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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 14, 2009

Introduced by M. of A. PARMENT, GALEF, ROSENTHAL -- Multi-Sponsored by -- M. of A. BOYLAND, McENENY -- read once and referred to the Committee on Agriculture -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

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

c. economic threshold; [and]

d. chemical and biological control[.]; AND

E. UTILITY RIGHT OF WAY VEGETATION MANAGEMENT TO BE CONDUCTED IN A MANNER TO ACHIEVE THE FOLLOWING: (I) IDENTIFYING PEST HERBICIDES, DEFOLIANTS, DESICCANTS AND PLANT REGULATOR PRACTICES AND THE IMPACT OF THESE PRACTICES UPON SOIL AND WATER POLLUTION AND HUMAN HEALTH; (II) DEVELOPING PRACTICAL BIOLOGICAL AND MECHANICAL CONTROL MEASURES; AND (III) PROVIDING THE UTILITY INDUSTRY WITH TRAINING, INFORMATION AND EDUCATIONAL MATERIALS.

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

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

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

G. ASSISTANCE ON THE TRANSITION FROM A DEPENDENCY UPON HERBICIDES, DEFOLIANTS, DESICCANTS, AND PLANT REGULATORS TO CONTROL VEGETATION THAT

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

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GROWS IN UTILITY RIGHTS OF WAY TO MECHANICAL ALTERNATIVES, CROP MANAGEMENT, AND BIOLOGICAL CONTROLS.

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

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

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

1-A. THE USE OF ANY HERBICIDES, DEFOLIANTS, DESICCANTS AND PLANT REGULATORS IS PROHIBITED UPON ANY UTILITY RIGHT OF WAY OF ANY TELEPHONE, TELEGRAPH, PIPELINE, GAS OR ELECTRIC CORPORATION PURSUANT TO THE FOLLOWING SCHEDULE: DISTRIBUTION LINES AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN; TRANSMISSION LINES AFTER JANUARY FIRST, TWO THOUSAND FIFTEEN; MAJOR UTILITY TRANSMISSION FACILITIES AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN. ON AND AFTER THESE DATES THE AFFECTED UTILITY SHALL NO LONGER BE ABLE TO INCLUDE OR HAVE THESE ACTIVITIES INCLUDED AS PART OF ANY JUST OR REASONABLE CHARGE FOR SERVICE NOR RECOVER ANY SUCH COSTS.

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

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

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