

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 20-0481.02 Jennifer Berman x3286

HOUSE BILL 20-1180

HOUSE SPONSORSHIP

Kipp and Jaquez Lewis, Duran, Bird, Caraveo, Cutter, Gonzales-Gutierrez, Hooton, Kennedy, Mullica, Singer, Sirota, Snyder, Titone, Valdez A.

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A BILL FOR AN ACT

101 **CONCERNING THE PROTECTION OF POLLINATORS BY RESTRICTING THE**
102 **USE OF CERTAIN PESTICIDES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

To protect bee and other pollinator populations throughout the state, the bill requires the commissioner of agriculture (commissioner), on or before March 1, 2021, to adopt rules to regulate the use of neonicotinoid pesticides and sulfoximine pesticides by classifying specific neonicotinoid pesticides and sulfoximine pesticides as restricted-use pesticides. The commissioner's rules must exempt from the

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

restricted use of the pesticides their use as indoor pest control, personal care, and pet care products; however, the commissioner, thereafter, may amend the rules to disallow their use as indoor pest control, personal care, or pet care products if the commissioner determines that another commercially available product that is not a neonicotinoid pesticide or a sulfoximine pesticide is as or more effective than a neonicotinoid pesticide or a sulfoximine pesticide when used in accordance with the product's label directions for the same indoor pest control, personal care, or pet care use or uses.

The commissioner's rules regarding the restricted use of neonicotinoid pesticides and sulfoximine pesticides must not apply to commercial applicators, limited commercial applicators, public applicators, qualified supervisors, certified operators, and private applicators.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Short title.** The short title of this act is the
3 "Pollinator Protection Act of 2020".

4 **SECTION 2.** In Colorado Revised Statutes, 35-9-103, **amend** the
5 introductory portion; and **add** (9.5) and (13) as follows:

6 **35-9-103. Definitions.** As used in this ~~article~~ ARTICLE 9, unless
7 the context otherwise requires:

8 (9.5) "NEONICOTINOID PESTICIDE" MEANS A PESTICIDE
9 CONTAINING AN ACTIVE INGREDIENT BELONGING TO THE NEONICOTINOID
10 CLASS OF INSECTICIDES.

11 (13) "SULFOXIMINE PESTICIDE" MEANS A PESTICIDE CONTAINING
12 AN ACTIVE INGREDIENT BELONGING TO THE SULFOXIMINE CLASS OF
13 INSECTICIDES.

14 **SECTION 3.** In Colorado Revised Statutes, 35-9-118, **add** (3.5)
15 as follows:

16 **35-9-118. Powers and duties of the commissioner - rules.**
17 (3.5) (a) ON OR BEFORE MARCH 1, 2021, THE COMMISSIONER SHALL

1 ADOPT RULES TO IDENTIFY THE FOLLOWING AS RESTRICTED-USE
2 PESTICIDES:

3 (I) PESTICIDES CONTAINING THE FOLLOWING ACTIVE INGREDIENTS:

4 (A) IMIDACLOPRID;

5 (B) NITHIAZINE;

6 (C) ACETAMIPRID;

7 (D) CLOTHIANIDIN;

8 (E) DINOTEFURAN;

9 (F) THIAACLOPRID; AND

10 (G) THIAMETHOXAM; AND

11 (II) SULFOXIMINE PESTICIDES CONTAINING THE ACTIVE
12 INGREDIENT SULFOXAFLOR.

13 (b) SUBJECT TO SUBSECTION (3.5)(c)(I) OF THIS SECTION, THE
14 COMMISSIONER'S RULES ADOPTED PURSUANT TO SUBSECTION (3.5)(a) OF
15 THIS SECTION MUST ESTABLISH AN EXEMPTION FOR ANY:

16 (I) PET CARE PRODUCTS LABELED FOR USE TO MITIGATE FLEAS,
17 MITES, TICKS, HEARTWORMS, OR OTHER PESTS THAT ARE HARMFUL TO THE
18 HEALTH OF A DOMESTICATED ANIMAL;

19 (II) PERSONAL CARE PRODUCTS, INCLUDING THOSE PRODUCTS
20 LABELED FOR USE TO MITIGATE LICE;

21 (III) INDOOR PEST CONTROL PRODUCTS LABELED FOR USE TO
22 MITIGATE INSECTS INDOORS, INCLUDING ANT BAIT, AND ANY PEST
23 CONTROL PRODUCTS THAT ARE LABELED FOR USE TO MITIGATE INSECTS
24 BOTH INDOORS AND OUTDOORS; AND

25 (IV) PRESERVED WOOD PRODUCTS AND PRODUCTS USED TO
26 MANUFACTURE PRESERVED WOOD.

27 (c) (I) IN CONSULTATION WITH THE PESTICIDE ADVISORY

1 COMMITTEE CREATED IN SECTION 35-10-125, THE COMMISSIONER MAY
2 AMEND THE RULES PROMULGATED PURSUANT TO THIS SUBSECTION (3.5)
3 TO:

4 (A) DISALLOW A RESTRICTED-USE PESTICIDE'S PERMITTED USE
5 PURSUANT TO RULES PROMULGATED UNDER SUBSECTION (3.5)(b) OF THIS
6 SECTION IF THE COMMISSIONER IS SATISFIED THAT ANOTHER
7 COMMERCIALY AVAILABLE PRODUCT THAT IS REGISTERED UNDER THIS
8 ARTICLE 9 AND IS NOT A NEONICOTINOID PESTICIDE AND NOT A
9 SULFOXIMINE PESTICIDE IS AS OR MORE EFFECTIVE THAN A NEONICOTINOID
10 PESTICIDE OR A SULFOXIMINE PESTICIDE FOR THE SAME USE OR USES
11 LISTED IN SUBSECTION (3.5)(b) OF THIS SECTION; AND

12 (B) PROTECT THE PUBLIC HEALTH, SAFETY, AND ENVIRONMENT.

13 (II) NOTHING IN THIS SUBSECTION (3.5):

14 (A) PREVENTS THE COMMISSIONER FROM RESTRICTING THE USE OF
15 OTHER NEONICOTINOID PESTICIDES OR SULFOXIMINE PESTICIDES IF
16 RESTRICTING THEIR USE IS DONE IN ACCORDANCE WITH THE
17 COMMISSIONER'S AUTHORITY UNDER THIS ARTICLE 9;

18 (B) ALTERS, LIMITS, OR EXPANDS THE COMMISSIONER'S EXISTING
19 AUTHORITY TO DESIGNATE A PESTICIDE THAT IS NOT A NEONICOTINOID
20 PESTICIDE OR SULFOXIMINE PESTICIDE AS A STATE RESTRICTED-USE OR
21 LIMITED-USE PESTICIDE UNDER THIS ARTICLE 9; OR

22 (C) ALTERS OR LIMITS THE OBLIGATIONS OF A COMMERCIAL
23 APPLICATOR, REGISTERED LIMITED COMMERCIAL APPLICATOR OR HIS OR
24 HER EMPLOYEE, REGISTERED PUBLIC APPLICATOR OR HIS OR HER
25 EMPLOYEE, QUALIFIED SUPERVISOR, CERTIFIED OPERATOR, OR PRIVATE
26 APPLICATOR, AS THOSE TERMS ARE DEFINED IN SECTION 35-10-103, TO
27 COMPLY WITH THE LICENSE OR REGISTRATION REQUIREMENTS IMPOSED ON

1 THEM PURSUANT TO ARTICLE 10 OF THIS TITLE 35.

2 (d) EXCEPT AS SPECIFIED IN SUBSECTION (3.5)(c)(II)(C) OF THIS
3 SECTION, THE FOLLOWING PERSONS ARE EXEMPT FROM ANY LICENSURE
4 REQUIREMENTS FOR USE OF A PESTICIDE DESIGNATED AS A STATE
5 RESTRICTED-USE PESTICIDE PURSUANT TO THIS SUBSECTION (3.5):

6 (I) A COMMERCIAL APPLICATOR, AS DEFINED IN SECTION 35-10-103
7 (2), OR AN EMPLOYEE WORKING UNDER THE COMMERCIAL APPLICATOR'S
8 SUPERVISION;

9 (II) A REGISTERED LIMITED COMMERCIAL APPLICATOR, AS DEFINED
10 IN SECTION 35-10-103 (8), OR AN EMPLOYEE WORKING UNDER THE LIMITED
11 COMMERCIAL APPLICATOR'S SUPERVISION;

12 (III) A REGISTERED PUBLIC APPLICATOR, AS DEFINED IN SECTION
13 35-10-103 (12), OR AN EMPLOYEE WORKING UNDER THE PUBLIC
14 APPLICATOR'S SUPERVISION;

15 (IV) A QUALIFIED SUPERVISOR, AS DEFINED IN SECTION 35-10-103
16 (13);

17 (V) A CERTIFIED OPERATOR, AS DEFINED IN SECTION 35-10-103
18 (1); AND

19 (VI) A PRIVATE APPLICATOR, AS DEFINED IN SECTION 35-10-103
20 (11.5).

21 **SECTION 4. Act subject to petition - effective date.** This act
22 takes effect at 12:01 a.m. on the day following the expiration of the
23 ninety-day period after final adjournment of the general assembly (August
24 5, 2020, if adjournment sine die is on May 6, 2020); except that, if a
25 referendum petition is filed pursuant to section 1 (3) of article V of the
26 state constitution against this act or an item, section, or part of this act
27 within such period, then the act, item, section, or part will not take effect

1 unless approved by the people at the general election to be held in
2 November 2020 and, in such case, will take effect on the date of the
3 official declaration of the vote thereon by the governor.