

158--B

2015-2016 Regular Sessions

I N   S E N A T E

(PREFILED)

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Introduced by Sens. SQUADRON, HASSELL-THOMPSON, HOYLMAN -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:  
9                                   TITLE 8  
10                                  PHASE-OUT OF STATE  
11                                  USE OF PESTICIDES  
12     SECTION 33-0801. DEFINITIONS.  
13             33-0803. PHASE-OUT OF STATE USE OF PESTICIDES.  
14     S 33-0801. DEFINITIONS.  
15     AS USED IN THIS TITLE:  
16     1. "ANTIMICROBIAL PESTICIDE" MEANS A PESTICIDE THAT: (A) IS INTENDED  
17     TO DISINFECT, SANITIZE, REDUCE, OR MITIGATE GROWTH OR DEVELOPMENT OF  
18     MICROBIOLOGICAL ORGANISMS; (B) IS INTENDED TO PROTECT INANIMATE OBJECTS,  
19     INDUSTRIAL PROCESSES OR SYSTEMS, SURFACES, WATER, OR OTHER CHEMICAL

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

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1 SUBSTANCES FROM CONTAMINATION, FOULING, OR DETERIORATION CAUSED BY  
2 BACTERIA, VIRUSES, FUNGI, PROTOZOA, ALGAE, OR SLIME; OR (C) IN THE  
3 INTENDED USE, IS EXEMPT FROM OR OTHERWISE NOT SUBJECT TO, A TOLERANCE  
4 UNDER APPROPRIATE PROVISIONS OF FEDERAL LAW.

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

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

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

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

28 3. EFFECTIVE JANUARY FIRST, TWO THOUSAND TWENTY, NO STATE DEPARTMENT,  
29 AGENCY, OR PUBLIC BENEFIT CORPORATION OR ANY PESTICIDE APPLICATOR  
30 EMPLOYED THEREBY AS A CONTRACTOR OR SUBCONTRACTOR FOR PEST CONTROL  
31 PURPOSES SHALL APPLY ANY PESTICIDE ON STATE PROPERTY, EXCEPT AS PROVIDED  
32 IN SUBDIVISION FOUR OF THIS SECTION.

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

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

39 (B) ANTIMICROBIAL PESTICIDES;

40 (C) PESTICIDES IN CONTAINED BAITS FOR THE PURPOSES OF RODENT CONTROL;  
41 AND

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

44 5. ON OR BEFORE JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE DEPARTMENT  
45 SHALL ADOPT A PEST MANAGEMENT PLAN FOR EVERY STATE DEPARTMENT, AGENCY,  
46 AND PUBLIC BENEFIT CORPORATION. SUCH PLAN SHALL TAKE EFFECT ON JANUARY  
47 FIRST, TWO THOUSAND EIGHTEEN AND SHALL BE CONSISTENT WITH THE PROVISIONS  
48 OF THIS TITLE. SUCH PLAN SHALL ADDRESS PEST POPULATION MONITORING,  
49 LEAST-TOXIC PESTICIDES FOR USE PRIOR TO JANUARY FIRST, TWO THOUSAND  
50 TWENTY, AND NON-CHEMICAL PEST CONTROL STRATEGIES FOR USE AFTER SUCH  
51 DATE, WHICH WILL EFFECTIVELY MANAGE PEST PROBLEMS IN A COMPREHENSIVE  
52 MANNER.

53 6. SHOULD ANY STATE DEPARTMENT, AGENCY, OR PUBLIC BENEFIT CORPORATION  
54 DETERMINE THAT A HUMAN HEALTH EMERGENCY WARRANTS THE USE OF A PESTICIDE  
55 THAT WOULD OTHERWISE NOT BE ALLOWED UNDER THIS TITLE, IT MAY APPLY FOR A  
56 SINGLE-USE WAIVER FROM THE DEPARTMENT OF HEALTH. THE DEPARTMENT OF

1 HEALTH SHALL DETERMINE IF SUCH A WAIVER IS WARRANTED BASED ON THE  
2 FOLLOWING CRITERIA:

3 (A) THE PEST SITUATION POSES AN IMMEDIATE THREAT TO HUMAN HEALTH; AND

4 (B) VIABLE ALTERNATIVES DO NOT EXIST (SUCH A DETERMINATION SHALL BE  
5 MADE IN CONSULTATION WITH THE CORNELL COOPERATIVE EXTENSION SERVICE  
6 INTEGRATED PEST MANAGEMENT PROGRAM).

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

11 7. THE FOLLOWING ACTIVITIES SHALL BE EXEMPT FROM THE PROVISIONS OF  
12 THIS TITLE:

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

22 (B) THE USE OF ROTENONE AND ASSOCIATED RESINS AS A PISCICIDE FOR  
23 PURPOSES DIRECTLY RELATED TO THE RECLAMATION OF FRESHWATER WATER BODIES  
24 TO PREPARE FOR THE REINTRODUCTION OF NATIVE SPECIES. WATER TREATED WITH  
25 ROTENONE SHALL NOT BE USED AS POTABLE WATER OR FOR IRRIGATION OF CROPS.

26 S 3. This act shall take effect immediately.