STATE OF NEW YORK

7429--A

2021-2022 Regular Sessions

IN ASSEMBLY

May 7, 2021

Introduced by M. of A. ENGLEBRIGHT, GRIFFIN, BURDICK, THIELE, PAULIN, EPSTEIN, BARNWELL, SIMON, FORREST, GOTTFRIED, STECK, L. ROSENTHAL, DICKENS, JACKSON, DINOWITZ, OTIS, SILLITTI, GLICK, ZINERMAN, JACOBSON, COLTON, STERN, NIOU, KELLES, GALLAGHER, FAHY, RAJKUMAR, ABINANTI, MAMDANI, GONZALEZ-ROJAS, CYMBROWITZ, ANDERSON, LAVINE, REYES, BURGOS, CARROLL, SEAWRIGHT, PHEFFER AMATO -- read once and referred to the Committee on Environmental Conservation -- recommitted to the Committee on Environmental Conservation in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to enacting the birds and bees protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Short title. This act shall be known and may be cited as the "birds and bees protection act".

§ 2. Section 33-1301 of the environmental conservation law is amended by adding a new subdivision 13 to read as follows:

13. a. Beginning January first, two thousand twenty-five, for any person to sell, offer for sale or use, or distribute within the state any corn, soybean or wheat seeds coated or treated with pesticides with the active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran, or acetamiprid; provided, however, that the governor may, by issuing an executive order, temporarily suspend the provisions of this paragraph at any time based on the governor's determination, after consulting with the commissioners of agriculture and markets and the department, that there is a lack of commercially available seed that has not been treated with the active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid or the purchase of seed that complies with the requirements of this paragraph would result in undue

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

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financial hardship to agricultural producers. Any such temporary suspension shall specify the type of seed included.

b. (1) No person shall apply or treat outdoor ornamental plants and turf, except for the production of agricultural commodities, with a pesticide containing:

(i) the active ingredients imidacloprid, thiamethoxam or acetamiprid on or after July first, two thousand twenty-four;

(ii) the active ingredients clothianidin or dinotefuran effective immediately.

(2) a. The provisions of this paragraph shall not apply where the commissioner, in consultation with the department of agriculture and markets, by written order, determines that:

(i) a valid environmental emergency exists;

(ii) the pesticide would be effective in addressing the environmental emergency; and

(iii) no other, less harmful pesticide or pest management practice would be effective in addressing the environmental emergency.

b. Any such order shall include the basis for the commissioner's determination and specify the approved time period, geographic scope, and purpose of the permitted use of such pesticide. An order issued pursuant to this section shall be valid for a period not to exceed six months.

c. For the purposes of this subdivision "environmental emergency" means: an occurrence of any pest which presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops, including, but not limited to, any exotic or foreign pest which may need preventative quarantine measures to avert or prevent that risk, as determined by the department in consultation with the department of agriculture and markets.

§ 3. The department of environmental conservation, in consultation with the department of agriculture and markets, New York state's land grant university, and state university of New York college of environmental science and forestry shall conduct a study to identify practicable and feasible alternatives to the use of pesticides containing the active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid. The results of the study shall be submitted to the governor, the temporary president of the senate and the speaker of the assembly on or before January 1, 2023 and shall be posted on the department's public website.

§ 4. This act shall take effect on the ninetieth 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 and completed on or before such date.