

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred House Bill No. 706
3 entitled “An act relating to banning the use of neonicotinoid pesticides”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

7 Sec. 1. FINDINGS

8 The General Assembly finds that:

9 (1) Wild and managed pollinators are essential to the health and vitality
10 of Vermont’s agricultural economy, environment, and ecosystems. According
11 to the Department of Fish and Wildlife (DFW), between 60 and 80 percent of
12 the State’s wild plants depend on pollinators to reproduce.

13 (2) Vermont is home to thousands of pollinators, including more than
14 300 native bee species. Many pollinator species are in decline or have
15 disappeared from Vermont, including three bee species that the State lists as
16 endangered. The Vermont Center for Ecostudies and DFW’s State of Bees
17 2022 Report concludes that at least 55 of Vermont’s native bee species need
18 significant conservation action.

19 (3) Neonicotinoids are a class of neurotoxic, systemic insecticides that
20 are extremely toxic to bees and other pollinators. Neonicotinoids are the most
21 widely used class of insecticides in the world and include imidacloprid,

1 clothianidin, thiamethoxam, acetamiprid, dinotefuran, thiacloprid, and
2 nithiazine.

3 (4) Among other uses, neonicotinoids are commonly applied to crop
4 seeds as a prophylactic treatment. More than 90 percent of neonicotinoids
5 applied to treated seeds move into soil, water, and nontarget plants. According
6 to the Agency of Agriculture, Food and Markets, at least 1197.66 tons of seeds
7 sold in Vermont in 2022 were treated with a neonicotinoid product.

8 (5) Integrated pest management is a pest management technique that
9 protects public health, the environment, and agricultural productivity by
10 prioritizing nonchemical pest management techniques. Under integrated pest
11 management, pesticides are a measure of last resort. According to the
12 European Academies Science Advisory Council, neonicotinoid seed treatments
13 are incompatible with integrated pest management.

14 (6) A 2020 Cornell University report that analyzed more than 1,100
15 peer-reviewed studies found that neonicotinoid corn and soybean seed
16 treatments pose substantial risks to bees and other pollinators but provide no
17 overall net income benefits to farms. DFW similarly recognizes that
18 neonicotinoid use contributes to declining pollinator populations.

19 (7) A 2014 peer-reviewed study conducted by the Harvard School of
20 Public Health and published in the journal Bulletin of Insectology concluded

1 that sublethal exposure to neonicotinoids is likely to be the main culprit for the
2 occurrence of colony collapse disorder in honey bees.

3 (8) A 2020 peer-reviewed study published in the journal Nature
4 Sustainability found that increased neonicotinoid use in the United States
5 between 2008 and 2014 led to statistically significant reductions in bird
6 biodiversity, particularly among insectivorous and grassland birds.

7 (9) A 2022 peer-reviewed study published in the journal Environmental
8 Science and Technology found neonicotinoids in 95 percent of the 171
9 pregnant women who participated in the study. Similarly, a 2019 peer-
10 reviewed study published in the journal Environmental Research found that
11 49.1 percent of the U.S. general population had recently been exposed to
12 neonicotinoids.

13 (10) The European Commission and the provinces of Quebec and
14 Ontario have implemented significant prohibitions on the use of
15 neonicotinoids.

16 (11) The New York General Assembly passed legislation that prohibits
17 the sale or use of corn, soybean, and wheat seed treated with imidacloprid,
18 clothianidin, thiamethoxam, dinotefuran, or acetamiprid. The same legislation
19 prohibits the nonagricultural application of imidacloprid, clothianidin,
20 thiamethoxam, dinotefuran, or acetamiprid to outdoor ornamental plants and
21 turf.

1 Sec. 2. 6 V.S.A. § 1101 is amended to read:

2 § 1101. DEFINITIONS

3 As used in this chapter unless the context clearly requires otherwise:

4 (1) “Secretary” ~~shall have~~ has the same meaning stated in subdivision
5 911(4) of this title.

6 (2) “Cumulative” when used in reference to a substance means that the
7 substance so designated has been demonstrated to increase twofold or more in
8 concentration if ingested or absorbed by successive life forms.

9 (3) “Dealer or pesticide dealer” means any person who regularly sells
10 pesticides in the course of business, but not including a casual sale.

11 (4) “Economic poison” ~~shall have~~ has the same meaning stated in
12 subdivision 911(5) of this title.

13 (5) “Pest” means any insect, rodent, nematode, fungus, weed, or any
14 other form of terrestrial or aquatic plant or animal life or ~~virus~~ viruses,
15 bacteria, or other microorganisms that the Secretary declares as being injurious
16 to health or environment. “Pest shall” does not mean any viruses, bacteria, or
17 other microorganisms on or in living humans or other living animals.

18 (6) “Pesticide” for the purposes of this chapter ~~shall be~~ is used
19 interchangeably with “economic poison.”

1 (7) “Treated article” means a pesticide or class of pesticides exempt
2 under 40 C.F.R. § 152.25(a) from regulation under the Federal Insecticide,
3 Fungicide, and Rodenticide Act, 7 U.S.C. § 136-136y.

4 (8) “Neonicotinoid pesticide” means any economic poison containing a
5 chemical belonging to the neonicotinoid class of chemicals.

6 (9) “Neonicotinoid treated article seeds” are treated article seeds that are
7 treated or coated with a neonicotinoid pesticide.

8 (10) “Agricultural commodity” means any food in its raw or natural
9 state, including all fruits or vegetables that are washed, colored, or otherwise
10 treated in their unpeeled natural form prior to marketing.

11 (11) “Agricultural emergency” means an occurrence of any pest that
12 presents an imminent risk of significant harm, injury, or loss to agricultural
13 crops.

14 (12) “Bloom” means the period from the onset of flowering or
15 inflorescence until petal fall is complete.

16 (13) “Crop group” means the groupings of agricultural commodities
17 specified in 40 C.F.R. § 180.41(c) (2023).

18 (14) “Environmental emergency” means an occurrence of any pest that
19 presents a significant risk of harm or injury to the environment, or significant
20 harm, injury, or loss to agricultural crops, including any exotic or foreign pest

1 that may need preventative quarantine measures to avert or prevent that risk, as
2 determined by the Secretary of Agriculture, Food and Markets.

3 (15) “Ornamental plants” mean perennials, annuals, and groundcover
4 purposefully planted for aesthetic reasons.

5 Sec. 3. 6 V.S.A. § 1105b is added to read:

6 § 1105b. USE AND SALE OF NEONICOTINOID TREATED ARTICLE

7 SEEDS

8 (a) No person shall sell, offer for sale or use, distribute, or use any
9 neonicotinoid treated article seed for soybeans or for any crop in the cereal
10 grains crop group (crop groups 15, 15-22, 16, and 16-22).

11 (b) The Secretary of Agriculture, Food and Markets, after consultation with
12 the Secretary of Natural Resources, may issue a written exemption order to
13 suspend the provisions of subsection (a) of this section, only if the following
14 conditions are met:

15 (1) the person seeking the exemption order shall complete an integrated
16 pest management training, provided by the Secretary or an approved third
17 party;

18 (2) the person seeking the exemption order shall complete a pest risk
19 assessment and submit a pest risk assessment report to the Secretary;

1 (3) any seeds authorized for use under the exemption order shall be
2 planted only on the property or properties identified in the pest risk assessment
3 report; and

4 (4) the persons seeking the exemption order shall maintain current
5 records of the pest risk assessment report and records of when treated seeds are
6 planted, both of which shall be subject to review upon request by the Secretary.

7 (c) A written exemption order issued under subsection (b) of this section
8 shall:

9 (1) not be valid for more than one year; and

10 (2) specify the types of neonicotinoid treated article seeds to which the
11 exemption order applies, the date on which the exemption order takes effect,
12 and the exemption order's duration.

13 (d) A written exemption order issued under subsection (b) of this section
14 may:

15 (1) establish restrictions related to the use of neonicotinoid treated
16 article seeds to which the exemption order applies to minimize harm to
17 pollinator populations, bird populations, ecosystem health, and public health;
18 and

19 (2) establish other restrictions related to the use of neonicotinoid treated
20 article seeds to which the exemption order applies that the Secretary of
21 Agriculture, Food and Markets considers necessary.

1 (e) Upon issuing a written exemption order under subsection (b) of this
2 section, the Secretary of Agriculture, Food and Markets shall submit a copy of
3 the exemption order to the Senate Committees on Natural Resources and
4 Energy and on Agriculture; the House Committees on Environment and
5 Energy and on Agriculture, Food Resiliency, and Forestry; and the
6 Agricultural Innovation Board. The General Assembly shall post the written
7 exemption order to the website of the General Assembly.

8 (f) The Secretary of Agriculture, Food and Markets, after consultation with
9 the Secretary of Natural Resources, may rescind a written exemption order
10 issued under subsection (b) of this section at any time. Such rescission shall
11 come into effect not sooner than 30 days after its issuance and shall not apply
12 to neonicotinoid treated article seeds planted or sown before such rescission
13 comes into effect.

14 Sec. 4. 6 V.S.A. § 1105c is added to read:

15 § 1105c. NEONICOTINOID PESTICIDES; PROHIBITED USES

16 (a) The following uses of neonicotinoid pesticides are prohibited:

17 (1) the outdoor application of neonicotinoid pesticides to any crop
18 during bloom;

19 (2) the outdoor application of neonicotinoid pesticides to soybeans or
20 any crop in the cereal grains crop group (crop groups 15, 15-22, 16, and 16-
21 22);

1 (3) the outdoor application of neonicotinoid pesticides to crops in the
2 leafy vegetables; brassica; bulb vegetables; herbs and spices; and stalk, stem,
3 and leaf petiole vegetables crop groups (crop groups 3, 3-07, 4, 4-16, 5, 5-16,
4 19, 22, 25, and 26) harvested after bloom; and

5 (4) the application of neonicotinoid pesticides to ornamental plants.

6 (b) The Secretary of Agriculture, Food and Markets, after consultation with
7 the Secretary of Natural Resources, may issue a written exemption order to
8 suspend the provisions of subsection (a) of this section if the Secretary
9 determines that:

10 (1) a valid environmental emergency or agricultural emergency exists;

11 (2) the pesticide would be effective in addressing the environmental
12 emergency or the agricultural emergency; and

13 (3) no other, less harmful pesticide or pest management practice would
14 be effective in addressing the environmental emergency or the agricultural
15 emergency.

16 (c) A written exemption order issued under subsection (b) of this section
17 shall:

18 (1) not be valid for more than one year;

19 (2) specify the neonicotinoid pesticides, uses, and crops, or plants to
20 which the exemption order applies; the date on which the exemption order

1 takes effect; the exemption order’s duration; and the exemption order’s
2 geographic scope, which may include specific farms, fields, or properties; and

3 (3) provide a detailed evaluation determining that an agricultural
4 emergency or an environmental emergency exists.

5 (d) A written exemption order issued under subsection (b) of this section
6 may:

7 (1) establish restrictions related to the use of neonicotinoid pesticides to
8 which the exemption order applies to minimize harm to pollinator populations,
9 bird populations, ecosystem health, and public health; or

10 (2) establish other restrictions related to the use of neonicotinoid
11 pesticides to which the exemption order applies that the Secretary of
12 Agriculture, Food and Markets considers necessary.

13 (e) Upon issuing a written exemption order under subsection (b) of this
14 section, the Secretary of Agriculture, Food and Markets shall submit a copy of
15 the exemption order to the Senate Committees on Natural Resources and
16 Energy and on Agriculture; the House Committees on Environment and
17 Energy and on Agriculture, Food Resiliency, and Forestry; and the
18 Agricultural Innovation Board. The General Assembly shall post the written
19 exemption order to the website of the General Assembly.

20 (f) The Secretary of Agriculture, Food and Markets, after consultation with
21 the Secretary of Natural Resources, may rescind any written exemption order

1 issued under subsection (b) of this section at any time. Such rescission shall
2 come into effect not sooner than 15 days after its issuance.

3 Sec. 5. 6 V.S.A. § 918 is amended to read:

4 § 918. REGISTRATION

5 (a) Every economic poison that is distributed, sold, or offered for sale
6 within this State or delivered for transportation or transported in intrastate
7 commerce or between points within this State through any point outside this
8 State shall be registered in the Office of the Secretary, and such registration
9 shall be renewed annually, provided that products that have the same formula
10 are manufactured by the same person, the labeling of which contains the same
11 claims, and the labels of which bear a designation identifying the product as
12 the same economic poison may be registered as a single economic poison, and
13 additional names and labels shall be added by supplemental statements during
14 the current period of registration. It is further provided that any economic
15 poison imported into this State, which is subject to the provisions of any
16 federal act providing for the registration of economic poisons and that has been
17 duly registered under the provisions of this chapter, may, in the discretion of
18 the Secretary, be exempted from registration under this chapter when sold or
19 distributed in the unbroken immediate container in which it was originally
20 shipped. The registrant shall file with the Secretary a statement including:

21 * * *

1 (f) ~~The~~ Unless the use or sale of a neonicotinoid pesticide is otherwise
2 prohibited, the Secretary shall register as a restricted use pesticide any
3 neonicotinoid pesticide labeled as approved for outdoor use that is distributed,
4 sold, sold into, or offered for sale within the State or delivered for
5 transportation or transported in intrastate commerce or between points within
6 this State through any point outside this State, provided that the Secretary shall
7 not register the following products as restricted use pesticides unless classified
8 under federal law as restricted use products:

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

11 (2) personal care products used for preventing, destroying, repelling, or
12 mitigating lice or bedbugs; and

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

15 ~~(4) treated article seed.~~

16 Sec. 6. 6 V.S.A. § 1105a(c) is amended to read:

17 (c)(1) Under subsection (a) of this section, the Secretary of Agriculture,
18 Food and Markets, after consultation with the Agricultural Innovation Board,
19 shall adopt by rule BMPs for the use in the State of:

20 (A) neonicotinoid treated article seeds when used prior to January 1,
21 2031;

1 (B) neonicotinoid treated article seeds when the Secretary issues a
2 written exemption order pursuant to section 1105b of this chapter authorizing
3 the use of neonicotinoid treated article seeds;

4 (C) neonicotinoid pesticides when the Secretary issues a written
5 exemption order pursuant to section 1105c of this chapter authorizing the use
6 of neonicotinoid pesticides; and

7 (D) the agricultural use after July 1, 2025 of neonicotinoid pesticides
8 the use of which is not otherwise prohibited under law.

9 (2) In developing the rules with the Agricultural Innovation Board, the
10 Secretary shall address:

11 (A) establishment of threshold levels of pest pressure required prior
12 to use of neonicotinoid treated article seeds or neonicotinoid pesticides;

13 (B) availability of nontreated article seeds that are not neonicotinoid
14 treated article seeds;

15 (C) economic impact from crop loss as compared to crop yield when
16 neonicotinoid treated article seeds or neonicotinoid pesticides are used;

17 (D) relative toxicities of different neonicotinoid treated article seeds
18 or neonicotinoid pesticides and the effects of neonicotinoid treated article
19 seeds or neonicotinoid pesticides on human health and the environment;

20 (E) surveillance and monitoring techniques for in-field pest pressure;

1 (F) ways to reduce pest harborage from conservation tillage
2 practices; and

3 (G) criteria for a system of approval of neonicotinoid treated article
4 seeds or neonicotinoid pesticides.

5 ~~(2)~~(3) In implementing the rules required under this subsection, the
6 Secretary of Agriculture, Food and Markets shall work with farmers, seed
7 companies, and other relevant parties to ensure that farmers have access to
8 appropriate varieties and amounts of untreated seed or treated seed that are not
9 neonicotinoid treated article seeds.

10 Sec. 7. 2022 Acts and Resolves No. 145, Sec. 4 is amended to read:

11 Sec. 4. IMPLEMENTATION; REPORT; RULEMAKING

12 (a) On or before March 1, 2024, the Secretary of Agriculture, Food, and
13 Markets shall submit to the Senate Committee on Agriculture and the House
14 Committee on Agriculture, Food Resiliency, and Forestry a copy of the
15 proposed rules required to be adopted under 6 V.S.A. § 1105a(c)(1)(A).

16 (b) The Secretary of Agriculture shall not file the final proposal of the rules
17 required by 6 V.S.A. § 1105a(c)(1)(A) under 3 V.S.A. § 841 until at least 90
18 days from submission of the proposed rules to the General Assembly under
19 subsection (a) of this section or July 1, 2024, ~~which ever~~ whichever shall occur
20 first.

1 Sec. 8. CONTINGENT REPEAL

2 (a) 6 V.S.A. §1105b (use and sale of neonicotinoid treated article seeds;
3 prohibition) shall be repealed if the prohibition on the use of neonicotinoid
4 treated article seed in New York under N.Y. Environmental Conservation Law
5 § 37-1101(1) is repealed.

6 (b) 6 V.S.A. § 1105c (neonicotinoid pesticides; prohibited uses) shall be
7 repealed if the prohibition on the use of neonicotinoid pesticides on ornamental
8 plants in New York under N.Y. Environmental Conservation Law § 37-
9 1101(2) is repealed.

10 Sec. 9. EFFECTIVE DATES

11 (a) This section and Secs. 1 (findings), 2 (definitions), 5 (registration),
12 6 (BMP rules), 7 (implementation), and 8 (contingent repeal) shall take effect
13 on passage.

14 (b) Sec. 4 (prohibited use; neonicotinoid pesticides) shall take effect on
15 July 1, 2025, provided that the prohibition on the use of neonicotinoid
16 pesticides on ornamental plants in New York under N.Y. Environmental
17 Conservation Law § 37-1101(2) is in effect on July 1, 2025. If N.Y.
18 Environmental Conservation Law § 37-1101(2) is not in effect on July 1, 2025,
19 Sec. 4 of this act shall not take effect until the effective date of N.Y.
20 Environmental Conservation Law § 37-1101(2).

1 (c) Sec. 3 (treated article seed) shall take effect on January 1, 2031,
2 provided that the prohibition on the use of neonicotinoid treated article seed in
3 New York under N.Y. Environmental Conservation Law § 37-1101(1) is in
4 effect on January 1, 2031. If N.Y. Environmental Conservation Law § 37-
5 1101(1) is not in effect on January 1, 2031, Sec. 3 of this act shall not take
6 effect until the effective date of N.Y. Environmental Conservation Law § 37-
7 1101(1).

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11 (Committee vote: _____)

12

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Senator _____

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FOR THE COMMITTEE