STATE OF NEW YORK

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Cal. No. 94

2021-2022 Regular Sessions

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:

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

§ 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;

(c) the use of non-volatile insect or rodent bait in a tamper resistant container;

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

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(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, or children's non-regulated camp defined in section three hundred ninety-eight-f of the general business law, shall apply pesticide to any playgrounds, athletic or playing fields, other than those on publicly-owned or publicly-leased property in a city of more than one million, except that: (a) an emergency application of a pesticide may be made by a camp defined in subdivisions one and two of section thirteen hundred ninety-two of this article as determined by the county health department or for a county served by a district office of the department of health, such authority as the county legislature shall designate, the commissioner or his or her designee; and (b) an emergency application of a pesticide may be made by a children's non-regulated camp defined in section three hundred ninety-eight-f of the general business law as determined by the commissioner or his or her designee. If a response to a request for an emergency application of pesticide is not received by a camp within twenty-four hours, such camp may contract with a pesticide applicator certified under section 33-0905 of the environmental conservation law for a single application of pesticide, provided that the camp submit documentation of the emergency pesticide application to the county health department or the commissioner immediately thereafter. Such documentation shall include an explanation of the emergency, the date on which the camp requested approval for an emergency application of pesticide, the date and time the pesticide was applied, the pesticide or pesticides applied, and the name of the certified pesticide applicator who applied the pesticide.

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.

§ 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.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made on or before such effective date.