

# STATE OF NEW YORK

8199

2021-2022 Regular Sessions

## IN ASSEMBLY

August 25, 2021

Introduced by M. of A. KELLES -- read once and referred to the Committee on Environmental Conservation

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:

Section 1. Legislative findings. The legislature finds and declares that pesticides are linked to a number of acute and chronic health problems and that it is therefore the policy of the state to phase-out pesticide use by the government for many pest control purposes and to adopt a pest control policy that substantially relies on non-chemical pest control strategies.

§ 2. Article 33 of the environmental conservation law is amended by adding a new title 8 to read as follows:

### TITLE 8

#### PHASE-OUT OF STATE

#### USE OF PESTICIDES

#### Section 33-0801. Definitions.

#### 33-0803. Phase-out of state use of pesticides.

#### § 33-0801. Definitions.

##### As used in this title:

1. "Antimicrobial pesticide" means a pesticide that: (a) is intended to disinfect, sanitize, reduce, or mitigate growth or development of microbiological organisms; (b) is intended to protect inanimate objects, industrial processes or systems, surfaces, water, or other chemical substances from contamination, fouling, or deterioration caused by bacteria, viruses, fungi, protozoa, algae, or slime; or (c) in the intended use, is exempt from or otherwise not subject to, a tolerance under appropriate provisions of federal law.

2. "Antimicrobial pesticide" does not include: (a) a wood preservative or antifouling paint product for which a claim of pesticidal activity is

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

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1 made; (b) an agricultural fungicide product; or (c) an aquatic herbicide  
2 product.

3 § 33-0803. Phase-out of state use of pesticides.

4 1. Effective January first, two thousand twenty-three, no state  
5 department, agency, or public benefit corporation or any pesticide  
6 applicator employed thereby as a contractor or subcontractor for pest  
7 control purposes, shall apply on state property any pesticide classified  
8 as toxicity category I by the United States environmental protection  
9 agency, or any pesticide classified as a known, likely, or probable  
10 human carcinogen by the United States environmental protection agency,  
11 except as provided for in subdivision four of this section.

12 2. Effective January first, two thousand twenty-four, no state depart-  
13 ment, agency, or public benefit corporation, or any pesticide applicator  
14 employed thereby as a contractor or subcontractor for pest control  
15 purposes, shall apply on state property any pesticide classified as  
16 toxicity category II by the United States environmental protection agen-  
17 cy, any pesticide classified as a possible human carcinogen by the  
18 United States environmental protection agency, or any pesticide classi-  
19 fied as restricted use by the United States environmental protection  
20 agency or the department, except as provided in subdivision four of this  
21 section.

22 3. Effective January first, two thousand twenty-five, no state depart-  
23 ment, agency, or public benefit corporation or any pesticide applicator  
24 employed thereby as a contractor or subcontractor for pest control  
25 purposes shall apply any pesticide on state property, except as provided  
26 in subdivision four of this section.

27 4. The provisions of subdivisions one, two, and three of this section  
28 shall not apply to the following:

29 (a) pesticides otherwise lawfully used for the purpose of maintaining  
30 a safe drinking water supply at drinking water treatment plants, waste-  
31 water treatment plants, reservoirs, and related collection, distrib-  
32 ution, and treatment facilities;

33 (b) antimicrobial pesticides;

34 (c) pesticides in contained baits for the purposes of rodent control;  
35 and

36 (d) pesticides classified by the United States environmental  
37 protection agency as exempt materials under 40 CFR 152.25.

38 5. On or before January first, two thousand twenty-three, the depart-  
39 ment shall adopt a pest management plan for every state department,  
40 agency, and public benefit corporation. Such plan shall take effect on  
41 January first, two thousand twenty-three and shall be consistent with  
42 the provisions of this title. Such plan shall address pest population  
43 monitoring, least-toxic pesticides for use prior to January first, two  
44 thousand twenty-five, and non-chemical pest control strategies for use  
45 after such date, which will effectively manage pest problems in a  
46 comprehensive manner.

47 6. Should any state department, agency, or public benefit corporation  
48 determine that a human health emergency warrants the use of a pesticide  
49 that would otherwise not be allowed under this title, it may apply for a  
50 single-use waiver from the department of health. The department of  
51 health shall determine if such a waiver is warranted based on the  
52 following criteria:

53 (a) the pest situation poses an immediate threat to human health; and

54 (b) viable alternatives do not exist (such a determination shall be  
55 made in consultation with the Cornell cooperative extension service  
56 integrated pest management program).

1 As a condition of approval, the department of health shall require a  
2 commitment from every state department, agency, and public benefit  
3 corporation that the underlying causes of the pest outbreak will be  
4 addressed in order to prevent future outbreaks.

5 7. The following activities shall be exempt from the provisions of  
6 this title:

7 (a) Pesticides used for agricultural research purposes at the state  
8 university college of technology at Alfred, the state university college  
9 of technology at Canton, the state university college of agriculture at  
10 Cobleskill, the state university college of technology at Delhi, the  
11 state university college of technology at Farmingdale, the state univer-  
12 sity college of agriculture at Morrisville, the state university college  
13 of technology at Utica/Rome, and the New York state statutory colleges  
14 at Cornell, including the agricultural experiment station at Geneva and  
15 its field offices.

16 (b) The use of rotenone and associated resins as a piscicide for  
17 purposes directly related to the reclamation of freshwater water bodies  
18 to prepare for the reintroduction of native species. Water treated with  
19 rotenone shall not be used as potable water or for irrigation of crops.

20 § 3. This act shall take effect immediately.