STATE OF NEW YORK

1856--A

Cal. No. 1135

2023-2024 Regular Sessions

IN SENATE

January 17, 2023

Introduced by Sens. HOYLMAN-SIGAL, ADDABBO, BAILEY, BRESLIN, BRISPORT, BROUK, CLEARE, COMRIE, FERNANDEZ, GONZALEZ, GOUNARDES, HARCKHAM, JACKSON, KAVANAGH, KENNEDY, KRUEGER, LIU, MAYER, MYRIE, RIVERA, RYAN, SALAZAR, SANDERS, SEPULVEDA, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, amended on second report, ordered to a third reading, and to be reprinted as amended, retaining its place in the order of third reading

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:

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

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

13. a. Beginning January first, two thousand twenty-seven, for any person to sell, offer for sale or use, or distribute within the state 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 commissioner may, by written order, temporarily suspend the provisions of this paragraph at any time based on the commissioner's determination, after consulting with the commissioner of agriculture and markets, that there is an insufficient amount of commercially available seed to adequately supply the agriculture market that has not been treated with pesticides with the active ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran or acetamiprid or the purchase of seed that complies with the requirements of this paragraph would result in undue financial hardship to agricultural producers. The commissioner, in consultation with the

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

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commissioner of agriculture and markets, shall publish such written order on or before October first next succeeding the date upon which it shall become law and reevaluate any such determination on an annual basis. By October first of each year, the commissioner shall publish a written directive a s to whether there shall be such temporary suspension for the forthcoming year. Any such temporary suspension shall specify the type of seed included and shall apply for one calendar year.

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

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

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

(2) a. The provisions of this paragraph shall not apply where the commissioner, by written order, determines that:

(i) a valid environmental emergency exists;

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

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

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

(3) The provisions of this paragraph shall not apply to pesticide applications by, or under the supervision of, a certified applicator for treatment against invasive species in woody plants.

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

§ 3. The department of environmental conservation, in consultation with the department of agriculture and markets, New York state's land grant university, and state university of New York college of environmental science and forestry 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 1, 2026 and shall be posted on the department's public website.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law. 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 effective date.