- Multi-Sponsored by -- M. of A. BOYLAND, PHEFFER, REILLY, SCHIMEL, TOWNS, WALKER -- read once and referred to the Committee on Environmental Conservation -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the environmental conservation law, in relation to creating the state urban pesticide board and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Article 33 of the environmental conservation law is amended by adding a new title 17 to read as follows:

TITLE 17

STATE URBAN PESTICIDE BOARD

SECTION 33-1701. CREATION OF STATE URBAN PESTICIDE BOARD.
33-1703. FUNCTIONS, POWERS, AND DUTIES.
33-1705. RESPONSIBILITIES OF THE DEPARTMENT AND OTHER AGENCIES.

S 33-1701. CREATION OF STATE URBAN PESTICIDE BOARD.

1. THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE "STATE URBAN PESTICIDE BOARD", REFERRED TO IN THIS TITLE AS THE BOARD. SUCH BOARD SHALL CONSIST OF TEN MEMBERS, FOUR OF WHOM SHALL BE APPOINTED BY THE GOVERNOR AND SHALL INCLUDE THE COMMISSIONER AND THE COMMISSIONER OF HEALTH, THREE OF WHOM SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE, AND THREE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY.

2. THE EIGHT AT LARGE MEMBERS OF THE BOARD SHOULD INCLUDE: A REPRESENTATIVE OF AN ORGANIZATION WHOSE PRIME FUNCTION IS THE ENHANCEMENT OF THE ENVIRONMENTAL QUALITY OF THE STATE; AN INDIVIDUAL WHO BY PROFESSIONAL

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

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TRAINING OR EXPERIENCE HAS EXPERTISE IN PUBLIC HEALTH MATTERS; AN INDIVIDUAL WHO BY PROFESSIONAL TRAINING OR EXPERIENCE HAS EXPERTISE IN PEST MANAGEMENT TECHNIQUES; A REPRESENTATIVE FROM THE PESTICIDE APPLICATION INDUSTRY; A REPRESENTATIVE FROM AN ORGANIZATION CONCERNED WITH TENANTS RIGHTS IN URBAN AREAS; AND A REPRESENTATIVE OF AN ORGANIZATION FOCUSED ON ENVIRONMENTAL JUSTICE ISSUES.

3. THE COMMISSIONER AND THE COMMISSIONER OF HEALTH, OR THEIR DESIGNEES, SHALL SERVE AS THE CO-CHAIRS OF THE BOARD.

4. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

S 33-1703. FUNCTIONS, POWERS, AND DUTIES.

1. THE BOARD SHALL, AT A MINIMUM:

A. EXAMINE PATTERNS OF PESTICIDE USE IN URBAN AREAS, INCLUDING THE AMOUNT OF PESTICIDES USED RELATIVE TO OTHER AREAS, THE PARTICULAR TYPES OF PESTICIDES USED, THE TARGET PESTS BEING ADDRESSED, AND PESTICIDE USE IN PUBLIC OR ASSISTED HOUSING AND SCHOOLS;

B. RESEARCH NON-TOXIC AND LEAST TOXIC ALTERNATIVE MEANS OF PEST MANAGEMENT IN URBAN AREAS, INCLUDING INVESTIGATING PRIVATE AND PUBLIC PILOT PROJECTS IN NEW YORK STATE AND OTHER STATES WHOSE PURPOSE IS TO IMPLEMENT PEST MANAGEMENT STRATEGIES THAT DO NOT RELY ON HAZARDOUS PESTICIDES BUT INSTEAD RELY ON PHYSICAL, MECHANICAL, AND BIOLOGICAL CONTROL METHODS, WITH LEAST-TOXIC PESTICIDES AS A METHOD OF LAST RESORT; AND

C. SPECIFICALLY EXAMINE THE USE AND SALE OF ILLEGAL PESTICIDES IN URBAN AREAS.

D. THE BOARD, HOWEVER, SHALL NOT MAKE RECOMMENDATIONS INCONSISTENT WITH FDA APPROVED PRESCRIPTION THERAPIES WHICH ALSO HAPPEN TO HAVE PESTICIDAL USES.

2. THE BOARD SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGISLATURE REGARDING ANY POLICY REFORMS AND ENFORCEMENT MEASURES NECESSARY TO REDUCE THE RISK OF PESTICIDE USE IN URBAN AREAS AND ENCOURAGE USE OF NON-TOXIC METHODS OF PEST MANAGEMENT. THE BOARD SHALL ISSUE A PRELIMINARY REPORT TO THE GOVERNOR AND THE LEGISLATURE NO LATER THAN JANUARY FIFTEENTH, TWO THOUSAND TEN AND A FINAL REPORT NO LATER THAN JANUARY FIFTEENTH, TWO THOUSAND ELEVEN.

3. THE BOARD SHALL UTILIZE RESOURCES OF THE DEPARTMENT, INCLUDING, BUT NOT LIMITED TO, PESTICIDE REPORTING DATA FILED UNDER TITLE TWELVE OF THIS ARTICLE.

4. FOR THE PURPOSES OF THIS TITLE, "URBAN AREAS" SHALL MEAN CITIES OR TOWNS WITH A POPULATION DENSITY OF GREATER THAN ONE THOUSAND PERSONS PER SQUARE MILE.

S 33-1705. RESPONSIBILITIES OF THE DEPARTMENT AND OTHER AGENCIES.

THE DEPARTMENT AND THE DEPARTMENT OF HEALTH SHALL PROVIDE THE BOARD WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY OUT ITS POWERS AND DUTIES. ADDITIONALLY, ALL OTHER AGENCIES OF THE STATE OR SUBDIVISIONS THEREOF SHALL, AT THE REQUEST OF THE CO-CHAIRS PROVIDE THE BOARD WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO CARRY OUT ITS POWER AND DUTIES.

S 2. Paragraph b of subdivision 3 of section 33-0905 of the environmental conservation law, as added by chapter 612 of the laws of 1983, is amended to read as follows:

b. An applicant for certification shall satisfy the commissioner as to his OR HER knowledge and experience concerning the proper use and application of pesticides [and], pesticide application equipment, AND PEST MANAGEMENT TECHNIQUES THAT DO NOT INVOLVE THE USE OF PESTICIDES, INCLUD-

ING BUT NOT LIMITED TO STRUCTURAL IMPROVEMENTS, MECHANICAL CONTROLS, AND BIOLOGICAL CONTROLS, through examination prior to initial certification. Recertification shall be by training, workbook, or examination as required by the commissioner.

S 3. This act shall take effect immediately; provided, however, that section one of this act shall remain in full force and effect until April 1, 2011, when upon such date the provisions of such section shall expire and be deemed repealed.