

4043

2009-2010 Regular Sessions

I N S E N A T E

April 8, 2009

Introduced by Sen. SQUADRON -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the phase-out of state use of pesticides

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that pesticides are linked to a number of acute and chronic health prob-
3 lems and that it is therefore the policy of the state to phase-out
4 pesticide use by the government for many pest control purposes and to
5 adopt a pest control policy that substantially relies on non-chemical
6 pest control strategies.

7 S 2. Article 33 of the environmental conservation law is amended by
8 adding a new title 8 to read as follows:

9 TITLE 8

10 PHASE-OUT OF STATE

11 USE OF PESTICIDES

12 SECTION 33-0801. DEFINITIONS.

13 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

14 S 33-0801. DEFINITIONS.

15 AS USED IN THIS TITLE:

16 1. "ANTIMICROBIAL PESTICIDE" MEANS A PESTICIDE THAT: (A) IS INTENDED
17 TO DISINFECT, SANITIZE, REDUCE, OR MITIGATE GROWTH OR DEVELOPMENT OF
18 MICROBIOLOGICAL ORGANISMS; (B) IS INTENDED TO PROTECT INANIMATE OBJECTS,
19 INDUSTRIAL PROCESSES OR SYSTEMS, SURFACES, WATER, OR OTHER CHEMICAL
20 SUBSTANCES FROM CONTAMINATION, FOULING, OR DETERIORATION CAUSED BY
21 BACTERIA, VIRUSES, FUNGI, PROTOZOA, ALGAE, OR SLIME; OR (C) IN THE
22 INTENDED USE IS EXEMPT FROM, OR OTHERWISE NOT SUBJECT TO, A TOLERANCE
23 UNDER APPROPRIATE PROVISIONS OF FEDERAL LAW.

24 2. "ANTIMICROBIAL PESTICIDE" DOES NOT INCLUDE: (A) A WOOD PRESERVATIVE
25 OR ANTIFOULING PAINT PRODUCT FOR WHICH A CLAIM OF PESTICIDAL ACTIVITY IS

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

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1 MADE; (B) AN AGRICULTURAL FUNGICIDE PRODUCT; OR (C) AN AQUATIC HERBICIDE
2 PRODUCT.

3 S 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

4 1. EFFECTIVE JANUARY FIRST, TWO THOUSAND TEN, NO STATE DEPARTMENT,
5 AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR
6 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
7 PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS
8 TOXICITY CATEGORY I BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-
9 CY, OR ANY PESTICIDE CLASSIFIED AS A KNOWN, LIKELY, OR PROBABLE HUMAN
10 CARCINOGEN BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, EXCEPT
11 AS PROVIDED FOR IN SUBDIVISION FOUR OF THIS SECTION.

12 2. EFFECTIVE JANUARY FIRST, TWO THOUSAND ELEVEN, NO STATE DEPARTMENT,
13 AGENCY, OR PUBLIC BENEFIT CORPORATION, OR ANY PESTICIDE APPLICATOR
14 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
15 PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS
16 TOXICITY CATEGORY II BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-
17 CY, ANY PESTICIDE CLASSIFIED AS A POSSIBLE HUMAN CARCINOGEN BY THE
18 UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, OR ANY PESTICIDE CLASSI-
19 FIED AS RESTRICTED USE BY THE UNITED STATES ENVIRONMENTAL PROTECTION
20 AGENCY OR THE DEPARTMENT, EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS
21 SECTION.

22 3. EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, NO STATE DEPARTMENT,
23 AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR
24 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL
25 PURPOSES SHALL APPLY ANY PESTICIDE ON STATE PROPERTY, EXCEPT AS PROVIDED
26 IN SUBDIVISION FOUR OF THIS SECTION.

27 4. THE PROVISIONS OF SUBDIVISIONS ONE, TWO, AND THREE OF THIS SECTION
28 SHALL NOT APPLY TO THE FOLLOWING:

29 (A) PESTICIDES OTHERWISE LAWFULLY USED FOR THE PURPOSE OF MAINTAINING
30 A SAFE DRINKING WATER SUPPLY AT DRINKING WATER TREATMENT PLANTS, WASTE-
31 WATER TREATMENT PLANTS, RESERVOIRS, AND RELATED COLLECTION, DISTRIB-
32 UTION, AND TREATMENT FACILITIES;

33 (B) ANTIMICROBIAL PESTICIDES;

34 (C) PESTICIDES IN CONTAINED BAITS FOR THE PURPOSES OF RODENT CONTROL;
35 AND

36 (D) PESTICIDES CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL
37 PROTECTION AGENCY AS EXEMPT MATERIALS UNDER 40 CFR 152.25.

38 5. ON OR BEFORE JANUARY FIRST, TWO THOUSAND TEN, THE DEPARTMENT SHALL
39 ADOPT A PEST MANAGEMENT PLAN FOR EVERY STATE DEPARTMENT, AGENCY, AND
40 PUBLIC BENEFIT CORPORATION. SUCH PLAN SHALL TAKE EFFECT ON JANUARY
41 FIRST, TWO THOUSAND TEN AND SHALL BE CONSISTENT WITH THE PROVISIONS OF
42 THIS TITLE. SUCH PLAN SHALL ADDRESS PEST POPULATION MONITORING,
43 LEAST-TOXIC PESTICIDES FOR USE PRIOR TO JANUARY FIRST, TWO THOUSAND
44 TWELVE, AND NON-CHEMICAL PEST CONTROL STRATEGIES FOR USE AFTER SUCH
45 DATE, WHICH WILL EFFECTIVELY MANAGE PEST PROBLEMS IN A COMPREHENSIVE
46 MANNER.

47 6. SHOULD ANY STATE DEPARTMENT, AGENCY, OR PUBLIC BENEFIT CORPORATION
48 DETERMINE THAT A HUMAN HEALTH EMERGENCY WARRANTS THE USE OF A PESTICIDE
49 THAT WOULD OTHERWISE NOT BE ALLOWED UNDER THIS TITLE, IT MAY APPLY FOR A
50 SINGLE-USE WAIVER FROM THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF
51 HEALTH SHALL DETERMINE IF SUCH A WAIVER IS WARRANTED BASED ON THE
52 FOLLOWING CRITERIA:

53 (A) THE PEST SITUATION POSES AN IMMEDIATE THREAT TO HUMAN HEALTH; AND

54 (B) VIABLE ALTERNATIVES DO NOT EXIST (SUCH A DETERMINATION SHALL BE
55 MADE IN CONSULTATION WITH THE CORNELL COOPERATIVE EXTENSION SERVICE
56 INTEGRATED PEST MANAGEMENT PROGRAM).

1 AS A CONDITION OF APPROVAL, THE DEPARTMENT OF HEALTH SHALL REQUIRE A
2 COMMITMENT FROM EVERY STATE DEPARTMENT, AGENCY, AND PUBLIC BENEFIT
3 CORPORATION THAT THE UNDERLYING CAUSES OF THE PEST OUTBREAK WILL BE
4 ADDRESSED IN ORDER TO PREVENT FUTURE OUTBREAKS.

5 7. THE FOLLOWING ACTIVITIES SHALL BE EXEMPT FROM THE PROVISIONS OF
6 THIS TITLE:

7 (A) PESTICIDES USED FOR AGRICULTURAL RESEARCH PURPOSES AT THE STATE
8 UNIVERSITY COLLEGE OF TECHNOLOGY AT ALFRED, THE STATE UNIVERSITY COLLEGE
9 OF TECHNOLOGY AT CANTON, THE STATE UNIVERSITY COLLEGE OF AGRICULTURE AT
10 COBLESKILL, THE STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT DELHI, THE
11 STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT FARMINGDALE, THE STATE UNIVER-
12 SITY COLLEGE OF AGRICULTURE AT MORRISVILLE, THE STATE UNIVERSITY COLLEGE
13 OF TECHNOLOGY AT UTICA/ROME, AND THE NEW YORK STATE STATUTORY COLLEGES
14 AT CORNELL, INCLUDING THE AGRICULTURAL EXPERIMENT STATION AT GENEVA AND
15 ITS FIELD OFFICES.

16 (B) PESTICIDES USED AT BETHPAGE STATE PARK FOR ACTIVITIES DIRECTLY
17 RELATED TO THE UNITED STATES OPEN GOLF CHAMPIONSHIP IN TWO THOUSAND
18 NINE.

19 (C) THE USE OF ROTENONE AND ASSOCIATED RESINS AS A PISCICIDE FOR
20 PURPOSES DIRECTLY RELATED TO THE RECLAMATION OF FRESHWATER WATER BODIES
21 TO PREPARE FOR THE REINTRODUCTION OF NATIVE SPECIES. WATER TREATED WITH
22 ROTENONE SHALL NOT BE USED AS POTABLE WATER OR FOR IRRIGATION OF CROPS.

23 S 3. This act shall take effect immediately.