

STATE OF NEW YORK

6612

2023-2024 Regular Sessions

IN ASSEMBLY

April 24, 2023

Introduced by M. of A. KELLES, BURDICK, GLICK, STERN, MAGNARELLI, OTIS, THIELE, GONZALEZ-ROJAS, SIMON -- 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:

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

7 § 2. Article 33 of the environmental conservation law is amended by
8 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:

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

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

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1 2. "Antimicrobial pesticide" does not include: (a) a wood preservative
2 or antifouling paint product for which a claim of pesticidal activity is
3 made; (b) an agricultural fungicide product; or (c) an aquatic herbicide
4 product.

5 § 33-0803. Phase-out of state use of pesticides.

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

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

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

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

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

35 (b) antimicrobial pesticides;

36 (c) pesticides in contained baits for the purposes of rodent control;
37 and

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

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

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

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

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

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

8 7. The following activities shall be exempt from the provisions of
9 this title:

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

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

23 § 3. This act shall take effect immediately.