## 5685

2015-2016 Regular Sessions

IN ASSEMBLY

March 3, 2015

Introduced by M. of A. KAVANAGH, ENGLEBRIGHT, PEOPLES-STOKES, BROOK-KRASNY, DINOWITZ, JAFFEE, PAULIN, COLTON, ROSENTHAL, ROZIC --Multi-Sponsored by -- M. of A. CUSICK, GOTTFRIED, LUPARDO, SOLAGES -read once and referred to the Committee on Environmental Conservation

AN ACT to amend the environmental conservation law, in relation to the phase-out of state use of pesticides

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

1 Section 1. Legislative findings. The legislature finds and declares 2 that pesticides are linked to a number of acute and chronic health prob-3 lems and that it is therefore the policy of the state to phase-out 4 pesticide use by the government for many pest control purposes and to 5 adopt a pest control policy that substantially relies on non-chemical 6 pest control strategies.

7 S 2. Article 33 of the environmental conservation law is amended by 8 adding a new title 8 to read as follows:

> TITLE 8 PHASE-OUT OF STATE USE OF PESTICIDES

12 SECTION 33-0801. DEFINITIONS.

13 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

14 S 33-0801. DEFINITIONS.

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15 AS USED IN THIS TITLE:

1. "ANTIMICROBIAL PESTICIDE" MEANS A PESTICIDE THAT: TO DISINFECT, SANITIZE, REDUCE, OR MITIGATE GROWTH OR 16 (A) IS INTENDED 17 DEVELOPMENT OF MICROBIOLOGICAL ORGANISMS; (B) IS INTENDED TO PROTECT INANIMATE OBJECTS, 18 INDUSTRIAL PROCESSES OR SYSTEMS, SURFACES, 19 WATER, OR OTHER CHEMICAL FOULING, OR DETERIORATION CAUSED BY 20 SUBSTANCES FROM CONTAMINATION, 21 BACTERIA, VIRUSES, FUNGI, PROTOZOA, ALGAE, OR SLIME; OR (C) IN THE 22 INTENDED USE IS EXEMPT FROM, OR OTHERWISE NOT SUBJECT TO, A TOLERANCE 23 UNDER APPROPRIATE PROVISIONS OF FEDERAL LAW.

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

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2. "ANTIMICROBIAL PESTICIDE" DOES NOT INCLUDE: (A) A WOOD PRESERVATIVE 1 2 OR ANTIFOULING PAINT PRODUCT FOR WHICH A CLAIM OF PESTICIDAL ACTIVITY IS 3 MADE; (B) AN AGRICULTURAL FUNGICIDE PRODUCT; OR (C) AN AQUATIC HERBICIDE 4 PRODUCT.

5 S 33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.

6 1. EFFECTIVE JANUARY FIRST, TWO THOUSAND SEVENTEEN, NO STATE DEPART-MENT, AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR 7 8 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS 9 10 TOXICITY CATEGORY I BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-11 CY, OR ANY PESTICIDE CLASSIFIED AS A KNOWN, LIKELY, OR PROBABLE HUMAN CARCINOGEN BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, EXCEPT 12 AS PROVIDED FOR IN SUBDIVISION FOUR OF THIS SECTION. 13

14 2. EFFECTIVE JANUARY FIRST, TWO THOUSAND EIGHTEEN, NO STATE DEPART-15 MENT, AGENCY, OR PUBLIC BENEFIT CORPORATION, OR ANY PESTICIDE APPLICATOR EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL 16 PURPOSES, SHALL APPLY ON STATE PROPERTY ANY PESTICIDE CLASSIFIED AS 17 TOXICITY CATEGORY II BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGEN-18 19 CY, ANY PESTICIDE CLASSIFIED AS A POSSIBLE HUMAN CARCINOGEN BY THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, OR ANY PESTICIDE CLASSI-20 FIED AS RESTRICTED USE BY THE UNITED STATES ENVIRONMENTAL PROTECTION 21 AGENCY OR THE DEPARTMENT, EXCEPT AS PROVIDED IN SUBDIVISION FOUR OF THIS 22 23 SECTION.

3. EFFECTIVE JANUARY FIRST, TWO THOUSAND NINETEEN, NO STATE DEPART-24 25 MENT, AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR 26 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL PURPOSES SHALL APPLY ANY PESTICIDE ON STATE PROPERTY, EXCEPT AS PROVIDED 27 28 IN SUBDIVISION FOUR OF THIS SECTION.

THE PROVISIONS OF SUBDIVISIONS ONE, TWO, AND THREE OF THIS SECTION 29 4. 30 SHALL NOT APPLY TO THE FOLLOWING:

31 (A) PESTICIDES OTHERWISE LAWFULLY USED FOR THE PURPOSE OF MAINTAINING A SAFE DRINKING WATER SUPPLY AT DRINKING WATER TREATMENT PLANTS, WASTE-32 33 WATER TREATMENT PLANTS, RESERVOIRS, AND RELATED COLLECTION, DISTRIB-34 UTION, AND TREATMENT FACILITIES; 35

(B) ANTIMICROBIAL PESTICIDES;

36 (C) PESTICIDES IN CONTAINED BAITS FOR THE PURPOSES OF RODENT CONTROL; 37 AND

38 (D) PESTICIDES CLASSIFIED BY THE UNITED STATES ENVIRONMENTAL 39 PROTECTION AGENCY AS EXEMPT MATERIALS UNDER 40 CFR 152.25.

40 5. ON OR BEFORE JANUARY FIRST, TWO THOUSAND SEVENTEEN, THE DEPARTMENT SHALL ADOPT A PEST MANAGEMENT PLAN FOR EVERY STATE DEPARTMENT, AGENCY, 41 AND PUBLIC BENEFIT CORPORATION. SUCH PLAN SHALL TAKE EFFECT ON JANUARY 42 43 FIRST, TWO THOUSAND SEVENTEEN AND SHALL BE CONSISTENT WITH THE PROVISIONS OF THIS TITLE. SUCH PLAN SHALL ADDRESS PEST POPULATION MONI-44 TORING, LEAST-TOXIC PESTICIDES FOR USE PRIOR TO JANUARY FIRST, TWO THOU-45 SAND NINETEEN, AND NON-CHEMICAL PEST CONTROL STRATEGIES FOR USE AFTER 46 47 SUCH DATE, WHICH WILL EFFECTIVELY MANAGE PEST PROBLEMS IN A COMPREHEN-48 SIVE MANNER.

49 6. SHOULD ANY STATE DEPARTMENT, AGENCY, OR PUBLIC BENEFIT CORPORATION 50 DETERMINE THAT A HUMAN HEALTH EMERGENCY WARRANTS THE USE OF A PESTICIDE 51 THAT WOULD OTHERWISE NOT BE ALLOWED UNDER THIS TITLE, IT MAY APPLY FOR A SINGLE-USE WAIVER FROM THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF 52 HEALTH SHALL DETERMINE IF SUCH A WAIVER IS WARRANTED BASED ON THE 53 54 FOLLOWING CRITERIA:

55 (A) THE PEST SITUATION POSES AN IMMEDIATE THREAT TO HUMAN HEALTH; AND 1 (B) VIABLE ALTERNATIVES DO NOT EXIST (SUCH A DETERMINATION SHALL BE 2 MADE IN CONSULTATION WITH THE CORNELL COOPERATIVE EXTENSION SERVICE 3 INTEGRATED PEST MANAGEMENT PROGRAM).

4 AS A CONDITION OF APPROVAL, THE DEPARTMENT OF HEALTH SHALL REQUIRE A 5 COMMITMENT FROM EVERY STATE DEPARTMENT, AGENCY, AND PUBLIC BENEFIT 6 CORPORATION THAT THE UNDERLYING CAUSES OF THE PEST OUTBREAK WILL BE 7 ADDRESSED IN ORDER TO PREVENT FUTURE OUTBREAKS.

8 7. THE FOLLOWING ACTIVITIES SHALL BE EXEMPT FROM THE PROVISIONS OF 9 THIS TITLE:

10 (A) PESTICIDES USED FOR AGRICULTURAL RESEARCH PURPOSES AT THE STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT ALFRED, THE STATE UNIVERSITY COLLEGE 11 OF TECHNOLOGY AT CANTON, THE STATE UNIVERSITY COLLEGE OF AGRICULTURE AT 12 COBLESKILL, THE STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT DELHI, THE 13 14 STATE UNIVERSITY COLLEGE OF TECHNOLOGY AT FARMINGDALE, THE STATE UNIVER-SITY COLLEGE OF AGRICULTURE AT MORRISVILLE, THE STATE UNIVERSITY COLLEGE 15 16 OF TECHNOLOGY AT UTICA/ROME, AND THE NEW YORK STATE STATUTORY COLLEGES AT CORNELL, INCLUDING THE AGRICULTURAL EXPERIMENT STATION AT GENEVA AND 17 ITS FIELD OFFICES. 18

(B) THE USE OF ROTENONE AND ASSOCIATED RESINS AS A PISCICIDE FOR
PURPOSES DIRECTLY RELATED TO THE RECLAMATION OF FRESHWATER WATER BODIES
TO PREPARE FOR THE REINTRODUCTION OF NATIVE SPECIES. WATER TREATED WITH
ROTENONE SHALL NOT BE USED AS POTABLE WATER OR FOR IRRIGATION OF CROPS.
S 3. This act shall take effect immediately.