

5288--A

2013-2014 Regular Sessions

I N S E N A T E

May 15, 2013

Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the environmental conservation law, in relation to prohibiting the use of pesticides at children's overnight or summer day camp

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

1 Section 1. Section 1396 of the public health law is renumbered section
2 1397 and a new section 1396 is added to read as follows:
3 S 1396. PESTICIDE ALTERNATIVES. 1. FOR PURPOSES OF THIS SECTION
4 "PESTICIDE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION
5 THIRTY-FIVE OF SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW,
6 PROVIDED HOWEVER THAT IT SHALL NOT INCLUDE:
7 (A) THE APPLICATION OF ANTI-MICROBIAL PESTICIDES AND ANTI-MICROBIAL
8 PRODUCTS AS DEFINED BY FIFRA IN 7 U.S.C. SECTION 136 (MM) AND 136 Q (H)
9 (2);
10 (B) THE USE OF AN AEROSOL PRODUCT WITH A DIRECTED SPRAY, IN CONTAINERS
11 OF EIGHTEEN FLUID OUNCES OR LESS, WHEN USED TO PROTECT INDIVIDUALS FROM
12 AN IMMINENT THREAT FROM STINGING AND BITING INSECTS, INCLUDING VENOMOUS
13 SPIDERS, BEES, WASPS AND HORNETS;
14 (C) THE USE OF NON-VOLATILE INSECT OR RODENT BAIT IN A TAMPER RESIST-
15 ANT CONTAINER;
16 (D) THE APPLICATION OF A PESTICIDE CLASSIFIED BY THE UNITED STATES
17 ENVIRONMENTAL PROTECTION AGENCY AS AN EXEMPT MATERIAL UNDER 40 CFR PART
18 152.25;
19 (E) THE USE OF BORIC ACID AND DISODIUM OCTABORATE TETRAHYDRATE; OR
20 (F) THE USE OF HORTICULTURAL SOAP AND OILS THAT DO NOT CONTAIN
21 SYNTHETIC PESTICIDES OR SYNERGISTS.

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

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1 2. NO CHILDREN'S OVERNIGHT CAMP OR SUMMER DAY CAMP SHALL APPLY PESTI-
2 CIDE TO ANY PLAYGROUNDS, TURF, ATHLETIC OR PLAYING FIELDS, EXCEPT THAT
3 AN EMERGENCY APPLICATION OF A PESTICIDE MAY BE MADE AS DETERMINED BY THE
4 COUNTY HEALTH DEPARTMENT OR FOR A COUNTY NOT HAVING A HEALTH DEPARTMENT,
5 SUCH AUTHORITY AS THE COUNTY LEGISLATURE SHALL DESIGNATE, THE COMMIS-
6 SIONER OR HIS OR HER DESIGNEE OR THE COMMISSIONER OF ENVIRONMENTAL
7 CONSERVATION OR HIS OR HER DESIGNEE.

8 3. THE COMMISSIONER SHALL HAVE THE POWER TO EXCEPT BY RULE FROM THIS
9 ARTICLE AND THE SANITARY CODE ANY CHILDREN'S OVERNIGHT CAMP OR SUMMER
10 DAY CAMP FOR WHICH IT IS NOT PRACTICABLE TO USE PESTICIDE ALTERNATIVES
11 AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.

12 S 2. Subdivision 7 of section 33-0303 of the environmental conserva-
13 tion law, as added by chapter 85 of the laws of 2010, is amended to read
14 as follows:

15 7. The commissioner, in consultation with the commissioner of educa-
16 tion and the commissioner of health, shall develop guidance on pesticide
17 alternatives to facilitate compliance with section four hundred nine-k
18 of the education law [and], three hundred ninety-g of the social
19 services law AND THIRTEEN HUNDRED NINETY-SIX OF THE PUBLIC HEALTH LAW.

20 S 3. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law. Effective immediately the department of
22 health and the department of environmental conservation may promulgate
23 any rule or regulation necessary for the timely implementation of this
24 act on its effective date.