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

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I N A S S E M B L Y

February 11, 2013

Introduced by M. of A. PAULIN, GALEF, CLARK, ENGLEBRIGHT, MILLMAN, QUART, ROBERTS, ZEBROWSKI, COOK, ABINANTI, ROSENTHAL, COLTON -- Multi-Sponsored by -- M. of A. GOTTFRIED, JACOBS, LUPARDO, PERRY, RIVERA, ROBINSON, SCARBOROUGH, WEISENBERG -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Rules -- Rules Committee discharged, bill amended, ordered reprinted as amended and recommitted to the Committee on Rules -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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:

Section 1. Section 1396 of the public health law is renumbered section 1397 and a new section 1396 is added to read as follows:

S 1396. PESTICIDE ALTERNATIVES. 1. FOR PURPOSES OF THIS SECTION "PESTICIDE" SHALL HAVE THE SAME MEANING AS SET FORTH IN SUBDIVISION THIRTY-FIVE OF SECTION 33-0101 OF THE ENVIRONMENTAL CONSERVATION LAW, PROVIDED HOWEVER THAT IT SHALL NOT INCLUDE:

(A) THE APPLICATION OF ANTI-MICROBIAL PESTICIDES AND ANTI-MICROBIAL PRODUCTS AS DEFINED BY FIFRA IN 7 U.S.C. SECTION 136 (MM) AND 136 Q (H) (2);

(B) THE USE OF AN AEROSOL PRODUCT WITH A DIRECTED SPRAY, IN CONTAINERS OF EIGHTEEN FLUID OUNCES OR LESS, WHEN USED TO PROTECT INDIVIDUALS FROM AN IMMINENT THREAT FROM STINGING AND BITING INSECTS, INCLUDING VENOMOUS SPIDERS, BEES, WASPS AND HORNETS;

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

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(C) THE USE OF NON-VOLATILE INSECT OR RODENT BAIT IN A TAMPER RESISTANT CONTAINER;

(D) THE APPLICATION OF A PESTICIDE CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY AS AN EXEMPT MATERIAL UNDER 40 CFR PART 152.25;

(E) THE USE OF BORIC ACID AND DISODIUM OCTABORATE TETRAHYDRATE; OR

(F) THE USE OF HORTICULTURAL SOAP AND OILS THAT DO NOT CONTAIN SYNTHETIC PESTICIDES OR SYNERGISTS.

2. NO CAMP DEFINED IN SUBDIVISIONS ONE AND TWO OF SECTION THIRTEEN HUNDRED NINETY-TWO OF THIS ARTICLE SHALL APPLY PESTICIDE TO ANY PLAYGROUNDS, TURF, ATHLETIC OR PLAYING FIELDS, OTHER THAN THOSE ON PUBLICLY-OWNED OR PUBLICLY-LEASED PROPERTY IN A CITY OF MORE THAN ONE MILLION, EXCEPT THAT AN EMERGENCY APPLICATION OF A PESTICIDE MAY BE MADE AS DETERMINED BY THE COUNTY HEALTH DEPARTMENT OR FOR A COUNTY NOT HAVING A HEALTH DEPARTMENT, SUCH AUTHORITY AS THE COUNTY LEGISLATURE SHALL DESIGNATE, THE COMMISSIONER OR HIS OR HER DESIGNEE OR THE COMMISSIONER OF ENVIRONMENTAL CONSERVATION OR HIS OR HER DESIGNEE.

3. THE COMMISSIONER SHALL HAVE THE POWER TO EXEMPT FROM THIS SECTION ANY CAMP DEFINED IN SUBDIVISIONS ONE AND TWO OF SECTION THIRTEEN HUNDRED NINETY-TWO OF THIS ARTICLE TO THE EXTENT THAT IT IS NOT PRACTICABLE TO USE PESTICIDE ALTERNATIVES AS DEFINED IN SUBDIVISION ONE OF THIS SECTION.

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

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

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