

HB3636



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB3636

by Rep. Will Guzzardi

SYNOPSIS AS INTRODUCED:

415 ILCS 60/4

from Ch. 5, par. 804

415 ILCS 60/14.1 new

Amends the Illinois Pesticide Act. Authorizes the Director of the Department of Agriculture to classify a pesticide as a restricted use pesticide. Includes pesticides containing a neonicotinoid as a restricted use pesticide. Defines "neonicotinoid". Provides that no pesticide containing a neonicotinoid may be used outdoors on any public land owned or maintained by the State, except for use in structural pest control or abatement of *Agrilus planipennis*. Effective immediately.

LRB101 05922 CPF 50943 b

A BILL FOR

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Pesticide Act is amended by
5 changing Section 4 and by adding Section 14.1 as follows:

6 (415 ILCS 60/4) (from Ch. 5, par. 804)

7 Sec. 4. Definitions. As used in this Act:

8 1. "Director" means Director of the Illinois Department of
9 Agriculture or his authorized representative.

10 2. "Active Ingredient" means any ingredient which will
11 prevent, destroy, repel, control or mitigate a pest or which
12 will act as a plant regulator, defoliant or desiccant.

13 3. "Adulterated" shall apply to any pesticide if the
14 strength or purity is not within the standard of quality
15 expressed on the labeling under which it is sold, distributed
16 or used, including any substance which has been substituted
17 wholly or in part for the pesticide as specified on the
18 labeling under which it is sold, distributed or used, or if any
19 valuable constituent of the pesticide has been wholly or in
20 part abstracted.

21 4. "Agricultural Commodity" means produce of the land
22 including but not limited to plants and plant parts, livestock
23 and poultry and livestock or poultry products, seeds, sod,

1 shrubs and other products of agricultural origin including the
2 premises necessary to and used directly in agricultural
3 production. Agricultural commodity also includes aquatic
4 products as defined in the Aquaculture Development Act.

5 5. "Animal" means all vertebrate and invertebrate species
6 including, but not limited to, man and other mammals, bird,
7 fish, and shellfish.

8 6. "Beneficial Insects" means those insects which during
9 their life cycle are effective pollinators of plants, predators
10 of pests or are otherwise beneficial.

11 7. "Certified applicator".

12 A. "Certified applicator" means any individual who is
13 certified under this Act to purchase, use, or supervise the
14 use of pesticides which are classified for restricted use.

15 B. "Private applicator" means a certified applicator
16 who purchases, uses, or supervises the use of any pesticide
17 classified for restricted use, for the purpose of producing
18 any agricultural commodity on property owned, rented, or
19 otherwise controlled by him or his employer, or applied to
20 other property if done without compensation other than
21 trading of personal services between no more than 2
22 producers of agricultural commodities.

23 C. "Licensed Commercial Applicator" means a certified
24 applicator, whether or not he is a private applicator with
25 respect to some uses, who owns or manages a business that
26 is engaged in applying pesticides, whether classified for

1 general or restricted use, for hire. The term also applies
2 to a certified applicator who uses or supervises the use of
3 pesticides, whether classified for general or restricted
4 use, for any purpose or on property of others excluding
5 those specified by subparagraphs 7 (B), (D), (E) of Section
6 4 of this Act.

7 D. "Commercial Not For Hire Applicator" means a
8 certified applicator who uses or supervises the use of
9 pesticides classified for general or restricted use for any
10 purpose on property of an employer when such activity is a
11 requirement of the terms of employment and such application
12 of pesticides under this certification is limited to
13 property under the control of the employer only and
14 includes, but is not limited to, the use or supervision of
15 the use of pesticides in a greenhouse setting. "Commercial
16 Not For Hire Applicator" also includes a certified
17 applicator who uses or supervises the use of pesticides
18 classified for general or restricted use as an employee of
19 a state agency, municipality, or other duly constituted
20 governmental agency or unit.

21 8. "Defoliant" means any substance or combination of
22 substances which cause leaves or foliage to drop from a plant
23 with or without causing abscission.

24 9. "Desiccant" means any substance or combination of
25 substances intended for artificially accelerating the drying
26 of plant tissue.

1 10. "Device" means any instrument or contrivance, other
2 than a firearm or equipment for application of pesticides when
3 sold separately from pesticides, which is intended for
4 trapping, repelling, destroying, or mitigating any pest, other
5 than bacteria, virus, or other microorganisms on or living in
6 man or other living animals.

7 11. "Distribute" means offer or hold for sale, sell,
8 barter, ship, deliver for shipment, receive and then deliver,
9 or offer to deliver pesticides, within the State.

10 12. "Environment" includes water, air, land, and all plants
11 and animals including man, living therein and the
12 interrelationships which exist among these.

13 13. "Equipment" means any type of instruments and
14 contrivances using motorized, mechanical or pressure power
15 which is used to apply any pesticide, excluding pressurized
16 hand-size household apparatus containing dilute ready to apply
17 pesticide or used to apply household pesticides.

18 14. "FIFRA" means the Federal Insecticide, Fungicide, and
19 Rodenticide Act, as amended.

20 15. "Fungi" means any non-chlorophyll bearing
21 thallophytes, any non-chlorophyll bearing plant of a lower
22 order than mosses or liverworts, as for example rust, smut,
23 mildew, mold, yeast and bacteria, except those on or in living
24 animals including man and those on or in processed foods,
25 beverages or pharmaceuticals.

26 16. "Household Substance" means any pesticide customarily

1 produced and distributed for use by individuals in or about the
2 household.

3 17. "Imminent Hazard" means a situation which exists when
4 continued use of a pesticide would likely result in
5 unreasonable adverse effect on the environment or will involve
6 unreasonable hazard to the survival of a species declared
7 endangered by the U.S. Secretary of the Interior or to species
8 declared to be protected by the Illinois Department of Natural
9 Resources.

10 18. "Inert Ingredient" means an ingredient which is not an
11 active ingredient.

12 19. "Ingredient Statement" means a statement of the name
13 and percentage of each active ingredient together with the
14 total percentage of inert ingredients in a pesticide and for
15 pesticides containing arsenic in any form, the ingredient
16 statement shall include percentage of total and water soluble
17 arsenic, each calculated as elemental arsenic. In the case of
18 spray adjuvants the ingredient statement need contain only the
19 names of the functioning agents and the total percent of those
20 constituents ineffective as spray adjuvants.

21 20. "Insect" means any of the numerous small invertebrate
22 animals generally having the body more or less obviously
23 segmented for the most part belonging to the class Insects,
24 comprised of six-legged, usually winged forms, as for example
25 beetles, caterpillars, and flies. This definition encompasses
26 other allied classes of arthropods whose members are wingless

1 and usually have more than 6 legs as for example spiders,
2 mites, ticks, centipedes, and millipedes.

3 21. "Label" means the written, printed or graphic matter on
4 or attached to the pesticide or device or any of its containers
5 or wrappings.

6 22. "Labeling" means the label and all other written,
7 printed or graphic matter: (a) on the pesticide or device or
8 any of its containers or wrappings, (b) accompanying the
9 pesticide or device or referring to it in any other media used
10 to disseminate information to the public, (c) to which
11 reference is made to the pesticide or device except when
12 references are made to current official publications of the U.
13 S. Environmental Protection Agency, Departments of
14 Agriculture, Health, Education and Welfare or other Federal
15 Government institutions, the state experiment station or
16 colleges of agriculture or other similar state institution
17 authorized to conduct research in the field of pesticides.

18 23. "Land" means all land and water area including
19 airspace, and all plants, animals, structures, buildings,
20 contrivances, and machinery appurtenant thereto or situated
21 thereon, fixed or mobile, including any used for
22 transportation.

23 24. "Licensed Operator" means a person employed to apply
24 pesticides to the lands of others under the direction of a
25 "licensed commercial applicator" or a "licensed commercial
26 not-for-hire applicator".

1 25. "Nematode" means invertebrate animals of the phylum
2 nemathelminthes and class nematoda, also referred to as nemas
3 or eelworms, which are unsegmented roundworms with elongated
4 fusiform or sac-like bodies covered with cuticle and inhabiting
5 soil, water, plants or plant parts.

6 26. "Permit" means a written statement issued by the
7 Director or his authorized agent, authorizing certain acts of
8 pesticide purchase or of pesticide use or application on an
9 interim basis prior to normal certification, registration, or
10 licensing.

11 27. "Person" means any individual, partnership,
12 association, fiduciary, corporation, or any organized group of
13 persons whether incorporated or not.

14 28. "Pest" means (a) any insect, rodent, nematode, fungus,
15 weed, or (b) any other form of terrestrial or aquatic plant or
16 animal life or virus, bacteria, or other microorganism,
17 excluding virus, bacteria, or other microorganism on or in
18 living animals including man, which the Director declares to be
19 a pest.

20 29. "Pesticide" means any substance or mixture of
21 substances intended for preventing, destroying, repelling, or
22 mitigating any pest or any substance or mixture of substances
23 intended for use as a plant regulator, defoliant or desiccant.

24 30. "Pesticide Dealer" means any person who distributes
25 registered pesticides to the user.

26 31. "Plant Regulator" means any substance or mixture of

1 substances intended through physiological action to affect the
2 rate of growth or maturation or otherwise alter the behavior of
3 ornamental or crop plants or the produce thereof. This does not
4 include substances which are not intended as plant nutrient
5 trace elements, nutritional chemicals, plant or seed
6 inoculants or soil conditioners or amendments.

7 32. "Protect Health and Environment" means to guard against
8 any unreasonable adverse effects on the environment.

9 33. "Registrant" means person who has registered any
10 pesticide pursuant to the provision of FIFRA and this Act.

11 34. "Restricted Use Pesticide" means any pesticide with one
12 or more of its uses classified as restricted by order of the
13 Administrator of USEPA or the Director, or any pesticide which
14 contains a neonicotinoid as defined in this Section.

15 35. "SLN Registration" means registration of a pesticide
16 for use under conditions of special local need as defined by
17 FIFRA.

18 36. "State Restricted Pesticide Use" means any pesticide
19 use which the Director determines, subsequent to public
20 hearing, that an additional restriction for that use is needed
21 to prevent unreasonable adverse effects.

22 37. "Structural Pest" means any pests which attack and
23 destroy buildings and other structures or which attack
24 clothing, stored food, commodities stored at food
25 manufacturing and processing facilities or manufactured and
26 processed goods.

1 38. "Unreasonable Adverse Effects on the Environment"
2 means the unreasonable risk to the environment, including man,
3 from the use of any pesticide, when taking into account accrued
4 benefits of as well as the economic, social, and environmental
5 costs of its use.

6 39. "USEPA" means United States Environmental Protection
7 Agency.

8 40. "Use inconsistent with the label" means to use a
9 pesticide in a manner not consistent with the label
10 instruction, the definition adopted in FIFRA as interpreted by
11 USEPA shall apply in Illinois.

12 41. "Weed" means any plant growing in a place where it is
13 not wanted.

14 42. "Wildlife" means all living things, not human,
15 domestic, or pests.

16 43. "Bulk pesticide" means any registered pesticide which
17 is transported or held in an individual container in undivided
18 quantities of greater than 55 U.S. gallons liquid measure or
19 100 pounds net dry weight.

20 44. "Bulk repackaging" means the transfer of a registered
21 pesticide from one bulk container (containing undivided
22 quantities of greater than 100 U.S. gallons liquid measure or
23 100 pounds net dry weight) to another bulk container
24 (containing undivided quantities of greater than 100 U.S.
25 gallons liquid measure or 100 pounds net dry weight) in an
26 unaltered state in preparation for sale or distribution to

1 another person.

2 45. "Business" means any individual, partnership,
3 corporation or association engaged in a business operation for
4 the purpose of selling or distributing pesticides or providing
5 the service of application of pesticides in this State.

6 46. "Facility" means any building or structure and all real
7 property contiguous thereto, including all equipment fixed
8 thereon used for the operation of the business.

9 47. "Chemigation" means the application of a pesticide
10 through the systems or equipment employed for the primary
11 purpose of irrigation of land and crops.

12 48. "Use" means any activity covered by the pesticide label
13 including but not limited to application of pesticide, mixing
14 and loading, storage of pesticides or pesticide containers,
15 disposal of pesticides and pesticide containers and reentry
16 into treated sites or areas.

17 49. "Neonicotinoid" means any pesticide that contains
18 clothianidin, imidacloprid, thiamethoxam, dinotefuran,
19 acetamiprid, thiacloprid, nithiazine, nitenpyram, or other
20 neonicotinoid as may be identified by rules adopted by the
21 Department of Agriculture.

22 (Source: P.A. 99-540, eff. 1-1-17; 100-201, eff. 8-18-17.)

23 (415 ILCS 60/14.1 new)

24 Sec. 14.1. Neonicotinoids. Effective January 1, 2020, no
25 pesticide containing a neonicotinoid may be used outdoors on

1 any public land owned or maintained by the State, except for

2 use in:

3 (a) structural pest control; or

4 (b) abatement of Agrilus planipennis.

5 Section 99. Effective date. This Act takes effect upon
6 becoming law.