

# STATE OF NEW YORK

7429

2021-2022 Regular Sessions

## IN ASSEMBLY

May 7, 2021

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

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:

18 13. a. Beginning January first, two thousand twenty-four, no person  
19 shall sell, offer for sale, distribute or purchase any corn, soybean or  
20 wheat seeds coated or treated with pesticides with the active ingredi-  
21 ents clothianidin, imidacloprid, thiamethoxam, dinotefuran, or acetami-  
22 prid; provided, however, that the provisions of this paragraph shall not  
23 apply to a corn, soybean or wheat seed for which the commissioner, in  
24 consultation with the commissioner of agriculture and markets, deter-

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

LBD02576-05-1

1 mines after opportunity for public notice and comment that no acceptable  
2 alternative exists. For purposes of this paragraph, "no acceptable  
3 alternative" shall mean that (i) no seed that has not been treated with  
4 the active ingredients clothianidin, imidacloprid, thiamethoxam, dinote-  
5 furan or acetamiprid is commercially available or reasonably anticipated  
6 to become commercially available; or (ii) the purchase of seed that  
7 complies with the requirements of this paragraph would result in unrea-  
8 sonable costs to agricultural producers.

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

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

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

34 § 4. This act shall take effect on the ninetieth day after it shall  
35 have become a law; provided, however, that subdivision 13 of section  
36 33-1301 of the environmental conservation law, as added by section three  
37 of this act, shall expire and be deemed repealed July 1, 2028. Effective  
38 immediately, the addition, amendment and/or repeal of any rule or regu-  
39 lation necessary for the implementation of this act on its effective  
40 date are authorized to be made and completed on or before such date.