

# STATE OF NEW YORK

4983--C

2009-2010 Regular Sessions

## IN SENATE

April 27, 2009

Introduced by Sen. FOLEY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Environmental Conservation in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee and committed to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, the education law and the social services law, in relation to the use and guidance of pesticide alternatives

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Section 33-0303 of the environmental conservation law is  
2 amended by adding a new subdivision 7 to read as follows:  
3 7. The commissioner, in consultation with the commissioner of educa-  
4 tion and the commissioner of health, shall develop guidance on pesticide  
5 alternatives to facilitate compliance with section four hundred nine-k  
6 of the education law and three hundred ninety-g of the social services  
7 law.  
8 § 2. The education law is amended by adding a new section 409-k to  
9 read as follows:  
10 § 409-k. Pesticide alternatives. 1. For purposes of this section the  
11 following terms shall have the meanings set forth below:  
12 (a) "School" shall mean any public school district or private or paro-  
13 chial school or board of cooperative educational services.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets [-] is old law to be omitted.

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1 (b) "Pesticide" shall have the same meaning as set forth in subdivi-  
2 sion thirty-five of section 33-0101 of the environmental conservation  
3 law, provided however that it shall not include:

4 (i) the application of anti-microbial pesticides and anti-microbial  
5 products as defined by FIFRA in 7 U.S.C. Section 136 (mm) and 136 q (h)  
6 (2);

7 (ii) the use of an aerosol product with a directed spray, in contain-  
8 ers of eighteen fluid ounces or less, when used to protect individuals  
9 from an imminent threat from stinging and biting insects, including  
10 venomous spiders, bees, wasps and hornets;

11 (iii) the use of non-volatile insect or rodent bait in a tamper  
12 resistant container;

13 (iv) the application of a pesticide classified by the United States  
14 Environmental Protection Agency as an exempt material under 40 CFR Part  
15 152.25;

16 (v) the use of boric acid and disodium octaborate tetrahydrate; or

17 (vi) the use of horticultural soap and oils that do not contain  
18 synthetic pesticides or synergists.

19 2. No school shall apply pesticide to any playgrounds, turf, athletic  
20 or playing fields, except that an emergency application of a pesticide  
21 may be made as determined by the county health department or for a coun-  
22 ty not having a health department such authority as the county legisla-  
23 ture shall designate, the commissioner of health or his or her designee,  
24 the commissioner of environmental conservation or his or her designee,  
25 or, in the case of a public school, the school board.

26 § 3. The social services law is amended by adding a new section 390-g  
27 to read as follows:

28 § 390-g. Pesticide alternatives. 1. For purposes of this section the  
29 following terms shall have the meanings set forth below:

30 (a) "Day care" shall apply to all child day care centers or head start  
31 day care centers, as defined in section three hundred ninety of this  
32 title.

33 (b) "Pesticide" shall have the same meaning as set forth in subdivi-  
34 sion thirty-five of section 33-0101 of the environmental conservation  
35 law, provided however that it shall not include:

36 (i) the application of anti-microbial pesticides and anti-microbial  
37 products as defined by FIFRA in 7 U.S.C. Section 136(mmm) and 136q(h) (2);

38 (ii) the use of an aerosol product with a directed spray, in contain-  
39 ers of eighteen fluid ounces or less, when used to protect individuals  
40 from an imminent threat from stinging and biting insects, including  
41 venomous spiders, bees, wasps and hornets;

42 (iii) the use of non-volatile insect or rodent bait in a tamper  
43 resistant container;

44 (iv) the application of a pesticide classified by the United States  
45 Environmental Protection Agency as an exempt material under 40 CFR Part  
46 152.25;

47 (v) the use of boric acid and disodium octaborate tetrahydrate; or

48 (vi) the use of horticultural soap and oils that do not contain  
49 synthetic pesticides or synergists.

50 2. No day care shall apply pesticide to any playgrounds, turf, athlet-  
51 ic or playing fields, except that an emergency application of a pesti-  
52 cide may be made as determined by the county health department or for a  
53 county not having a health department such authority as the county  
54 legislature shall designate, the commissioner of health or his or her  
55 designee, the commissioner of environmental conservation or his or her  
56 designee, or, in the case of a public school, the school board.

1 § 4. Subdivision 1 of section 389 of the social services law, as  
2 amended by chapter 555 of the laws of 1978, is amended to read as  
3 follows:

4 1. Except as hereinafter provided, any person, corporation, agency,  
5 society, institution or other organization, wilfully violating this  
6 title, other than section three hundred ninety-g of this title, or fail-  
7 ing to comply with any order which the department is authorized under  
8 this title to make, shall be guilty of a misdemeanor.

9 § 5. This act shall take effect on the one hundred eightieth day after  
10 it shall have become a law; provided, that section two of this act shall  
11 take effect one year after it shall have become a law. Effective imme-  
12 diately the department of education and the department of environmental  
13 conservation may promulgate any rule or regulation necessary for the  
14 timely implementation of this act on its effective date.

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**NEW YORK STATE SENATE**  
**INTRODUCER'S MEMORANDUM IN SUPPORT**  
**submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S4983C

**SPONSOR:** FOLEY

**TITLE OF BILL:**

An act to amend the environmental conservation law, the education law and the social services law, in relation to the use and guidance of pesticide alternatives

**PURPOSE OR GENERAL IDEA:**

The purpose of this bill is to minimize the harmful effects of pesticides on children by limiting the use of aesthetic pesticides in sensitive areas such as schools and day cares and developing pesticide alternatives.

**SUMMARY OF PROVISIONS:**

Section 1 amends the environmental conservation law to allow for the Commissioner of DEC in connection with the Commissioner of DOH to develop guidance on pesticide alternatives.

Section 2 amends the education law to limit the use of pesticides on school grounds.

Section 3 amends the social services law to limit the use of pesticides at day cares.

Section 4 states that violations of Section 390-g shall not be punishable by a misdemeanor.

Section 5 is the effective date.

**JUSTIFICATION:**

The use of pesticides has a detrimental effect on all individuals, especially children. By prohibiting the use of pesticides on school grounds as well as day care centers we are protecting our children during the

time they are most at risk of being negatively affected by the harmful side effects caused by exposure to pesticides.

A well maintained grown should have no need for the routine use of pesticides, however this legislation does include provisions to allow for the emergency application of pesticides should it be necessary.

**LEGISLATIVE HISTORY:**

2001-02: A.5565 Referred to Environmental Conservation  
2003-04: A.4105 Referred to Environmental Conservation  
2005-06: A.2460 Referred to Environmental Conservation  
2007-08: A.6045 Referred to Environmental Conservation

**FISCAL IMPLICATIONS:**

None.

**EFFECTIVE DATE:**

This act shall take effect on the one hundred eightieth day after it shall have become law; provided, that section two of this act shall take effect one year after It shall have become law. Effective immediately the Department of Education and the Department of Environmental Conservation may promulgate and rule or regulation necessary for the timely implementation of this act on its effective date.

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