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

1787

2011-2012 Regular Sessions

I N S E N A T E

January 12, 2011

Introduced by Sen. STAVISKY -- 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 and the education law, in relation to regulating the use of pesticides for aesthetic purposes on public and private school grounds

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

Section 1. Short title. This act shall be known and may be cited as the "New York pesticides-free schools act".

S 2. Subdivision 1 of section 3-0301 of the environmental conservation law is amended by adding a new paragraph kk to read as follows:

KK. CONSULT AND COOPERATE WITH THE DEPARTMENT OF HEALTH TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE ABATEMENT OF HARMFUL PESTICIDES USED ON SCHOOL GROUNDS AS DEFINED IN SECTION FOUR HUNDRED NINE-L OF THE EDUCATION LAW.

S 3. The education law is amended by adding a new section 409-l to read as follows:

S 409-L. PROHIBITION OF PESTICIDES FOR AESTHETIC PURPOSE ON PUBLIC AND PRIVATE SCHOOL GROUNDS. 1. FOR THE PURPOSES OF THIS SECTION THE FOLLOWING TERMS SHALL HAVE THE MEANINGS SET FORTH BELOW:

(A) "PESTICIDE" SHALL MEAN A FUNGICIDE USED ON PLANTS, AN INSECTICIDE, A HERBICIDE OR A RODENTICIDE BUT DOES NOT MEAN A SANITIZER, DISINFECTANT, ANTIMICROBIAL AGENT OR A PESTICIDE BAIT, AND "LAWN CARE PESTICIDE" MEANS A PESTICIDE REGISTERED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AND LABELED PURSUANT TO THE FEDERAL INSECTICIDE, FUNGICIDE AND RODENTICIDE ACT FOR USE IN LAWN, GARDEN AND ORNAMENTAL SITES OR AREAS.

(B) "SCHOOL" MEANS ALL FACILITIES, BOTH PUBLIC AND PRIVATE EDUCATIONAL INSTITUTIONS, FOR GRADES KINDERGARTEN THROUGH TWELVE OPERATED IN THIS STATE.

(C) "GROUNDS" MEANS SCHOOL LAND, INCLUDING PLAYING FIELDS AND GREEN SPACES OF ALL PUBLIC OR PRIVATE SCHOOL OR EDUCATIONAL INSTITUTIONS OPERATED IN THIS STATE.

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

LBD06329-01-1

(D) "INTEGRATED PEST MANAGEMENT" AND "IPM" MEAN A DECISION-MAKING PROCESS FOR PEST CONTROL THAT UTILIZES REGULAR MONITORING TO DETERMINE IF AND WHEN CONTROLS ARE NEEDED; EMPLOYS PHYSICAL, MECHANICAL, CULTURAL, BIOLOGICAL AND EDUCATIONAL TACTICS TO CONTROL CONDITIONS THAT PROMOTE PEST INFESTATIONS AND TO KEEP PEST POPULATIONS AT TOLERABLE DAMAGE OR ANNOYANCE LEVELS; AND ONLY AS A LAST RESORT, UTILIZES LEAST TOXIC PESTICIDE CONTROLS. THE OVERALL GOAL OF IPM IS TO ELIMINATE THE UNNECESSARY USE OF PESTICIDES AND REDUCE THE USE OF ALL PESTICIDES.

2. BY THE FIRST OF SEPTEMBER AFTER THE EFFECTIVE DATE OF THIS SECTION, ALL SCHOOLS SHALL HAVE INTEGRATED PEST MANAGEMENT PLANS FOR ALL PEST CONTROL ACTIVITIES, WHICH HAVE BEEN SUBJECT TO PUBLIC REVIEW AND APPROVED BY THE SCHOOL BOARD. SUCH PLANS SHALL UTILIZE IPM TECHNIQUES TO MANAGE AND CONTROL PESTS AND PROBLEMS. ALL IPM PLANS SHALL INCLUDE A PROVISION FOR PUBLIC ACCESS TO ALL INFORMATION ABOUT THE IMPLEMENTATION OF THE PLAN. SCHOOL DISTRICTS MAY CREATE ADVISORY COMMITTEES TO ASSIST IN THE DEVELOPMENT OF THE IPM PLANS, AND TO MONITOR THE IMPLEMENTATION OF SUCH PLANS. NO SCHOOL SHALL CONDUCT OR HAVE CONDUCTED ANY PESTICIDE APPLICATION TO SCHOOL GROUNDS WHICH APPLICATION IS SOLELY FOR AESTHETIC PURPOSES OR WHICH IS PREVENTATIVE IN NATURE AND WHICH DOES NOT RESPOND TO VERIFIABLE PEST PROBLEMS.

3. BY THE FIRST OF SEPTEMBER IN THE YEAR NEXT SUCCEEDING THE EFFECTIVE DATE OF THIS SECTION, ALL APPLICATIONS OF PESTICIDES MADE ON THE GROUNDS OF ANY PUBLIC OR PRIVATE SCHOOL SOLELY FOR AESTHETIC PURPOSES SHALL BE PROHIBITED. SUCH PROHIBITION SHALL NOT INCLUDE ANY APPLICATION OF PESTICIDES DEEMED NECESSARY BY THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE, PESTICIDES NEEDED TO PROTECT THE BUILDING AND STRUCTURAL INTEGRITY OF THE SCHOOL FACILITY OR SUCH APPLICATION OF PESTICIDES INCLUDING BACILLUS POPILLAE SPORES REGISTERED PURSUANT TO SECTION ONE HUNDRED THIRTY-SIX-A OF TITLE SEVEN OF THE UNITED STATES CODE. SUCH NECESSARY APPLICATION MAY BE MADE OUTSIDE OF REGULAR BUSINESS HOURS PROVIDED IT IS THE LEAST TOXIC ALTERNATIVE AND DOES NOT INVOLVE A RESTRICTED USE PESTICIDE, AS DEFINED IN SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW. NO CHILD ENROLLED AT SUCH SCHOOL MAY ENTER AN AREA WHERE PESTICIDES HAVE BEEN APPLIED UNTIL IT IS SAFE TO DO SO ACCORDING TO THE PROVISIONS OF THE PESTICIDE LABEL.

4. A SCHOOL DISTRICT MAY PETITION THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN THE EVENT THAT THE DISTRICT DETERMINES AN EXTENSION FOR THE ABATEMENT OF PESTICIDES IS NEEDED PROVIDED THE SCHOOL DISTRICT HAS MADE A GOOD FAITH EFFORT TO COMPLY WITH THE PROVISIONS OF THIS SECTION.

5. WITHIN TWELVE MONTHS OF THE EFFECTIVE DATE OF THIS SECTION THE DEPARTMENT OF ENVIRONMENTAL CONSERVATION IN COOPERATION WITH THE DEPARTMENT OF HEALTH SHALL ISSUE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION, INCLUDING BUT NOT LIMITED TO A MODEL PLAN, A COMPLIANCE SCHEDULE AND APPROPRIATE PENALTIES FOR NONCOMPLIANCE. SUCH RULES AND REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO STANDARDS FOR TECHNICAL CAPABILITY AND DEFINITIONS FOR "PESTICIDE APPLICATIONS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY, AND WELFARE" AND "PESTICIDE APPLICATIONS NECESSARY TO PROTECT THE BUILDING AND STRUCTURAL INTEGRITY OF A FACILITY".

S 4. This act shall take effect on the first of September next succeeding the date on which it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.