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H.626

Introduced by Representatives Sheldon of Middlebury and Troiano of
Stannard

Referred to Committee on

Date:

Subject: Agriculture; control of pesticides; pollinator protection; neonicotinoid
pesticides; treated article seed

Statement of purpose of bill as introduced: This bill proposes to prohibit the
use of the neonicotinoid pesticides until the Secretary of Agriculture, Food and
Markets adopts rules for the sale, use, or application of neonicotinoid
pesticides. If the Secretary fails to adopt the rules by July 1, 2024, the
prohibition on the sale, use, or application of neonicotinoid pesticides would
become permanent.

An act relating to the sale, use, or application of neonicotinoid pesticides

It is hereby enacted by the General Assembly of the State of Vermont:

* * * Findings * * *

Sec. 1. FINDINGS

The General Assembly finds that:

1 (1) Roughly one-third of the global food supply and 75 percent of all
2 agricultural crops depend on pollination by bees, birds, and other wildlife,
3 including many of the fruits, vegetables, nuts, and seeds we eat every day.

4 (2) In Vermont, native pollinators are vital to the State’s agricultural
5 systems, and protecting the health of pollinators is necessary to ensure the
6 viability of farming in Vermont.

7 (3) Neonicotinoid pesticides are a relatively new class of synthetic
8 insecticides introduced in the 1990s that were rapidly adopted by the
9 agricultural industry to the point that they are now the most widely applied
10 class of pesticide in the world.

11 (4) In Vermont, neonicotinoid pesticides for farming are most
12 commonly found as powdered coatings on seeds and are applied almost every
13 time treated seed is planted.

14 (5) Seed coatings, however, violate science-based integrated pest
15 management (IPM) principles, as IPM guidelines recommend applying
16 pesticides not on the presumption of a pest problem but only when pests are
17 present at damaging levels and other control methods have failed.

18 (6) Consequently, the use or overuse of neonicotinoid pesticides has
19 been linked to pollinator decline worldwide.

1 (7) In 2012, a study demonstrated that a neonicotinoid pesticide called
2 thiamethoxam can cause high mortality in honeybees by compromising their
3 ability to navigate back to the hive.

4 (8) In 2014, a Harvard School of Public Health study confirmed that low
5 doses of a neonicotinoid pesticide called imidacloprid contributed to colony
6 collapse disorder in bees.

7 (9) In 2015, a study showed that the levels of neonicotinoid pesticides
8 currently used in agriculture causes both impairment of bees' brain cells and
9 poor performance by the colony.

10 (10) In 2016, the Vermont General Assembly enacted 2016 Acts and
11 Resolves No. 83 to establish the Pollinator Protection Committee to
12 recommend measures the State can take to protect pollinator populations.

13 (11) In 2017, the Vermont Pollinator Protection Committee issued its
14 recommendations to the General Assembly, including multiple recommended
15 changes to the State's pesticide rules to mitigate the effects of neonicotinoid
16 pesticides on pollinator populations. To date, none of the recommended
17 changes to the State pesticides rules have been adopted.

18 (12) Subsequent studies demonstrated that bees exposed to
19 neonicotinoid pesticides from corn crops or nontarget pollen have decreased
20 survival and immune responses in bees and that 75 percent of global honey
21 supply samples contained detectable levels of neonicotinoid pesticides.

1 (13) In 2021, the U.S. Environmental Protection Agency (EPA) issued
2 draft biological evaluations of three neonicotinoid pesticides: clothianidin,
3 imidacloprid and thiamethoxam. The EPA biological evaluations determined
4 that:

5 (A) clothianidin is highly toxic to bees on an acute exposure basis
6 and that data suggested potential effects on honeybee and bumble bee
7 populations;

8 (B) clothianidin is likely to adversely affect 67 percent of all
9 threatened and endangered species of wildlife;

10 (C) imidacloprid is highly toxic to bees and birds on an acute
11 exposure basis;

12 (D) imidacloprid is likely to adversely affect 79 percent of all
13 threatened and endangered species of wildlife;

14 (E) thiamethoxam is highly toxic to bees on an acute exposure basis
15 with additional potential effects to honeybees that manifest as impacts to
16 numbers of adults and decreases in brood size; and

17 (F) thiamethoxam is likely to adversely affect 77 percent of
18 threatened and endangered species of wildlife.

19 (14) Despite its findings in its own biological evaluations, EPA
20 continues to allow clothianidin, imidacloprid, thiamethoxam, and other
21 neonicotinoid pesticides to be used for agriculture and other uses, albeit subject

1 to potential management measures first proposed in 2020, but still not
2 implemented.

3 (15) To protect the pollinators, birds, and threatened and endangered
4 species of Vermont while also protecting the long-term viability of farming in
5 the State, the General Assembly should ban the use of the neonicotinoid
6 pesticides until the Vermont Agency of Agriculture, Food and Markets has
7 revised the State pesticide rules to implement integrated pest management
8 requirements for the use of neonicotinoid pesticides, including best
9 management practices to prevent harm to pollinators, birds, and threatened
10 species.

11 (16) If the Agency of Agriculture, Food and Markets does not amend the
12 pesticide rules as required, the statutory prohibition on the use of neonicotinoid
13 pesticides should become permanent.

14 * * * Ban on Neonicotinoid Pesticides; Reversion upon Rulemaking * * *

15 Sec. 2. 6 V.S.A. § 918(f) is amended to read:

16 (f) ~~The Secretary shall register as a restricted use pesticide any~~
17 ~~neonicotinoid pesticide labeled as approved for outdoor use that is distributed,~~
18 ~~sold, sold into, or offered for sale within the State or delivered for~~
19 ~~transportation or transported in intrastate commerce or between points within~~
20 ~~this State through any point outside this State, provided that the Secretary shall~~

1 ~~not register the following products as restricted use pesticides, unless classified~~
2 ~~under federal law as restricted use products:~~

3 ~~(1) pet care products used for preventing, destroying, repelling, or~~
4 ~~mitigating fleas, mites, ticks, heartworms, or other insects or organisms;~~

5 ~~(2) personal care products used for preventing, destroying, repelling, or~~
6 ~~mitigating lice or bedbugs;~~

7 ~~(3) indoor pest control products used for preventing, destroying,~~
8 ~~repelling, or mitigating insects indoors; and~~

9 ~~(4)(1) treated article seed~~ No person shall sell, use, or apply
10 neonicotinoid pesticides in the State except when authorized by the Secretary
11 under subdivision (2) of this subsection.

12 (2) the Secretary may authorize the use or application of a neonicotinoid
13 pesticide upon a determination that a threat to Vermont crops exists that
14 requires the use of that pesticide and no other pesticide or class of pesticides
15 would be effective in addressing the threat.

16 Sec. 3. 6 V.S.A. § 918(f) is amended to read:

17 ~~(f)(1) No person shall sell, use, or apply neonicotinoid pesticides in the~~
18 ~~State except when authorized by the Secretary under subdivision (2) of this~~
19 ~~subsection.~~

20 ~~(2) the Secretary may authorize the use or application of a neonicotinoid~~
21 ~~pesticide upon a determination that a threat to Vermont crops exists that~~

1 ~~requires the use of that pesticide and no other pesticide or class of pesticides~~
2 ~~would be effective in addressing the threat~~ The Secretary shall register as a
3 restricted use pesticide any neonicotinoid pesticide authorized under the rules
4 required by this chapter and labeled as approved for outdoor use that is
5 distributed, sold, sold into, or offered for sale within the State or delivered for
6 transportation or transported in intrastate commerce or between points within
7 this State through any point outside this State, provided that the Secretary shall
8 not register the following products as restricted use pesticides, unless required
9 to be registered as restricted use under the rules required by this chapter or
10 unless classified under federal law as restricted use products:

11 (1) pet care products used for preventing, destroying, repelling, or
12 mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

13 (2) personal care products used for preventing, destroying, repelling, or
14 mitigating lice or bedbugs;

15 (3) indoor pest control products used for preventing, destroying,
16 repelling, or mitigating insects indoors; and

17 (4) treated article seed that is not coated with a neonicotinoid pesticide.

18 Sec. 4. IMPLEMENTATION; EFFECTIVE DATE; REPEAL

19 (a) Sec. 2 (ban on use of neonicotinoid pesticides) of this act shall take
20 effect on July 1, 2022.

1 (b) Sec. 3 (reversion to regulation of neonicotinoids as restricted use) of
2 this act shall take effect on the effective date of the rules required under
3 6 V.S.A. § 918a for the application of neonicotinoid pesticides in the State.

4 (c) If the Secretary of Agriculture, Food and Markets fails to adopt the
5 rules required under 6 V.S.A. § 918a on or before July 1, 2024, Sec. 3 of this
6 act (reversion to regulation of neonicotinoids as restricted use) and 6 V.S.A.
7 § 918a (neonicotinoid pesticide rulemaking) shall be repealed on July 1, 2024
8 and the prohibition on the sale, use, or application of neonicotinoid pesticides
9 under 6 V.S.A. § 918(f) as enacted by Sec. 2 of this act shall control the sale,
10 use, or application of neonicotinoid pesticides in the State.

11 * * * Rules for Application of Neonicotinoid Pesticides * * *

12 Sec. 5. 6 V.S.A. § 918a is added to read:

13 § 918a. RULES FOR SALE, USE, OR APPLICATION OF
14 NEONICOTONOID PESTICIDES

15 The Secretary shall adopt by rule requirements for the sale, use, or
16 application of neonicotinoid pesticides in the State. The rules shall include:

17 (1) required integrated pest management practices to be implemented
18 prior to use of neonicotinoid pesticides or treated article seed coated with
19 neonicotinoid pesticides;

20 (2) best management practices, restrictions, or prohibitions on the use or
21 application of neonicotinoid pesticides that are highly toxic to bees, birds, and

1 wildlife, including provisions addressing seasonal application, application in
2 proximity to flowering trees or plants, and time of day application;

3 (3) requirements for buffers of at least 50 feet from pollinator foraging
4 sites, in which neonicotinoid pesticides shall not be used or applied;

5 (4) restrictions on the application of neonicotinoid pesticides when
6 environmental conditions, such as wind, increase the potential for drift of the
7 pesticide away from the land where it is used or applied;

8 (5) a statewide prohibition on application of neonicotinoid pesticides to
9 ornamental plants accessible to pollinators when the pesticide is applied by soil
10 drench, trunk injection, foliar, and basal bark sprays;

11 (6) requirements for reporting the use of neonicotinoid pesticides and
12 treated article seed coated with neonicotinoid pesticides, including reporting
13 the location of use and the amount of pesticide or treated article seed used; and

14 (7) requirements for equipment or planters used to apply neonicotinoid
15 pesticides or treated article seed coated with neonicotinoid pesticides.

16 * * * Practicable Alternatives * * *

17 Sec. 6. SECRETARY OF AGRICULTURE, FOOD AND MARKETS;

18 PRACTICABLE ALTERNATIVES

19 The Secretary of Agriculture, Food and Markets, in consultation with the
20 Secretary of Natural Resources, shall identify practicable and feasible
21 alternatives to the use of neonicotinoid pesticides containing the active

1 ingredients clothianidin, imidacloprid, thiamethoxam, dinotefuran, or
2 acetamiprid. On or before January 15, 2023, the Secretary of Agriculture,
3 Food and Markets shall submit the identified practicable and feasible
4 alternatives to the House Committees on Natural Resources, Fish, and Wildlife
5 and on Agriculture and Forestry and the Senate Committees on Natural
6 Resources and Energy and on Agriculture.

7 * * * Effective Date * * *

8 Sec. 7. EFFECTIVE DATE

9 This act shall take effect on July 1, 2022.