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:

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

§ 2. Subdivision 35 of section 33-0101 of the environmental conservation law, as added by chapter 685 of the laws of 1978 and as renumbered by chapter 612 of the laws of 1983, is amended to read as follows:

35. "Pesticide" means:

a. Any substance or mixture or substances intended for preventing, destroying, repelling, or mitigating any pest; [~~and~~]

b. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant**; and**

c. Any seeds for planting that have been coated or treated with a neonicotinoid insecticide. For purposes of this definition, a neonicotinoid insecticide is one that includes one or more of the following active ingredients: clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid.

§ 3. Section 33-1301 of the environmental conservation law is amended 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.

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13. a. Beginning January first, two thousand twenty-four, no person shall sell, offer for sale, distribute or purchase 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 provisions of this paragraph shall not apply to a corn, soybean or wheat seed for which the commissioner, in consultation with the commissioner of agriculture and markets, determines after opportunity for public notice and comment that no acceptable alternative exists. For purposes of this paragraph, "no acceptable alternative" shall mean that (i) no seed that has not been treated with the active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid is commercially available or reasonably anticipated to become commercially available; or (ii) the purchase of seed that complies with the requirements of this paragraph would result in unreasonable costs to agricultural producers.

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

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

d. The department, in consultation with the department of agriculture and markets and New York state's land grant university, 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 first, two thousand twenty-three and shall be made available to all interested parties.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that subdivision 13 of section 33-1301 of the environmental conservation law, as added by section three of this act, shall expire and be deemed repealed July 1, 2028. 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.