

STATE OF NEW YORK

699--C

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

Introduced by Sens. HOYLMAN, ADDABBO, BAILEY, BIAGGI, CLEARE, COMRIE, GAUGHRAN, GOUNARDES, HARCKHAM, KAMINSKY, KAPLAN, KAVANAGH, KRUEGER, LIU, MARTUCCI, MYRIE, REICHLIN-MELNICK, RIVERA, SALAZAR, SEPULVEDA, SERRANO -- 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 -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- 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:

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

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

5 13. a. Beginning January first, two thousand twenty-five, for any
6 person to sell, offer for sale or use, or distribute within the state
7 any corn, soybean or wheat seeds coated or treated with pesticides with
8 the active ingredients clothianidin, imidacloprid, thiamethoxam, dinote-
9 furan, or acetamiprid; provided, however, that the provisions of this
10 paragraph shall not apply to a corn, soybean or wheat seed for which the
11 commissioner, in consultation with the commissioner of agriculture and
12 markets, determines after opportunity for public notice and comment that
13 no acceptable alternative exists. For purposes of this paragraph, "no
14 acceptable alternative" shall mean that:

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

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1 (i) no seed that has not been treated with the active ingredients
2 clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid is
3 commercially available or reasonably anticipated to become commercially
4 available; or

5 (ii) the purchase of seed that complies with the requirements of this
6 paragraph would result in undue financial hardship to agricultural
7 producers.

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

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

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

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

18 (i) a valid environmental emergency exists;

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

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

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

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

35 § 3. The department of environmental conservation, in consultation
36 with the department of agriculture and markets, New York state's land
37 grant university, and state university of New York college of environ-
38 mental science and forestry shall conduct a study to identify practica-
39 ble and feasible alternatives to the use of pesticides containing the
40 active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran
41 or acetamiprid. The results of the study shall be submitted to the
42 governor, the temporary president of the senate and the speaker of the
43 assembly on or before January 1, 2023 and shall be posted on the depart-
44 ment's public website.

45 § 4. This act shall take effect on the ninetieth day after it shall
46 have become a law. Effective immediately, the addition, amendment and/or
47 repeal of any rule or regulation necessary for the implementation of
48 this act on its effective date are authorized to be made and completed
49 on or before such date.