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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. WRIGHT, COLTON, JAFFEE, ROSENTHAL, KAVANAGH,
PAULIN -- Multi-Sponsored by -- M. of A. BOYLAND, PHEFFER, REILLY,
SCHIMEL, TOWNS -- read once and referred to the Committee on Environ-
mental Conservation

AN ACT to amend the environmental conservation law, in relation to
creating the state urban pesticide board and providing for the repeal
of certain provisions upon expiration thereof

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

1 Section 1. Article 33 of the environmental conservation law is amended
2 by adding a new title 17 to read as follows:

3 TITLE 17

4 STATE URBAN PESTICIDE BOARD

5 SECTION 33-1701. CREATION OF STATE URBAN PESTICIDE BOARD.

6 33-1703. FUNCTIONS, POWERS, AND DUTIES.

7 33-1705. RESPONSIBILITIES OF THE DEPARTMENT AND OTHER AGENCIES.

8 S 33-1701. CREATION OF STATE URBAN PESTICIDE BOARD.

9 1. THERE IS HEREBY CREATED WITHIN THE DEPARTMENT THE "STATE URBAN
10 PESTICIDE BOARD", REFERRED TO IN THIS TITLE AS THE BOARD. SUCH BOARD
11 SHALL CONSIST OF TEN MEMBERS, FOUR OF WHOM SHALL BE APPOINTED BY THE
12 GOVERNOR AND SHALL INCLUDE THE COMMISSIONER AND THE COMMISSIONER OF
13 HEALTH, THREE OF WHOM SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF
14 THE SENATE, AND THREE OF WHOM SHALL BE APPOINTED BY THE SPEAKER OF THE
15 ASSEMBLY.

16 2. THE EIGHT AT LARGE MEMBERS OF THE BOARD SHOULD INCLUDE: A REPRESen-
17 TATIVE OF AN ORGANIZATION WHOSE PRIME FUNCTION IS THE ENHANCEMENT OF THE
18 ENVIRONMENTAL QUALITY OF THE STATE; AN INDIVIDUAL WHO BY PROFESSIONAL
19 TRAINING OR EXPERIENCE HAS EXPERTISE IN PUBLIC HEALTH MATTERS; AN INDI-
20 VIDUAL WHO BY PROFESSIONAL TRAINING OR EXPERIENCE HAS EXPERTISE IN PEST
21 MANAGEMENT TECHNIQUES; A REPRESENTATIVE FROM THE PESTICIDE APPLICATION

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

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1 INDUSTRY; A REPRESENTATIVE FROM AN ORGANIZATION CONCERNED WITH TENANTS
2 RIGHTS IN URBAN AREAS; AND A REPRESENTATIVE OF AN ORGANIZATION FOCUSED
3 ON ENVIRONMENTAL JUSTICE ISSUES.

4 3. THE COMMISSIONER AND THE COMMISSIONER OF HEALTH, OR THEIR DESIG-
5 NEES, SHALL SERVE AS THE CO-CHAIRS OF THE BOARD.

6 4. THE MEMBERS OF THE BOARD SHALL RECEIVE NO COMPENSATION FOR THEIR
7 SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES
8 INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

9 S 33-1703. FUNCTIONS, POWERS, AND DUTIES.

10 1. THE BOARD SHALL, AT A MINIMUM:

11 A. EXAMINE PATTERNS OF PESTICIDE USE IN URBAN AREAS, INCLUDING THE
12 AMOUNT OF PESTICIDES USED RELATIVE TO OTHER AREAS, THE PARTICULAR TYPES
13 OF PESTICIDES USED, THE TARGET PESTS BEING ADDRESSED, AND PESTICIDE USE
14 IN PUBLIC OR ASSISTED HOUSING AND SCHOOLS;

15 B. RESEARCH NON-TOXIC AND LEAST TOXIC ALTERNATIVE MEANS OF PEST
16 MANAGEMENT IN URBAN AREAS, INCLUDING INVESTIGATING PRIVATE AND PUBLIC
17 PILOT PROJECTS IN NEW YORK STATE AND OTHER STATES WHOSE PURPOSE IS TO
18 IMPLEMENT PEST MANAGEMENT STRATEGIES THAT DO NOT RELY ON HAZARDOUS
19 PESTICIDES BUT INSTEAD RELY ON PHYSICAL, MECHANICAL, AND BIOLOGICAL
20 CONTROL METHODS, WITH LEAST-TOXIC PESTICIDES AS A METHOD OF LAST RESORT;
21 AND

22 C. SPECIFICALLY EXAMINE THE USE AND SALE OF ILLEGAL PESTICIDES IN
23 URBAN AREAS.

24 D. THE BOARD, HOWEVER, SHALL NOT MAKE RECOMMENDATIONS INCONSISTENT
25 WITH FDA APPROVED PRESCRIPTION THERAPIES WHICH ALSO HAPPEN TO HAVE
26 PESTICIDAL USES.

27 2. THE BOARD SHALL MAKE RECOMMENDATIONS TO THE GOVERNOR AND THE LEGIS-
28 LATURE REGARDING ANY POLICY REFORMS AND ENFORCEMENT MEASURES NECESSARY
29 TO REDUCE THE RISK OF PESTICIDE USE IN URBAN AREAS AND ENCOURAGE USE OF
30 NON-TOXIC METHODS OF PEST MANAGEMENT. THE BOARD SHALL ISSUE A PRELIMI-
31 NARY REPORT TO THE GOVERNOR AND THE LEGISLATURE NO LATER THAN JANUARY
32 FIFTEENTH, TWO THOUSAND TWELVE AND A FINAL REPORT NO LATER THAN JANUARY
33 FIFTEENTH, TWO THOUSAND THIRTEEN.

34 3. THE BOARD SHALL UTILIZE RESOURCES OF THE DEPARTMENT, INCLUDING, BUT
35 NOT LIMITED TO, PESTICIDE REPORTING DATA FILED UNDER TITLE TWELVE OF
36 THIS ARTICLE.

37 4. FOR THE PURPOSES OF THIS TITLE, "URBAN AREAS" SHALL MEAN CITIES OR
38 TOWNS WITH A POPULATION DENSITY OF GREATER THAN ONE THOUSAND PERSONS PER
39 SQUARE MILE.

40 S 33-1705. RESPONSIBILITIES OF THE DEPARTMENT AND OTHER AGENCIES.

41 THE DEPARTMENT AND THE DEPARTMENT OF HEALTH SHALL PROVIDE THE BOARD
42 WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL ENABLE THE BOARD TO
43 CARRY OUT ITS POWERS AND DUTIES. ADDITIONALLY, ALL OTHER AGENCIES OF THE
44 STATE OR SUBDIVISIONS THEREOF SHALL, AT THE REQUEST OF THE CO-CHAIRS
45 PROVIDE THE BOARD WITH SUCH FACILITIES, ASSISTANCE, AND DATA AS WILL
46 ENABLE THE BOARD TO CARRY OUT ITS POWER AND DUTIES.

47 S 2. Paragraph b of subdivision 3 of section 33-0905 of the environ-
48 mental conservation law, as added by chapter 612 of the laws of 1983, is
49 amended to read as follows:

50 b. An applicant for certification shall satisfy the commissioner as to
51 his OR HER knowledge and experience concerning the proper use and appli-
52 cation of pesticides [and], pesticide application equipment, AND PEST
53 MANAGEMENT TECHNIQUES THAT DO NOT INVOLVE THE USE OF PESTICIDES, INCLUD-
54 ING BUT NOT LIMITED TO STRUCTURAL IMPROVEMENTS, MECHANICAL CONTROLS, AND
55 BIOLOGICAL CONTROLS, through examination prior to initial certification.

1 Recertification shall be by training, workbook, or examination as
2 required by the commissioner.
3 S 3. This act shall take effect immediately; provided, however, that
4 section one of this act shall remain in full force and effect until
5 April 1, 2013, when upon such date the provisions of such section shall
6 expire and be deemed repealed.