

4983--A

2009-2010 Regular Sessions

I N   S E N A T E

April 27, 2009

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Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law and the education law, in relation to the use and guidance of pesticide alternatives

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

1     Section 1. Section 33-0303 of the environmental conservation law is  
2     amended by adding a new subdivision 7 to read as follows:  
3     7. THE COMMISSIONER, IN CONSULTATION WITH THE COMMISSIONER OF EDUCA-  
4     TION AND THE COMMISSIONER OF HEALTH, SHALL DEVELOP GUIDANCE ON PESTICIDE  
5     ALTERNATIVES TO FACILITATE COMPLIANCE WITH SECTION FOUR HUNDRED NINE-K  
6     OF THE EDUCATION LAW.  
7     S 2. The education law is amended by adding a new section 409-k to  
8     read as follows:  
9     S 409-K. PESTICIDE ALTERNATIVES. 1. FOR PURPOSES OF THIS SECTION THE  
10    FOLLOWING TERMS SHALL HAVE THE MEANINGS SET FORTH BELOW:  
11    (A) "SCHOOL" SHALL MEAN ANY PUBLIC SCHOOL DISTRICT OR PRIVATE OR PARO-  
12    CHIAL SCHOOL OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.  
13    (B) "DAY CARE" SHALL APPLY TO ALL CHILD DAY CARE CENTERS OR HEAD START  
14    DAY CARE CENTERS, AS DEFINED IN SECTION THREE HUNDRED NINETY OF THE  
15    SOCIAL SERVICES LAW.  
16    (C) "PESTICIDE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVI-  
17    SION THIRTY-FIVE OF SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION  
18    LAW, PROVIDED HOWEVER THAT IT SHALL NOT INCLUDE:  
19    (I) THE APPLICATION OF ANTI-MICROBIAL PESTICIDES AND ANTI-MICROBIAL  
20    PRODUCTS AS DEFINED BY FIFRA IN 7 U.S.C. SECTION 136 (MM) AND 136 Q (H)  
21    (2);

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

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(II) THE USE OF AN AEROSOL PRODUCT WITH A DIRECTED SPRAY, IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR LESS, WHEN USED TO PROTECT INDIVIDUALS FROM AN IMMINENT THREAT FROM STINGING AND BITING INSECTS, INCLUDING VENOMOUS SPIDERS, BEES, WASPS AND HORNETS. THIS SECTION SHALL NOT EXEMPT FROM NOTIFICATION THE USE OF ANY FOGGER PRODUCT OR AEROSOL PRODUCT THAT DISCHARGES TO A WIDE AREA;

(III) THE USE OF NON-VOLATILE INSECT OR RODENT BAIT IN A TAMPER RESISTANT CONTAINER;

(IV) THE APPLICATION OF A PESTICIDE CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS AN EXEMPT MATERIAL UNDER 40 CFR PART 152.25;

(V) THE USE OF BORIC ACID AND DISODIUM OCTABORATE TETRAHYDRATE; OR

(VI) THE USE OF HORTICULTURAL SOAP AND OILS THAT DO NOT CONTAIN SYNTHETIC PESTICIDES OR SYNERGISTS.

2. NO SCHOOL OR DAY CARE SHALL APPLY PESTICIDE TO ANY PLAYGROUNDS, TURF, ATHLETIC OR PLAYING FIELDS OR SURROUNDING GROUNDS, EXCEPT THAT AN EMERGENCY APPLICATION OF A PESTICIDE MAY BE MADE AS DETERMINED BY THE COUNTY HEALTH DEPARTMENT, THE COMMISSIONER OF HEALTH, THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION, OR, IN THE CASE OF A PUBLIC SCHOOL, THE SCHOOL BOARD.

S 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, that section two of this act shall take effect one year after it shall have become a law. Effective immediately the department of education and the department of environmental conservation may promulgate any rule or regulation necessary for the timely implementation of this act on its effective date.