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

2397--A

Cal. No. 597

2013-2014 Regular Sessions

I N A S S E M B L Y

January 15, 2013

Introduced by M. of A. ENGLEBRIGHT, JACOBS, RIVERA, SWEENEY, ROBINSON, COLTON, KAVANAGH, SCHIMEL -- Multi-Sponsored by -- M. of A. ABINANTI, ARROYO, GALEF, KELLNER, ORTIZ, PAULIN, PERRY -- read once and referred to the Committee on Children and Families -- recommitted to the Committee on Children and Families in accordance with Assembly Rule 3, sec. 2 -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law and the environmental conservation law, in relation to integrated pest management procedures in child day care center and head start day care center settings

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

Section 1. Legislative findings. The legislature hereby finds that young children, including those in day care and head start centers, are at a disproportionate risk to environmental hazards such as pesticide exposure. Due to their smaller body size, developing organ systems and predilection for hand-to-mouth behaviors, they are exposed to and absorb more toxic substances per pound of body weight than adults. Therefore the legislature finds that special protective measures, like integrated pest management programs, are necessary.

S 2. Section 390-a of the social services law is amended by adding five new subdivisions 3-a, 6, 7, 8 and 9 to read as follows:

3-A. THE OFFICE OF CHILDREN AND FAMILY SERVICES SHALL PROMULGATE REGULATIONS REQUIRING OPERATORS, PROGRAM DIRECTORS, EMPLOYEES AND ASSISTANTS OF CHILD DAY CARE CENTERS AND HEAD START DAY CARE CENTERS TO RECEIVE TWO HOURS OF TRAINING EVERY TWO YEARS, IN ADDITION TO THE TRAINING REQUIRED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, ON ENVIRONMENTAL AND SAFETY MEASURES, INCLUDING INTEGRATED PEST MANAGEMENT PROCEDURES AS DEFINED IN SUBDIVISION FIFTY OF SECTION 33-0101 OF THE ENVIRONMENTAL

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

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CONSERVATION LAW AND OTHER METHODS FOR LIMITING EXPOSURE TO TOXIC SUBSTANCES.

6. ALL PROVIDERS OF A CHILD DAY CARE CENTER AS DEFINED IN SECTION THREE HUNDRED NINETY OF THIS TITLE, OR A HEAD START DAY CARE CENTER FUNDED PURSUANT TO TITLE V OF THE FEDERAL OPPORTUNITY ACT OF NINETEEN HUNDRED SIXTY-FOUR, AS AMENDED, ARE REQUIRED TO HAVE INTEGRATED PEST MANAGEMENT PLANS WHICH HAVE BEEN DEVELOPED WITH PUBLIC INPUT. SUCH PLANS MUST BE COMPLETED WITHIN SIX MONTHS OF COMPLETION OF THE TRAINING REQUIREMENTS SET FORTH IN SUBDIVISION THREE-A OF THIS SECTION. SUCH PLANS SHALL UTILIZE INTEGRATED PEST MANAGEMENT TECHNIQUES TO MANAGE AND CONTROL PESTS AND PROBLEMS AS DEFINED IN SUBDIVISION FIFTY OF SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW. THE INTEGRATED PEST MANAGEMENT PLANS SHALL INCLUDE A PROVISION FOR PUBLIC ACCESS TO ALL INFORMATION ABOUT THE IMPLEMENTATION OF THE PLANS. SUCH PROVIDERS SHALL BE PROHIBITED FROM CONDUCTING OR HAVING CONDUCTED PESTICIDE APPLICATIONS TO CHILD DAY CARE CENTERS AND HEAD START DAY CARE CENTERS WHICH ARE PREVENTIVE IN NATURE AND DO NOT RESPOND TO EXISTING, VERIFIABLE PEST PROBLEMS.

7. PROVIDERS OF A CHILD DAY CARE CENTER OR A HEAD START DAY CARE CENTER SHALL BE RESPONSIBLE FOR PROVIDING AN ANNUAL EVALUATION OF THE IMPLEMENTATION OF THEIR INTEGRATED PEST MANAGEMENT PLANS TO THE PARENTS OF THE CHILDREN ATTENDING SUCH CENTER. SUCH PROVIDERS SHALL BE RESPONSIBLE FOR UPDATING THEIR INTEGRATED PEST MANAGEMENT PLANS EVERY THREE YEARS. SUCH INFORMATION SHALL BE PUBLICLY AVAILABLE.

8. IN ALL LICENSED CHILD DAY CARE CENTERS AND HEAD START DAY CARE CENTERS ALL PESTICIDE APPLICATIONS SHALL BE CONDUCTED BY A CERTIFIED COMMERCIAL APPLICATOR. PESTICIDE APPLICATIONS BY PERSONS WORKING UNDER THE DIRECT SUPERVISION OF A CERTIFIED PESTICIDE APPLICATOR SHALL BE PROHIBITED.

9. WHEN PESTICIDES ARE TO BE APPLIED TO A CHILD DAY CARE CENTER OR HEAD START DAY CARE CENTER GROUNDS, TURF, TREES OR SHRUBS, VISUAL NOTIFICATION MARKERS, AS PROVIDED IN SECTION 33-1003 OF THE ENVIRONMENTAL CONSERVATION LAW, SHALL BE POSTED AT LEAST EVERY FIFTY FEET WITH AT LEAST ONE MARKER ON EACH SIDE OF THE APPLICATION AREA.

S 3. Section 33-0101 of the environmental conservation law is amended by adding a new subdivision 50 to read as follows:

50. "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 PRACTICES 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.

S 4. This act shall take effect on the first of June next succeeding the date on which it shall have become a law.