

# STATE OF NEW YORK

1051--A

Cal. No. 49

2019-2020 Regular Sessions

## IN ASSEMBLY

January 14, 2019

Introduced by M. of A. PAULIN, GALEF, ENGLEBRIGHT, QUART, ZEBROWSKI, COOK, ABINANTI, L. ROSENTHAL, COLTON, WEPRIN, OTIS, DINOWITZ, THIELE, SIMON, GOTTFRIED, LUPARDO, PERRY, JAFFEE, CRESPO, FERNANDEZ, GRIFFIN, ORTIZ, STECK, JACOBSON, CARROLL, SEAWRIGHT -- read once and referred to the Committee on Health -- ordered 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:

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 § 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

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

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1 (f) the use of horticultural soap and oils that do not contain  
2 synthetic pesticides or synergists.

3 2. No camp defined in subdivisions one and two of section thirteen  
4 hundred ninety-two of this article, or children's non-regulated camp  
5 defined in section three hundred ninety-eight-f of the general business  
6 law, shall apply pesticide to any playgrounds, turf, athletic or playing  
7 fields, other than those on publicly-owned or publicly-leased property  
8 in a city of more than one million, except that an emergency application  
9 of a pesticide may be made as determined by the county health department  
10 or for a county not having a health department, such authority as the  
11 county legislature shall designate, the commissioner or his or her  
12 designee or the commissioner of environmental conservation or his or her  
13 designee. If a response to a request for an emergency application of  
14 pesticide is not received by a camp within twenty-four hours, such camp  
15 may contract with a pesticide applicator certified under section 33-0905  
16 of the environmental conservation law for a single application of pesti-  
17 cide, provided that the camp submit documentation of the emergency  
18 pesticide application to the county health department or the commission-  
19 er immediately thereafter. Such documentation shall include an explana-  
20 tion of the emergency, the date on which the camp requested approval for  
21 an emergency application of pesticide, the date and time the pesticide  
22 was applied, the pesticide or pesticides applied, and the name of the  
23 certified pesticide applicator who applied the pesticide.

24 3. The commissioner shall have the power to exempt from this section  
25 any camp defined in subdivisions one and two of section thirteen hundred  
26 ninety-two of this article to the extent that it is not practicable to  
27 use pesticide alternatives as defined in subdivision one of this  
28 section.

29 § 2. Subdivision 7 of section 33-0303 of the environmental conserva-  
30 tion law, as added by chapter 85 of the laws of 2010, is amended to read  
31 as follows:

32 7. The commissioner, in consultation with the commissioner of educa-  
33 tion and the commissioner of health, shall develop guidance on pesticide  
34 alternatives to facilitate compliance with section four hundred nine-k  
35 of the education law [~~and~~], three hundred ninety-g of the social  
36 services law and thirteen hundred ninety-six of the public health law.

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