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

4140

2011-2012 Regular Sessions

I N A S S E M B L Y

February 1, 2011

Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the display and storage of pesticides offered for retail sale

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

Section 1. The environmental conservation law is amended by adding a new section 33-0902 to read as follows:

S 33-0902. DISPLAY AND STORAGE OF PESTICIDES OFFERED FOR RETAIL SALE.

1. REQUIREMENTS FOR DISPLAY AND STORAGE OF GENERAL USE PESTICIDES OFFERED FOR SALE IN RETAIL FOOD SELLING ESTABLISHMENTS. A. ALL GENERAL USE PESTICIDE PRODUCTS WHICH ARE OFFERED FOR SALE AND SOLD IN RETAIL FOOD SELLING ESTABLISHMENTS SHALL BE:

(1) DISPLAYED IN A MANNER THAT CLEARLY IDENTIFIES THE PRODUCTS AS PESTICIDES;

(2) ISOLATED FROM FOOD PRODUCTS IN A MANNER THAT PREVENTS CONTAMINATION FROM PESTICIDE PRODUCT SPILLS, LEAKS OR AIR EMISSIONS; AND

(3) STORED IN LOCKED AREAS WHICH:

(I) ARE STRUCTURALLY SEPARATED FROM OFFICE AND GENERAL WORK AREAS AND POSTED WITH PESTICIDE STORAGE WARNING SIGNS;

(II) HAVE ADEQUATE VAPOR VENTING CAPABILITY;

(III) ARE CAPABLE OF CONTAINING SPILLS OF THE TOTAL VOLUME STORED;

(IV) HAVE APPROPRIATE FIRE, SPILL AND FIRST AID CONTAINMENT EQUIPMENT;

(V) HAVE EMERGENCY WATER SUPPLIES; AND

(VI) SEGREGATED BY PESTICIDAL FUNCTION, FLAMMABILITY AND COMBUSTIBILITY, IN MANUFACTURER'S ORIGINAL CONTAINER WITH CLEAR LABELING.

B. RESTRICTED USE PESTICIDES SHALL NOT BE SOLD IN RETAIL FOOD SELLING ESTABLISHMENTS.

C. ALL PERSONS HAVING ACCESS TO THE STORAGE AREA FOR GENERAL USE PESTICIDES SHALL BE TRAINED IN APPROPRIATE SAFETY AND EMERGENCY PROCEDURES FOR THE PESTICIDES STORED.

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

LBD05265-01-1

D. ALL SELLERS OF PESTICIDES IN RETAIL FOOD SELLING ESTABLISHMENTS SHALL ANNUALLY NOTIFY THE LOCAL FIRE DEPARTMENT OF THE TYPES, QUANTITIES AND LOCATION OF PESTICIDES STORED, PROVIDE THE LOCAL FIRE DEPARTMENTS, RESCUE SQUADS AND LOCAL HOSPITALS WITH THEIR EMERGENCY RESPONSE PLAN AND MAINTAIN A CURRENT INVENTORY OF THE PESTICIDES IN STORAGE.

E. LOCAL GOVERNMENTS MAY REGULATE GENERAL USE PESTICIDE DISPLAY AND STORAGE IN RETAIL FOOD SELLING ESTABLISHMENTS, AS AUTHORIZED BY THIS SECTION, MORE RESTRICTIVELY THAN THE COMMISSIONER.

2. REQUIREMENTS FOR DISPLAY AND STORAGE OF PESTICIDES OFFERED FOR SALE IN NON-FOOD SELLING ESTABLISHMENTS. A. RETAIL ESTABLISHMENTS WHICH OFFER FOR SALE AND SELL GENERAL USE PESTICIDE PRODUCTS BUT DO NOT SELL FOOD, SHALL MEET ALL REQUIREMENTS CONTAINED IN SUBDIVISION ONE OF THIS SECTION, EXCEPT THAT RESTRICTED USE PESTICIDES MAY BE OFFERED FOR SALE AND SOLD IF THE BUSINESS HAS A VALID COMMERCIAL PERMIT ISSUED BY THE COMMISSIONER.

B. RETAIL ESTABLISHMENTS OFFERING FOR SALE OR SELLING RESTRICTED USE PESTICIDES SHALL MEET THE STORAGE REQUIREMENTS IN SUBDIVISION ONE OF THIS SECTION, AND IN ADDITION, SHALL MEET THE FOLLOWING REQUIREMENTS:

(1) RESTRICTED USE PESTICIDES ON DISPLAY SHALL BE KEPT PHYSICALLY SEPARATED FROM GENERAL USE PRODUCTS AND CLEARLY MARKED AS RESTRICTED USE PESTICIDES; AND

(2) AT THE DISCRETION OF THE LOCAL FIRE OR HEALTH DEPARTMENT, RESTRICTED USE PESTICIDES MAY BE REQUIRED TO BE STORED SEPARATELY ACCORDING TO THEIR COMBUSTIBILITY, FLAMMABILITY OR IGNITABILITY IN A SEPARATE BUILDING OR SEPARATED FROM THE REMAINDER OF THE BUILDING BY FIRE-RESISTANT WALLS AND DOORS OR THEIR EQUIVALENT, IN APPROPRIATE CONTAINER PILE VOLUMES, AISLE SPACING AND DISTANCES FROM PROPERTY BOUNDARIES.

C. LOCAL GOVERNMENTS MAY REGULATE GENERAL AND RESTRICTED USE PESTICIDE DISPLAY AND STORAGE IN RETAIL ESTABLISHMENTS WHICH DO NOT SELL FOOD, AS AUTHORIZED BY THIS SECTION, MORE RESTRICTIVELY THAN THE COMMISSIONER. HOWEVER, THE COMMISSIONER SHALL RETAIN AUTHORITY TO REGULATE THE SALE OF RESTRICTED USE PESTICIDES BY COMMERCIAL PERMIT, PURSUANT TO SECTION 33-0901 OF THIS TITLE.

S 2. This act shall take effect on the ninetieth day after it shall have become a law.