

HOUSE BILL 211

M4

(6lr1266)

ENROLLED BILL

— *Environment and Transportation/Education, Health, and Environmental Affairs* —

Introduced by **Delegates Healey, Beidle, Beitzel, Carr, Fraser-Hidalgo, Frush, Gilchrist, Gutierrez, Holmes, Jalisi, Kaiser, Lafferty, Lam, Lierman, Luedtke, Moon, Morhaim, Pendergrass, B. Robinson, S. Robinson, Sydnor, M. Washington, and Zucker**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

Speaker.

CHAPTER _____

1 AN ACT concerning

2 **Neonicotinoid Pesticides – ~~Labeling, Signage, and~~ Restrictions on Sales and Use**
3 **(Pollinator Protection Act of 2016)**

4 FOR the purpose of ~~prohibiting a person from selling at retail in the State certain seeds,~~
5 ~~material, or plants that have been treated with a neonicotinoid pesticide unless the~~
6 ~~seeds, material, or plants bear a label with, or are in close proximity to a sign that~~
7 ~~displays in a certain manner, a certain statement;~~ prohibiting a person from selling
8 at retail in the State, on or after a certain date, a neonicotinoid pesticide unless the
9 person also sells a restricted use pesticide; prohibiting a person from using a
10 neonicotinoid pesticide on or after a certain date unless the person is a certified
11 applicator or a person working under the supervision of a certified applicator, a
12 farmer or a person working under the supervision of a farmer who uses the product

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 for a certain purpose, or a veterinarian; ~~establishing certain civil penalties for a~~
 2 ~~violation of this Act; requiring the Department of Agriculture to incorporate certain~~
 3 ~~practices into a certain pollinator protection plan; requiring the Department to review~~
 4 ~~certain laws and regulations and make recommendations regarding certain matters;~~
 5 ~~requiring the Department to report its findings and recommendations to the Governor~~
 6 ~~and General Assembly within a certain period of time after the publication of a certain~~
 7 ~~pollinator risk assessment; establishing a certain civil penalty for a violation of this~~
 8 ~~Act; exempting this Act from certain provisions of law; providing for the application~~
 9 of certain provisions of this Act; defining a certain ~~terms~~ term; and generally relating
 10 to neonicotinoid pesticides.

11 BY repealing and reenacting, without amendments,
 12 Article – Agriculture
 13 Section 5–201(a), (c), and (r), 12–101, 12–102, and 12–103
 14 Annotated Code of Maryland
 15 (2007 Replacement Volume and 2015 Supplement)

16 BY adding to
 17 Article – Agriculture
 18 Section 5–2A–01 ~~and 5–2A–02~~ through ~~5–2A–03 5–2A–04 5–2A–05~~ to be under the
 19 new subtitle “Subtitle 2A. Neonicotinoid Pesticides”
 20 Annotated Code of Maryland
 21 (2007 Replacement Volume and 2015 Supplement)

22 BY repealing and reenacting, with amendments,
 23 Article – Agriculture
 24 Section 12–104
 25 Annotated Code of Maryland
 26 (2007 Replacement Volume and 2015 Supplement)

27 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 28 That the Laws of Maryland read as follows:

29 Article – Agriculture

30 5–201.

31 (a) In this subtitle the following words have the meanings indicated.

32 (c) “Certified applicator” means a person who is certified by the Secretary under
 33 this subtitle.

34 (r) “Restricted use pesticide” means a pesticide so classified by the provisions in
 35 this title or by the federal government or the Secretary of Agriculture, State of Maryland.

36 **SUBTITLE 2A. NEONICOTINOID PESTICIDES.**

1 5-2A-01.

2 (A) IN THIS SUBTITLE, ~~THE FOLLOWING WORDS HAVE THE MEANINGS~~
3 ~~INDICATED.~~

4 (B) ~~“NEONICOTINOID”~~ “NEONICOTINOID PESTICIDE” MEANS ANY PESTICIDE
5 CONTAINING A CHEMICAL BELONGING TO THE NEONICOTINOID CLASS OF
6 CHEMICALS, INCLUDING:

7 (1) IMIDACLOPRID;

8 (2) NITHIAZINE;

9 (3) ACETAMIPRID;

10 (4) CLOTHIANIDIN;

11 (5) DINOTEFURAN;

12 (6) THIAACLOPRID;

13 (7) THIAMETHOXAM; AND

14 (8) ANY OTHER CHEMICAL DESIGNATED BY THE DEPARTMENT AS
15 BELONGING TO THE NEONICOTINOID CLASS OF CHEMICALS.

16 (C) ~~“NURSERY STOCK”~~ MEANS:

17 (1) ~~ANY HARDY PLANT OR PLANT THAT SURVIVES MARYLAND~~
18 ~~WINTERS, INCLUDING A DECIDUOUS OR EVERGREEN TREE, SHRUB, OR WOODY VINE,~~
19 ~~WHETHER CULTIVATED, NATIVE, OR WILD, AND ALL VIABLE PARTS OF THE PLANT;~~

20 (2) ~~ANY NONHARDY PLANT OR PLANT PART TO BE DISTRIBUTED IN~~
21 ~~ANOTHER STATE THAT REQUIRES PLANT INSPECTION AND CERTIFICATION BEFORE~~
22 ~~ENTERING THAT STATE; OR~~

23 (3) ~~ANY OTHER PLANT INCLUDED BY THE SECRETARY, IF~~
24 ~~REGULATING ITS MOVEMENT IS NECESSARY TO CONTROL ANY DANGEROUSLY~~
25 ~~INJURIOUS PLANT PEST.~~

26 5-2A-02.

27 (A) ~~A PERSON MAY NOT SELL AT RETAIL IN THE STATE ANY SEED, PLANT~~
28 ~~MATERIAL, NURSERY STOCK, ANNUAL PLANT, BEDDING PLANT, OR OTHER PLANT~~

~~1 THAT HAS BEEN TREATED WITH A NEONICOTINOID PESTICIDE UNLESS THE SEED,
2 PLANT MATERIAL, NURSERY STOCK, ANNUAL PLANT, BEDDING PLANT, OR OTHER
3 PLANT BEARS A LABEL WITH, OR IS IN CLOSE PROXIMITY TO A SIGN THAT
4 PROMINENTLY DISPLAYS, THE FOLLOWING STATEMENT:~~

~~5 “WARNING: THIS PRODUCT HAS BEEN TREATED WITH NEONICOTINOID
6 PESTICIDES, FOUND TO HARM OR IMPAIR NONTARGET ORGANISMS, INCLUDING
7 BEES AND OTHER POLLINATORS, BIRDS, EARTHWORMS, AND AQUATIC
8 INVERTEBRATES.”~~

~~9 (B) (A) (1) THIS SUBSECTION AND SUBSECTION (C) OF THIS SECTION DO DOES
10 NOT APPLY TO A FLEA OR TICK COLLAR THAT CONTAINS A NEONICOTINOID
11 PESTICIDE;~~

~~12 (I) PET CARE PRODUCTS USED TO MITIGATE FLEAS, MITES,
13 TICKS, HEARTWORMS, OR OTHER ANIMALS THAT ARE HARMFUL TO THE HEALTH OF
14 A DOMESTICATED ANIMAL;~~

~~15 (II) PERSONAL CARE PRODUCTS USED TO MITIGATE LICE AND
16 BEDBUGS; AND~~

~~17 (III) INDOOR PEST CONTROL PRODUCTS USED TO MITIGATE
18 INSECTS INDOORS, INCLUDING ANT BAIT.~~

~~19 (2) ON OR AFTER JANUARY 1, 2017 2018, A PERSON MAY NOT SELL AT
20 RETAIL IN THE STATE A NEONICOTINOID PESTICIDE UNLESS THE PERSON ALSO
21 SELLS A RESTRICTED USE PESTICIDE, AS DEFINED IN § 5-201 OF THIS TITLE.~~

~~22 (C) (B) ON OR AFTER JANUARY 1, 2017 2018, A PERSON MAY NOT USE A
23 NEONICOTINOID PESTICIDE UNLESS THE PERSON IS:~~

~~24 (1) A CERTIFIED APPLICATOR OR A PERSON WORKING UNDER THE
25 SUPERVISION OF A CERTIFIED APPLICATOR, AS DEFINED IN § 5-201 OF THIS TITLE;~~

~~26 (2) A FARMER, OR A PERSON UNDER THE SUPERVISION OF A FARMER,
27 WHO USES THE PESTICIDE FOR AGRICULTURAL PURPOSES, INCLUDING CROP
28 PRODUCTION, LIVESTOCK, POULTRY, EQUINE, AND NONCROP AGRICULTURAL
29 FIELDS; OR~~

~~30 (3) A VETERINARIAN.~~

~~31 5-2A-03.~~

~~A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF
\$250.~~

THE DEPARTMENT SHALL INCORPORATE POLLINATOR HABITAT EXPANSION
AND ENHANCEMENT PRACTICES INTO THE STATE'S MANAGED POLLINATOR
PROTECTION PLAN DEVELOPED IN COORDINATION WITH THE U.S.
ENVIRONMENTAL PROTECTION AGENCY.

5-2A-04.

(A) ON COMPLETION OF THE U.S. ENVIRONMENTAL PROTECTION
AGENCY'S POLLINATOR RISK ASSESSMENT OF THE NEONICOTINOID PESTICIDES
IMIDACLOPRID, CLOTHIANIDIN, THIAMETHOXAM, AND DINOTEFURAN, THE
DEPARTMENT SHALL REVIEW THE STATE'S PESTICIDE LAWS AND REGULATIONS AND
MAKE RECOMMENDATIONS FOR ANY CHANGES NECESSARY TO ENSURE STATE LAWS
AND REGULATIONS ARE PROTECTIVE OF POLLINATORS, TAKING INTO ACCOUNT THE
U.S. ENVIRONMENTAL PROTECTION AGENCY RECOMMENDATIONS.

(B) WITHIN 6 MONTHS OF THE U.S. ENVIRONMENTAL PROTECTION
AGENCY'S COMPLETED POLLINATOR RISK ASSESSMENT OF NEONICOTINOID
PESTICIDES, THE DEPARTMENT SHALL REPORT ITS FINDINGS AND
RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF
THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

5-2A-05.

A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF
\$250.

12-101.

Any person who violates any provision of this article is guilty of a misdemeanor.
Unless another penalty specifically is provided elsewhere in this article, the person, upon
conviction, is subject to a fine not exceeding \$500, or imprisonment not exceeding three
months, or both, with costs imposed in the discretion of the court.

12-102.

Unless another penalty specifically is provided elsewhere in this article, any person
found guilty of a second or subsequent violation of any provision of the same title, is subject
to a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, with costs
imposed in the discretion of the court. For the purposes of this section, a second or subsequent
violation is one which has occurred within two years of any prior violation of this title and
which arises out of a separate set of circumstances.

1 12-103.

2 In addition to any administrative penalty provided in this article, violation of any
3 rule or regulation adopted by the Secretary pursuant to the provisions of this article is a
4 misdemeanor and is punishable as provided in §§ 12-101 and 12-102 of this subtitle.

5 12-104.

6 This title does not apply to a violation of:

7 **(1) Title 1, Subtitle 3 of this article; AND**

8 **(2) TITLE 5, SUBTITLE 2A OF THIS ARTICLE.**

9 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
10 October 1, 2016.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.