

STATE OF NEW YORK

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IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. PAULIN, GALEF, ENGLEBRIGHT, QUART, ZEBROWSKI, COOK, ABINANTI, L. ROSENTHAL, COLTON, WEPRIN, OTIS, DINOWITZ, THIELE, SIMON, GOTTFRIED, LUPARDO, PERRY, FERNANDEZ, GRIFFIN, STECK, JACOBSON, CARROLL, SEAWRIGHT, REYES, BARRON, KELLES, ZINERMAN, JACKSON -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- reported from committee, 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:

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;

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

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1 (d) the application of a pesticide classified by the United States
2 Environmental Protection Agency as an exempt material under 40 CFR Part
3 152.25;

4 (e) the use of boric acid and disodium octaborate tetrahydrate; or
5 (f) the use of horticultural soap and oils that do not contain
6 synthetic pesticides or synergists.

7 2. No camp defined in subdivisions one and two of section thirteen
8 hundred ninety-two of this article, or children's non-regulated camp
9 defined in section three hundred ninety-eight-f of the general business
10 law, shall apply pesticide to any playgrounds, athletic or playing
11 fields, other than those on publicly-owned or publicly-leased property
12 in a city of more than one million, except that: (a) an emergency appli-
13 cation of a pesticide may be made by a camp defined in subdivisions one
14 and two of section thirteen hundred ninety-two of this article as deter-
15 mined by the county health department or for a county served by a
16 district office of the department of health, such authority as the coun-
17 ty legislature shall designate, the commissioner or his or her designee;
18 and (b) an emergency application of a pesticide may be made by a chil-
19 dren's non-regulated camp defined in section three hundred
20 ninety-eight-f of the general business law as determined by the commis-
21 sioner or his or her designee. If a response to a request for an emer-
22 gency application of pesticide is not received by a camp within twenty-
23 four hours, such camp may contract with a pesticide applicator certified
24 under section 33-0905 of the environmental conservation law for a single
25 application of pesticide, provided that the camp submit documentation of
26 the emergency pesticide application to the county health department or
27 the commissioner immediately thereafter. Such documentation shall
28 include an explanation of the emergency, the date on which the camp
29 requested approval for an emergency application of pesticide, the date
30 and time the pesticide was applied, the pesticide or pesticides applied,
31 and the name of the certified pesticide applicator who applied the
32 pesticide.

33 3. The commissioner shall have the power to exempt from this section
34 any camp defined in subdivisions one and two of section thirteen hundred
35 ninety-two of this article to the extent that it is not practicable to
36 use pesticide alternatives as defined in subdivision one of this
37 section.

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

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

46 § 3. This act shall take effect on the one hundred eightieth day after
47 it shall have become a law. Effective immediately, the addition, amend-
48 ment and/or repeal of any rule or regulation necessary for the implemen-
49 tation of this act on its effective date are authorized to be made on or
50 before such effective date.