

H.706. An Act Relating to banning the Use of Neonicotinoid Pesticides

Section Summary

Sec. 1. Findings

The Findings address:

- The harm that neonicotinoid pesticides have been proven to pose to pollinator species.
- The fact the European Union and the Province of Quebec have banned their use; and
- The fact that the New York General Assembly passed legislation that:
 - prohibits the sale or use of corn, soybean, and wheat seed treated with imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid; and
 - prohibits the nonagricultural application of imidacloprid, clothianidin, thiamethoxam, dinotefuran, or acetamiprid to outdoor ornamental plants and turf.

Sec. 2. 6 V.S.A. § 1101. Definitions Section for Statutory Chapter on Control of Pesticides

Sec. 2 adds the following definitions to the statutory chapter on the control of pesticides:

- “Agricultural commodity” means any food in its raw or natural state, including all fruits or vegetables that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing.
- “Agricultural emergency” means an occurrence of any pest that presents an imminent risk of significant harm, injury, or loss to agricultural crops.
- “Bloom” means the period from the onset of flowering or inflorescence until petal fall is complete.
- “Crop group” means the groupings of agricultural commodities specified in 40 C.F.R. § 180.41(c).
- “Environmental emergency” means an occurrence of any pest that presents a significant risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops or turf, including any exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the Secretary of Agriculture, Food and Markets.
- “Ornamental plants” mean perennials, annuals, and groundcover purposefully planted for aesthetic reasons.
- “Turf” means land planted in closely mowed, managed grasses, including residential and commercial property and publicly owned land, parks, and recreation areas. “Turf” does not include pasture, cropland, land used to grow sod, or any other land used for agricultural production.

Note: “Neonicotinoid pesticide” and “neonicotinoid treated article seeds” are already defined in 6 V.S.A. § 1101:

- “Neonicotinoid pesticide” : any economic poison containing a chemical belonging to the neonicotinoid class of chemicals.
- “Neonicotinoid treated article seeds”: treated article seeds that are treated or coated with a neonicotinoid pesticide.

Sec. 3. 6 V.S.A. § 1105b. Prohibition on Use and Sale of Neonicotinoid Treated Article Seeds

- Beginning January 1, 2029, Sec. 3 prohibits a person from selling, offering for sale or use, distributing, or using any neonicotinoid treated article seed for soybeans or for any crop in the cereal grains crop group (crop groups 15, 15-22, 16, 16-22).
- The Secretary of Agriculture, after consultation with ANR, may issue a written exemption order to suspend the prohibition on use of neonicotinoid treated article seed for period of not more than one year.

- A written exemption order shall:
 - specify the types of neonicotinoid treated article seeds to which the exemption order applies, the date on which the exemption order takes effect; the exemption order’s duration; and the exemption order’s geographic scope, which may include specific farms, fields, or properties;
 - provide a detailed evaluation of the agricultural seed market, including a determination that the purchase of seeds that are not neonicotinoid treated article seeds would cause agricultural producers undue financial hardship or that there is an insufficient amount of untreated commercially available seed; and
 - provide a detailed evaluation of the exemption order’s anticipated effect on pollinator populations, bird populations, ecosystem health, and public health, including whether the exemption order will cause undue harm to pollinator populations, bird populations, ecosystem health, and public health.
- A written exemption order may:
 - establish restrictions on the use of neonicotinoid treated article seeds to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or
 - establish other restrictions related to the use of neonicotinoid treated article seeds to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.
- When a written exemption order is issued, the Secretary of Agriculture is required to submit a copy to the General Assembly. The General Assembly shall post them to the General Assembly’s website.
- The Secretary of Agriculture, after consultation with ANR, may rescind an exemption order at any time.

Sec. 4. 6 V.S.A. § 1105c. Prohibited Uses of Neonicotinoid Pesticides

- Beginning July 1, 2025, Sec. 4 prohibits specific uses of neonicotinoid pesticides that are not treated seeds. The prohibited uses are:
 - the outdoor application of neonicotinoid pesticides to any crop during bloom;
 - the outdoor application of neonicotinoid pesticides to soybeans or any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-22);
 - the outdoor application of neonicotinoid pesticides to crops in the leafy vegetables, brassica, bulb vegetables, herbs and spices, and stalk, stem, and leaf petiole vegetables crop groups (crop groups 3, 3-07, 4, 4-16, 5, 5-16, 19, 22, 25, and 26) harvested after bloom;
 - the application of neonicotinoid pesticides to ornamental plants; and
 - the application of neonicotinoid pesticides to turf.
- The Secretary of Agriculture may issue a written exemption order to suspend a prohibition for a period of not more than one year. Similar to the exemption orders for neonicotinoid treated article seeds, a written exemption order allowing use of neonicotinoid pesticides must include the following:
 - the neonicotinoid pesticides, uses, and crops, plants, or turf to which the exemption order applies; the date on which the exemption order takes effect; the exemption order’s duration; and the exemption order’s geographic scope, which may include specific farms, fields, or properties;
 - a detailed evaluation determining that an agricultural emergency or an environmental emergency exists;
 - a detailed evaluation of reasonable responses available to address the agricultural emergency or the environmental emergency, including a determination that the use of neonicotinoid pesticides would effectively address the emergency and a determination that there is no other less harmful pesticide or pest management practice that would be effective in addressing the emergency; and
 - a detailed evaluation of the exemption order’s anticipated effects on pollinator populations, bird populations, ecosystem health, and public health.

- A written exemption order may:
 - establish restrictions on the use of neonicotinoid pesticides to which the exemption order applies to minimize harm to pollinator populations, bird populations, ecosystem health, and public health; or
 - establish other restrictions related to the use of neonicotinoid pesticides to which the exemption order applies that the Secretary of Agriculture, Food and Markets considers necessary.
- When a written exemption order is issued, the Secretary of Agriculture is required to submit a copy to the General Assembly. The General Assembly shall post them to the General Assembly’s website.

Sec. 5. 6 V.S.A. § 918; Conforming Amendment

- Sec. 5 is a conforming amending. Currently, neonicotinoid pesticides are required to be regulated as restricted use pesticides, except for certain exemptions.
- One of the current exemptions is for the use of neonicotinoid treated seed. Since such seeds will be prohibited, the exemption for them must be struck to avoid confusion.

Sec. 6. 6 V.S.A. § 1105a(c). Best Management Practices (BMPs) for Use of Neonicotinoid Pesticides

- The General Assembly previously required the Secretary of Agriculture to propose rules to establish BMPs for the use of neonicotinoid pesticides.
- Sec. 6 directs that those rules should include BMPs for the use of neonicotinoid treated article seeds and neonicotinoid pesticides prior to the effective dates relevant prohibitions on their use.
- The rules shall also include BMPs for the agricultural use after July 1, 2025 of neonicotinoid pesticides the use of which is not otherwise prohibited under law.

Sec. 7. 2022 Acts and Resolves No. 145, Sec. 4. Conforming Amendment

- Sec. 7 changes across reference for the due date of rules containing BMPs for treated article seeds.
- The 2024 due dates for rules would not apply to the new rulemaking requirements under Sec. 6 of this act.

Sec. 8. Effective Dates

- The findings (sec. 1), definitions(Sec. 2), revised BMP rulemaking (Sec. 6), and the conforming amendments (Secs 5 and 7) take effect on passage.
- The prohibited use of neonicotinoid pesticides (Sec. 4) shall take effect on July 1, 2025.
- The prohibition on use of neonicotinoid treated article seed (Sec. 3) shall take effect on January 1, 2029.