

# SB3862



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

SB3862

Introduced 1/21/2022, by Sen. Karina Villa

#### SYNOPSIS AS INTRODUCED:

415 ILCS 60/4

from Ch. 5, par. 804

415 ILCS 60/14.1 new

Amends the Illinois Pesticide Act. Provides that, on and after January 1, 2023, no pesticide containing a neonicotinoid may be used outdoors on any land owned or maintained by the State, except for use in structural pest control or abatement of non-native insect borers, subject to specified restrictions. Provides that the provisions do not prohibit: (i) the use of seeds that are pretreated with neonicotinoids on public lands owned or maintained by the State; or (ii) the use of neonicotinoids on property belonging to a public institution of higher education. Defines "neonicotinoid". Makes other changes. Effective immediately.

LRB102 25749 CPF 35069 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, including any aquatic plants and animals or their  
5 by-products that are produced, grown, managed, harvested and  
6 marketed on an annual, semi-annual, biennial or short-term  
7 basis, in permitted aquaculture facilities.

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

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

14 7. "Certified applicator".

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

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

1 C. "Licensed Commercial Applicator" means a certified  
2 applicator, whether or not he is a private applicator with  
3 respect to some uses, who owns or manages a business that  
4 is engaged in applying pesticides, whether classified for  
5 general or restricted use, for hire. The term also applies  
6 to a certified applicator who uses or supervises the use  
7 of pesticides, whether classified for general or  
8 restricted use, for any purpose or on property of others  
9 excluding those specified by subparagraphs 7 (B), (D), (E)  
10 of Section 4 of this Act.

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

25 8. "Defoliant" means any substance or combination of  
26 substances which cause leaves or foliage to drop from a plant

1 with or without causing abscission.

2 9. "Desiccant" means any substance or combination of  
3 substances intended for artificially accelerating the drying  
4 of plant tissue.

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

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

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

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

22 14. "FIFRA" means the Federal Insecticide, Fungicide, and  
23 Rodenticide Act, as amended.

24 15. "Fungi" means any non-chlorophyll bearing  
25 thallophytes, any non-chlorophyll bearing plant of a lower  
26 order than mosses or liverworts, as for example rust, smut,

1 mildew, mold, yeast and bacteria, except those on or in living  
2 animals including man and those on or in processed foods,  
3 beverages or pharmaceuticals.

4 16. "Household Substance" means any pesticide customarily  
5 produced and distributed for use by individuals in or about  
6 the household.

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

14 18. "Inert Ingredient" means an ingredient which is not an  
15 active ingredient.

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

25 20. "Insect" means any of the numerous small invertebrate  
26 animals generally having the body more or less obviously

1 segmented for the most part belonging to the class Insects,  
2 comprised of six-legged, usually winged forms, as for example  
3 beetles, caterpillars, and flies. This definition encompasses  
4 other allied classes of arthropods whose members are wingless  
5 and usually have more than 6 legs as for example spiders,  
6 mites, ticks, centipedes, and millipedes.

7 21. "Label" means the written, printed or graphic matter  
8 on or attached to the pesticide or device or any of its  
9 containers or wrappings.

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

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

1           24. "Licensed Operator" means a person employed to apply  
2 pesticides to the lands of others under the direction of a  
3 "licensed commercial applicator" or a "licensed commercial  
4 not-for-hire applicator".

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

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

15          27. "Person" means any individual, partnership,  
16 association, fiduciary, corporation, or any organized group of  
17 persons whether incorporated or not.

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

24          29. "Pesticide" means any substance or mixture of  
25 substances intended for preventing, destroying, repelling, or  
26 mitigating any pest or any substance or mixture of substances



1 intended for use as a plant regulator, defoliant or desiccant.

2 30. "Pesticide Dealer" means any person who distributes  
3 registered pesticides to the user.

4 31. "Plant Regulator" means any substance or mixture of  
5 substances intended through physiological action to affect the  
6 rate of growth or maturation or otherwise alter the behavior  
7 of ornamental or crop plants or the produce thereof. This does  
8 not include substances which are not intended as plant  
9 nutrient trace elements, nutritional chemicals, plant or seed  
10 inoculants or soil conditioners or amendments.

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

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

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

19 35. "SLN Registration" means registration of a pesticide  
20 for use under conditions of special local need as defined by  
21 FIFRA.

22 36. "State Restricted Pesticide Use" means any pesticide  
23 use which the Director determines, subsequent to public  
24 hearing, that an additional restriction for that use is needed  
25 to prevent unreasonable adverse effects.

26 37. "Structural Pest" means any pests which attack and

1 destroy buildings and other structures or which attack  
2 clothing, stored food, commodities stored at food  
3 manufacturing and processing facilities or manufactured and  
4 processed goods.

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

10 39. "USEPA" means United States Environmental Protection  
11 Agency.

12 40. "Use inconsistent with the label" means to use a  
13 pesticide in a manner not consistent with the label  
14 instruction, the definition adopted in FIFRA as interpreted by  
15 USEPA shall apply in Illinois.

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

18 42. "Wildlife" means all living things, not human,  
19 domestic, or pests.

20 43. "Bulk pesticide" means any registered pesticide which  
21 is transported or held in an individual container in undivided  
22 quantities of greater than 55 U.S. gallons liquid measure or  
23 100 pounds net dry weight.

24 44. "Bulk repackaging" means the transfer of a registered  
25 pesticide from one bulk container (containing undivided  
26 quantities of greater than 100 U.S. gallons liquid measure or

1 100 pounds net dry weight) to another bulk container  
2 (containing undivided quantities of greater than 100 U.S.  
3 gallons liquid measure or 100 pounds net dry weight) in an  
4 unaltered state in preparation for sale or distribution to  
5 another person.

6 45. "Business" means any individual, partnership,  
7 corporation or association engaged in a business operation for  
8 the purpose of selling or distributing pesticides or providing  
9 the service of application of pesticides in this State.

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

13 47. "Chemigation" means the application of a pesticide  
14 through the systems or equipment employed for the primary  
15 purpose of irrigation of land and crops.

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

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

26 (Source: P.A. 102-555, eff. 1-1-22.)

1 (415 ILCS 60/14.1 new)

2 Sec. 14.1. Neonicotinoids. On and after January 1, 2023,  
3 no pesticide containing a neonicotinoid may be used outdoors  
4 on any land owned or maintained by the State, except for use  
5 in:

6 (a) structural pest control; or

7 (b) abatement of non-native insect borers, such as Agrilus  
8 planipennis or related or similar insect pests, subject to the  
9 following:

10 (1) Abatement application is restricted to the  
11 following methods:

12 (A) Basal bark spray.

13 (B) Basal drench solely at the base of a tree.

14 (C) Soil injection solely at the base of a tree.

15 (D) Systemic root flare or trunk injection.

16 (2) Broadcast soil treatment, foliar spraying, or  
17 dusting is not permitted.

18 (3) Abatement application made to a zoophilous species  
19 shall occur after the blooming period has passed and early  
20 enough to ensure that chemical decomposition occurs prior  
21 to the following bloom season.

22 (c) This Section does not prohibit:

23 (1) the use of seeds that are pretreated with  
24 neonicotinoids on public lands owned or maintained by the  
25 State; or

1           (2) the use of neonicotinoids on property belonging to  
2           a public institution of higher education.

3           (d) For purposes of this Section, "zoophilous species"  
4           means plants pollinated by insects, birds, or bats.

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