

CHAPTER 386

AN ACT concerning the use of neonicotinoid pesticides and supplementing P.L.1971, c.176 (C.13:1F-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.13:1F-4.2 Definitions.

1. As used in sections 1 through 3 of P.L.2021, c.386 (C.13:1F-4.2 et seq.):

“Agricultural plant” means any plant, or part thereof, grown, maintained, or otherwise produced for commercial purposes, including any plant grown, maintained, or otherwise produced for sale or trade, for research or experimental purposes, or for use in part or their entirety in another location. “Agricultural plant” includes, but is not limited to, grains, fruits, and vegetables; wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants; and turf grass produced for sod. “Agricultural plant” does not include pasture or rangeland used for grazing.

“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 of Environmental Protection in consultation with the New Jersey Department of Agriculture and Rutgers, the State University.

“Neonicotinoid pesticide” means any pesticide containing a chemical belonging to the neonicotinoid class of chemicals, including, but not limited to, acetamiprid, clothianidin, dinotefuran, flonicamid, imidacloprid, nitenpyram, nithiazine, thiacloprid, thiamethoxam, or any other chemical designated by the department as belonging to the neonicotinoid class of chemicals.

“Restricted use pesticide” means a pesticide that can be purchased and used only by a certified and licensed pesticide applicator, as determined by the department pursuant to the “Pesticide Control Act of 1971,” P.L.1971, c.176 (C.13:1F-1 et seq.), or persons working under the direct supervision of a certified and licensed pesticide applicator.

C.13:1F-4.3 Rules and regulations, neonicotinoid pesticides.

2. a. No later than 12 months after the effective date of P.L.2021, c.386 (C.13:1F-4.2 et seq.), the department shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations classifying neonicotinoid pesticides as restricted use pesticides.

b. No later than 12 months after the effective date of P.L.2021, c.386 (C.13:1F-4.2 et seq.), and every three years thereafter, the department shall review the latest scientific information concerning neonicotinoid pesticides, and classify as a restricted use pesticide any neonicotinoid pesticide that the department determines will cause harm to populations of pollinating bees, birds, other pollinating wildlife, or aquatic invertebrates. Any person may petition the department at any time to classify a pesticide pursuant to this section.

c. The provisions of this section shall not apply to:

- (1) any pet care, veterinary, personal care, or indoor pest control pesticide product;
- (2) an application for the commercial production of a preserved wood product;
- (3) the application by a licensed pesticide applicator of a neonicotinoid pesticide within one foot of a building foundation perimeter to manage structural pests provided that the neonicotinoid pesticide is not applied on any plant;
- (4) any direct action taken by certified and licensed responsible pesticide applicators or by persons working under their direct supervision within the New Jersey Department of Agriculture or its agents, or within the Department of Environmental Protection or its agents, against any invasive plant or pest; or
- (5) any application to protect agricultural seeds.

Notwithstanding the provisions of paragraph (3) of this subsection to the contrary, the application by a licensed pesticide applicator of a neonicotinoid pesticide adjacent to a building foundation perimeter to manage structural pests may be extended by an additional four feet, if such additional area is necessary to treat the source of the infestation and the application is limited to a spot-targeted treatment of the source of the infestation only.

d. Nothing in this section shall be construed to impose liability on any news media that accept or publish advertising for any product or activity that would otherwise be subject to the provisions of this section.

C.13:1F-4.4 Restrictions on neonicotinoid pesticide use.

3. a. Beginning October 31, 2023, no person shall sell, offer for sale, or use within the State any neonicotinoid pesticide, unless such pesticide is registered and will only be applied by a licensed pesticide applicator to an agricultural plant.

b. Notwithstanding the provisions of subsection a. of this section to the contrary, the commissioner, in consultation with the New Jersey Department of Agriculture, may, by written order, authorize one or more licensed pesticide applicators to use a pesticide that is prohibited under subsection a. of this section if the commissioner finds that:

- (1) a valid environmental emergency exists;
- (2) the pesticide would be effective in addressing the environmental emergency; and
- (3) no other, less harmful pesticide or pest management practice would be effective in addressing the environmental emergency.

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

d. The provisions of this section shall not apply to:

- (1) any pet care, veterinary, personal care, or indoor pest control pesticide product;
- (2) an application for the commercial production of a preserved wood product;
- (3) the application by a licensed pesticide applicator of a neonicotinoid pesticide within one foot of a building foundation perimeter to manage structural pests provided that the neonicotinoid pesticide is not applied on any plant;
- (4) any direct action taken by certified and licensed responsible pesticide applicators or by persons working under their direct supervision within the New Jersey Department of Agriculture or its agents, or within the Department of Environmental Protection or its agents, against any invasive plant or pest; or
- (5) any application to protect agricultural seeds.

Notwithstanding the provisions of paragraph (3) of this subsection to the contrary, the application by a licensed pesticide applicator of a neonicotinoid pesticide adjacent to a building foundation perimeter to manage structural pests may be extended by an additional four feet, if such additional area is necessary to treat the source of the infestation and the application is limited to a spot-targeted treatment of the source of the infestation only.

e. Nothing in this section shall be construed to impose liability on any news media that accept or publish advertising for any product or activity that would otherwise be subject to the provisions of this section.

4. This act shall take effect immediately.

Approved January 18, 2022.