



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products
www.esfpa.org

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Honorable Steven Englebright
Member of Assembly

621 LOB

Albany, NY 12248

Via email: EngleS@nyassembly.gov

March 21, 2022

Dear Assembly Member Englebright:

The Empire State Forest Products Association has concerns with **A. 7429-A** the Birds and Bees Act. This legislation could prohibit the sale of pesticides containing neonicotinoids and eliminate an important tool that foresters and forest landowners depend on to protect our forests from pest damage. With over 70 known invasive forest pests and diseases, New York has more invasives than any other state in America. New York is the epicenter of invasive pests and diseases and we need every effective tool at our disposal to respond to these pests and diseases responsibly and safely.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors. Over 200,000 private forest landowners depend on wood product markets to provide a return of investment on their forests lands which in turn enable them to keep their forests forest and steward their lands in ways that benefit all New Yorkers.

We appreciate the amendments to this legislation the sponsor has undertaken to address the concerns of agriculture and forestry stakeholders on this bill. However, more work needs to be done to ensure that the potential unintended consequences on our sectors are addressed. Specifically for forestry, we believe the exemption language currently in the bill would only apply to outdoor ornamental plants and turf. We testified before the Assembly Environmental Conservation Committee last September regarding our concerns and have shared our testimony. We also have taken the time to work with several environmental stakeholders on amendment language that is not included in this bill.

The exemption language in this bill, allowing for the Commissioner of the Department of Environmental Conservation to issue an “environmental emergency”, could be interpreted to only apply to ornamentals and turf or it could be read to imply broader applicability, excluding seeds. The language referencing paragraph b (1) remains confusing and needs clarification. We also believe the limit of the order to “not to exceed 6 months” is too limiting to practices that may need to be undertaken through the entire warmer season, i.e., more than six months. We would recommend that the order be for at least one year.

We note that the dates for effectiveness have been moved out one year with the exception of the date for the Department to “identify practicable and feasible alternatives” to the use of these pesticides. This could leave the Department with an impossible deadline. This should be moved out to at least January 1, 2024.

Neonicotinoid insecticides are used globally to suppress a variety of tree, crop, and ornamental plant insect pests. Neonicotinoids have been implicated as part of a suite of contributors to widespread pollinator population decline; however, forest health in New York is currently being preserved by the ecologically sound use of neonicotinoid pesticides. Invasive forest pests, such as the hemlock woolly adelgid (HWA), emerald ash borer (EAB), asian longhorned beetle (ALB) and the just emerging in New York spotted lanternfly (SLF) threaten to eliminate entire species, reduce ecosystem services, impact forest aesthetics, adversely affect the forest-based economy and cause significant forest health damage that severely constrains our forests as a natural solution to climate change.

Neonicotinoids such as imidacloprid and dinotefuran are essential tools for the suppression of these invasive pests and the resulting protection of our forest resources. Other neonicotinoids used to suppress tree pests include clothianidin, acetamiprid, and thiacloprid. The soil and trunk application methods used in forested settings present a negligible risk to pollinators, as well as applicators. There is little risk of direct contact or indirect exposure of pollinators to when being used for HWA, EAB, ALB or SLF suppression. Restricting the low-risk use of neonicotinoids for forest pest suppression would be devastating to foresters, land managers, and homeowners, leaving them with little to no options to protect our natural and urban forests from these invasive insect threats.

We are also aware that on January 25, 2022, the Department of Environmental Conservation (DEC) took actions to limit the unrestricted use of pesticides that can harm bee and other pollinator populations. DEC is reclassifying certain products containing the neonicotinoid insecticides imidacloprid, thiamethoxam, and acetamiprid as "restricted use" to ensure applications are limited to trained pesticide applicators in specific situations. Restricting the use of these pesticides enables DEC to collect new data to determine where, when, and how they are used, as well as their potential impacts. These actions may make the need for this legislation moot.

The reclassification will take effect on Jan. 1, 2023, allowing time for registrants, distributors, and retailers to prepare for the change in classification. Neonicotinoids will be reclassified under DEC's pesticide regulation authority and pesticide registrants have been notified of the intent to reclassify the applicable products. Products labeled for "limited directed application" to tree trunks and the ground at the base of trees, shrubs, and plants are not included in the reclassification. These products provide cost-effective and unique pest control for residential applications, particularly for invasive species, and limit potential exposure to pollinators.

This legislation, as well as several other bills before the New York Legislature relating to the control or prohibition of certain herbicides and pesticides, circumvents the rigorous technical and scientific

review process that exists in New York. It also sets a precedent to make such decisions regarding the labeling, packaging, storage, use and application of pesticides and herbicides in the political realm as opposed to by the experts in the scientific and technical fields.

ESFPA supports efforts to address environmental and public health issues posed by an ever-increasing number of products that may harm the environment or the public. No professional forester or forest landowner takes the use of pesticides or herbicides lightly. They are expensive and we have an ethical responsibility to use these products prudently and responsibly. Neonicotinoids, when properly applied, can address all these issues safely, efficiently, and economically. If access to neonicotinoids is restricted or the product is removed from the market, this would create major limitations on forest landowners' ability to successfully manage their forests and improve forest health and regeneration.

For the above stated reasons, we cannot support this legislation as drafted. We would be happy to discuss amendments that could make this legislation supportable.

cc: Assembly Environmental Conservation Committee Members

For More Information Contact:

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