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

4895

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. AUBERTINE -- 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, the agriculture and markets law and the state finance law, in relation to establishing a farm pesticide collection program

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 8 to read as follows:

TITLE 8

FARM PESTICIDE COLLECTION PROGRAM

SECTION 33-0801. FARM PESTICIDE COLLECTION PROGRAM.
33-0803. POWERS AND DUTIES OF THE DEPARTMENT.
33-0805. POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE AND MARKETS.

S 33-0801. FARM PESTICIDE COLLECTION PROGRAM.

THE DEPARTMENT AND THE DEPARTMENT OF AGRICULTURE AND MARKETS ARE HEREBY AUTHORIZED AND DIRECTED TO JOINTLY DEVELOP, IMPLEMENT AND OPERATE A FARM PESTICIDE COLLECTION PROGRAM. SUCH PROGRAM SHALL BE MADE AVAILABLE FOR UTILIZATION BY OWNERS AND RESIDENTS OF FARMS, BOTH ACTIVE AND INACTIVE, LOCATED WITHIN THIS STATE, FOR THE COLLECTION AND DISPOSAL OF PESTICIDES, FERTILIZERS CONTAINING PESTICIDES AND RECYCLING OF PESTICIDE CONTAINERS FROM SUCH FARMS. NO OWNER OR RESIDENT OF A FARM SHALL BE REQUIRED TO PAY A FEE OR CHARGE FOR THE COLLECTION AND DISPOSAL OF PESTICIDES PURSUANT TO SUCH PROGRAM.

S 33-0803. POWERS AND DUTIES OF THE DEPARTMENT.

THE DEPARTMENT, IN ADDITION TO ANY OTHER POWERS GRANTED AND DUTIES REQUIRED BY ANY OTHER PROVISION OF LAW, SHALL HAVE THE FOLLOWING POWERS AND DUTIES WITH RESPECT TO THE FARM PESTICIDE COLLECTION PROGRAM:

1. TO DESIGNATE CERTAIN STAFF TO ADMINISTER THE PROGRAM, INCLUDING A PROGRAM ADMINISTRATOR, TO COORDINATE SUCH PROGRAM, WITH A FOCUS ON

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

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CONFIDENTIALITY, BETWEEN THE DEPARTMENT, THE DEPARTMENT OF AGRICULTURE AND MARKETS, ANY COMPANY WITH WHICH THE DEPARTMENT HAS CONTRACTED TO PROVIDE COLLECTION AND DISPOSAL SERVICES, PUBLIC AND PRIVATE AGENCIES AND FARMERS;

2. TO CONTRACT WITH HAZARDOUS WASTE COLLECTION COMPANIES, PESTICIDE COLLECTION COMPANIES OR OTHER QUALIFIED COMPANIES TO PROVIDE COLLECTION AND DISPOSAL SERVICES;

3. TO PROVIDE OVERSIGHT OF ANY COMPANY WITH WHICH THE DEPARTMENT HAS CONTRACTED TO PROVIDE COLLECTION AND DISPOSAL SERVICES;

4. TO PROVIDE A PESTICIDE CONTAINER RECYCLING PROGRAM FOR CONTAINERS OF COLLECTED PESTICIDES AND FERTILIZERS CONTAINING PESTICIDES;

5. TO PROVIDE SCHEDULING FOR EACH COUNTY OF THE STATE FOR THE COLLECTION AND DISPOSAL OF AGRICHEMICALS AND PESTICIDES AND FERTILIZERS CONTAINING PESTICIDES;

6. TO GRANT ANY WAIVERS NECESSARY UNDER THE STANDARDS FOR UNIVERSAL WASTE FOR COLLECTION AND TRANSPORTATION OF PESTICIDES AND FERTILIZERS CONTAINING PESTICIDES;

7. TO COORDINATE WITH COUNTY CORNELL COOPERATIVE EXTENSION OFFICES, SOIL AND WATER CONSERVATION DISTRICTS, AND FARM ORGANIZATIONS IN THE ADMINISTRATION, SCHEDULING AND EFFORTS TO ENSURE PARTICIPATION AND CONFIDENTIALITY OF SUCH PROGRAM; AND

8. TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS TITLE.

S 33-0805. POWERS AND DUTIES OF THE DEPARTMENT OF AGRICULTURE AND MARKETS.

THE DEPARTMENT OF AGRICULTURE AND MARKETS, IN ADDITION TO ANY OTHER POWERS GRANTED AND DUTIES REQUIRED BY ANY OTHER PROVISION OF LAW, SHALL HAVE THE FOLLOWING POWERS AND DUTIES WITH RESPECT TO THE FARM PESTICIDE COLLECTION PROGRAM:

1. TO CONDUCT OUTREACH, EDUCATION AND PUBLICITY REGARDING SUCH PROGRAM WITHIN EACH COUNTY OF THE STATE TO INCREASE AWARENESS OF SUCH PROGRAM;

2. TO ENCOURAGE FARMERS TO PARTICIPATE IN SUCH PROGRAM;

3. TO DEVELOP AND IMPLEMENT, WITH A FOCUS ON CONFIDENTIALITY, NOTIFICATION AND PRE-REGISTRATION PROCEDURES FOR SUCH PROGRAM IN ORDER TO FACILITATE PARTICIPATION IN SUCH PROGRAM;

4. TO APPOINT LOCAL AGENTS TO INVENTORY, WITH A FOCUS ON CONFIDENTIALITY, PESTICIDES, FERTILIZERS CONTAINING PESTICIDES, AND PESTICIDE CONTAINERS AT PARTICIPATING FARMS PRIOR TO THEIR COLLECTION AND DISPOSAL;

5. TO COORDINATE WITH COUNTY CORNELL COOPERATIVE EXTENSION OFFICES, SOIL AND WATER CONSERVATION DISTRICTS, AND FARM ORGANIZATIONS IN THE OUTREACH, EDUCATION, PUBLICITY AND EFFORTS TO ENSURE PARTICIPATION AND CONFIDENTIALITY OF SUCH PROGRAM; AND

6. TO PROMULGATE ANY RULES AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS TITLE.

S 2. Section 33-0304 of the environmental conservation law, as amended by section 4 of part YY of chapter 59 of the laws of 2009, is amended to read as follows:

S 33-0304. Fees.

[All] EXCEPT AS PROVIDED IN SECTION 33-0705 OF THIS ARTICLE, ALL fees collected pursuant to this article shall be deposited into the environmental conservation special revenue fund to the credit of the environmental regulatory account; provided, however, that the first five million dollars collected pursuant to this article shall be deposited into the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

S 3. Section 33-0705 of the environmental conservation law, as amended by section 2 of part FF of chapter 59 of the laws of 2008, subdivisions a and b as amended by section 5 of part YY of chapter 59 of the laws of 2009, is amended to read as follows:

S 33-0705. Fee for registration.

The applicant for registration shall pay a fee as follows:

a. On or before July 1, 2011, six hundred FIFTY dollars for each pesticide proposed to be registered, provided that the applicant has submitted to the department proof in the form of a federal income tax return for the previous year showing gross annual sales, for federal income tax purposes, of three million five hundred thousand dollars or less;

b. On or before July 1, 2011, for all others, six hundred [twenty] SEVENTY dollars for each pesticide proposed to be registered;

c. After July 1, 2011, [fifty] ONE HUNDRED dollars for each pesticide proposed to be registered.

FIFTY DOLLARS OF EACH REGISTRATION FEE PAID PURSUANT TO THIS SECTION SHALL BE DEPOSITED INTO THE FARM PESTICIDE COLLECTION PROGRAM FUND ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW FOR THE PURPOSE OF ADMINISTERING THE FARM PESTICIDE COLLECTION PROGRAM ESTABLISHED PURSUANT TO TITLE EIGHT OF THIS ARTICLE.

S 4. Section 16 of the agriculture and markets law is amended by adding a new subdivision 44 to read as follows:

44. JOINTLY DEVELOP, IMPLEMENT AND OPERATE A FARM PESTICIDE COLLECTION PROGRAM WITH THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION PURSUANT TO TITLE EIGHT OF ARTICLE THIRTY-THREE OF THE ENVIRONMENTAL CONSERVATION LAW.

S 5. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. FARM PESTICIDE COLLECTION PROGRAM FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A SPECIAL FUND TO BE KNOWN AS THE "FARM PESTICIDE COLLECTION PROGRAM FUND".

2. SUCH FUND SHALL CONSIST OF ALL REVENUES RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, PURSUANT TO THE PROVISIONS OF SECTION 33-0705 OF THE ENVIRONMENTAL CONSERVATION LAW AND ALL OTHER MONEYS APPROPRIATED, CREDITED, OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

3. MONEYS OF SUCH FUND SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER.

4. MONEYS IN SUCH FUND SHALL BE EXPENDED ONLY FOR THE ADMINISTRATION OF THE FARM PESTICIDE COLLECTION PROGRAM ESTABLISHED PURSUANT TO TITLE EIGHT OF ARTICLE THIRTY-THREE OF THE ENVIRONMENTAL CONSERVATION LAW.

5. ALL PAYMENTS FROM SUCH FUND SHALL BE MADE BY THE DEPARTMENT OF TAXATION AND FINANCE AFTER AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED BY THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such effective date.