

# STATE OF NEW YORK

699--B

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. HOYLMAN, BIAGGI, COMRIE, GOUNARDES, HARCKHAM, KAPLAN, KAVANAGH, KRUEGER, LIU, MYRIE, REICHLIN-MELNICK, SALAZAR, SEPULVEDA, SERRANO, SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "birds and bees protection act".  
3 § 2. Subdivision 35 of section 33-0101 of the environmental conserva-  
4 tion law, as added by chapter 685 of the laws of 1978 and as renumbered  
5 by chapter 612 of the laws of 1983, is amended to read as follows:  
6 35. "Pesticide" means:  
7 a. Any substance or mixture or substances intended for preventing,  
8 destroying, repelling, or mitigating any pest; [~~and~~]  
9 b. Any substance or mixture of substances intended for use as a plant  
10 regulator, defoliant or desiccant; and  
11 c. Any seeds for planting that have been coated or treated with a  
12 neonicotinoid insecticide. For purposes of this definition, a neonicoti-  
13 noid insecticide is one that includes one or more of the following  
14 active ingredients: clothianidin, imidacloprid, thiamethoxam, dinotefu-  
15 ran or acetamiprid.  
16 § 3. Section 33-1301 of the environmental conservation law is amended  
17 by adding a new subdivision 13 to read as follows:

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

LBD02576-04-1

1 13. a. Beginning January first, two thousand twenty-four, no person  
2 shall sell, offer for sale, distribute or purchase any corn, soybean or  
3 wheat seeds coated or treated with pesticides with the active ingredi-  
4 ents clothianidin, imidacloprid, thiamethoxam, dinotefuran, or acetami-  
5 prid; provided, however, that the provisions of this paragraph shall not  
6 apply to a corn, soybean or wheat seed for which the commissioner, in  
7 consultation with the commissioner of agriculture and markets, deter-  
8 mines after opportunity for public notice and comment that no acceptable  
9 alternative exists. For purposes of this paragraph, "no acceptable  
10 alternative" shall mean that (i) no seed that has not been treated with  
11 the active ingredients clothianidin, imidacloprid, thiamethoxam, dinote-  
12 furan or acetamiprid is commercially available or reasonably anticipated  
13 to become commercially available; or (ii) the purchase of seed that  
14 complies with the requirements of this paragraph would result in unrea-  
15 sonable costs to agricultural producers.

16 b. Beginning July first, two thousand twenty-three, no person shall  
17 apply or treat outdoor ornamental plants and turf, except for agricul-  
18 tural commodities, with a pesticide containing the active ingredients  
19 clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid.  
20 The provisions of this paragraph shall not apply where the commissioner  
21 determines that the use of a pesticide containing one or more of such  
22 active ingredients is necessary to manage, control or prevent invasive  
23 species.

24 c. On or before January fifteenth, two thousand twenty-three, the  
25 department shall review the latest scientific information concerning the  
26 pesticide active ingredients clothianidin, imidacloprid, thiamethoxam,  
27 dinotefuran, and acetamiprid and classify for restricted use any pesti-  
28 cide containing those ingredients that it determines causes or is  
29 reasonably likely to cause harm to pollinating bees or any bird species  
30 and shall impose conditions necessary to protect such bee and bird  
31 species.

32 d. The department, in consultation with the department of agriculture  
33 and markets and New York state's land grant university, shall conduct a  
34 study to identify practicable and feasible alternatives to the use of  
35 pesticides containing the active ingredients clothianidin, imidacloprid,  
36 thiamethoxam, dinotefuran or acetamiprid. The results of the study  
37 shall be submitted to the governor, the temporary president of the  
38 senate and the speaker of the assembly on or before January first, two  
39 thousand twenty-three and shall be made available to all interested  
40 parties.

41 § 4. This act shall take effect on the ninetieth day after it shall  
42 have become a law; provided, however, that subdivision 13 of section  
43 33-1301 of the environmental conservation law, as added by section three  
44 of this act, shall expire and be deemed repealed July 1, 2028. Effective  
45 immediately, the addition, amendment and/or repeal of any rule or regu-  
46 lation necessary for the implementation of this act on its effective  
47 date are authorized to be made and completed on or before such date.