

## Amendment 1 to AB162

Submitted by Assemblywoman Michelle Gorelow, sponsor

**Summary:** This amendment withdraws classification of a neonicotinoid pesticide as a “restricted use” pesticide which may not be used on state lands. Instead it defines a neonicotinoid pesticide and prohibits its sale or use on plants not grown for commercial agricultural purposes. Use of neonicotinoid pesticides is allowed on all agricultural plants including plants grown as and sold at plant nurseries (e.g. garden centers). Use and sale of neonicotinoid pesticides is allowed for pet care, indoor pest control, and outdoor products used as wood preservatives.

### Original/Reprinted Bill

*Blue bold italics* – new language to NRS

~~Red strikethrough~~ – deleted language to NRS

Green bold underline – new language to NRS added by amendment

~~Purple double strikethrough~~ – deleted language to NRS by amendment

Orange double underline – deleted language in original/reprinted bill to be retain current NRS (revert language back to current NRS)

(Deleted by Amendment) – revert entire section to current NRS (include ~~purple double strikethrough~~ to entire section of the bill)

1       **Section 1.** Chapter 586 of NRS is hereby amended by adding  
2 thereto a new section to read as follows:

3       *“Neonicotinoid pesticide” means any pesticide containing a*  
4 *chemical belonging to the neonicotinoid class of chemicals,*  
5 *including, without limitation:*

6       1. *Acetamiprid;*

7       2. *Clothianidin;*

8       3. *Dinotefuran;*

9       4. Flupyradifurone;

10      ~~5.~~ *Imidacloprid;*

11      ~~6.~~ *Nithiazine;*

12      7. Sulfoxaflor;

13      ~~8.~~ *Thiacloprid; and*

14      ~~9.~~ *Thiamethoxam.*

15      Sec. 1.5. NRS 586 is hereby amended by adding thereto a new  
16 section to read as follows:

17      1. Except as provided for in subsection 3, it is unlawful for  
18 any

19 person to sell or deliver any neonicotinoid pesticide for the  
20 purpose

of application to plants that are not grown for a commercial  
agricultural purpose.

21 2. Except as provided for in subsection 3, it shall be unlawful  
22 for  
23 any person to apply any neonicotinoid pesticide to a plant not  
24 grown  
25 for commercial agricultural purposes.

26 3. Permissible uses of neonicotinoids are limited to any of the  
27 following products insofar as they are used as specifically  
28 directed by the product label or instructions: pet care,  
29 veterinary, personal care, indoor pest control pesticide  
30 products; outdoor products used around structures provided  
31 that the product is not intended to be sprayed or applied on any  
32 plant; wood preservative pesticides or pesticide-treated wood  
33 products.

34 4. “Commercial agricultural purposes” means the  
35 cultivation of plants and/or the use of farm and  
36 agricultural land for the purposes of obtaining through  
37 lawful means a monetary profit from cash income by  
38 producing an agricultural product.

32

33 **Sec. 2.** NRS 586.020 is hereby amended to read as follows:  
34 586.020 As used in this chapter, unless the context otherwise  
35 requires, the words and terms defined in NRS 586.030 to 586.220,  
36 inclusive, *and section 1 of this act* have the meanings ascribed to  
37 them in those sections.

38 ~~Sec. 3. NRS 586.205 is hereby amended to read as follows:~~  
39 ~~586.205 “Restricted-use pesticide” means any pesticide,~~  
40 ~~including any highly toxic pesticide, which:~~

41 ~~1. The Director has determined after a hearing, to be:~~

42 ~~(a) Injurious to persons, pollinating insects, bees, animals, crops~~  
43 ~~or land, other than pests or vegetation it is intended to prevent,~~  
44 ~~destroy, control or mitigate; or~~

45 ~~(b) Detrimental to:~~

46 ~~(1) Vegetation, except weeds;~~

47 ~~(2) Wildlife; or~~

48 ~~(3) Public health and safety; [or]~~

49 ~~2. Has been classified for restricted use by or under~~  
50 ~~the supervision of a certified applicator in accordance with the~~  
51 ~~Federal Environmental Pesticide Control Act, 7 U.S.C. §§ 136 et~~  
52 ~~seq. ; or~~

53 ~~3. Is required to be classified as a restricted-use pesticide~~  
54 ~~pursuant to subsection 3 of NRS 586.237.~~

**(Deleted by amendment)**

1 ~~Sec. 4. NRS 586.237 is hereby amended to read as follows:~~

2 ~~586.237 1. The Director shall adopt regulations governing~~

~~3 the application and distribution of any pesticides which the Director  
4 finds must necessarily be applied in pest control but which unless  
5 carefully used are likely to be:~~

~~6 (a) Injurious to persons, pollinating insects, bees, animals, crops  
7 or land, other than the pest or vegetation it is intended to prevent,  
8 destroy, control or mitigate; or~~

~~9 (b) Detrimental to:~~

~~10 (1) Vegetation, except weeds;~~

~~11 (2) Wildlife; or~~

~~12 (3) Public health and safety.~~

~~13 2. The Director in classifying pesticides as restricted use  
14 pesticides shall determine if:~~

~~15 (a) They are highly toxic to humans or other animals, including  
16 wildlife.~~

~~17 (b) The regulations governing their application and distribution  
18 are reasonably calculated to avoid injury and are necessary for their  
19 proper use.~~

~~20 (c) The benefit received from their use is of greater public value  
21 than a detriment to the environment, public health and safety.~~

~~22 (d) They can be used by permit for purposes other than their  
23 registered purposes.~~

~~24 3. The Director shall classify any neonicotinoid pesticide as a  
25 restricted use pesticide.~~

~~26 4. The Director may adopt such other rules and regulations as  
27 are necessary to carry out the provisions of this chapter, including,  
28 but not limited to:~~

~~29 (a) The collection and examination of pesticides.~~

~~30 (b) The use of certain types of containers or packages for  
31 specific pesticides, applicable to construction, strength or size to  
32 avoid the danger of spillage, breakage or misuse.~~

~~33 (c) The safe handling, transportation, storage, display,  
34 distribution and disposal of pesticides and their containers.~~

~~35 (d) The information to be recorded and maintained of the sale,  
36 use and distribution of pesticides classified for restricted use.~~

~~(Deleted by amendment)~~

~~37 **Sec. 5.** NRS 586.406 is hereby amended to read as follows:~~

~~38 586.406 1. It is unlawful for any person to sell or offer to sell  
39 at the retail level or distribute or deliver for transportation for  
40 delivery to the consumer or user a pesticide classified for restricted~~

~~1 use pursuant to NRS 586.237 or the Federal Environmental  
2 Pesticide Control Act, 7 U.S.C. §§ 136 et seq., unless the person is  
3 registered with the Director.~~

~~4 2. Each person applying for registration must provide a  
5 statement including:~~

~~6 (a) The name and address of the person registering; and~~

~~7 (b) The name and address of any person who, on behalf of the  
8 person registering, sells, offers to sell, distributes or delivers for~~

9 transportation a restricted use pesticide.

10 ~~3. All registrations expire on December 31 and are renewable~~  
11 ~~annually.~~

12 ~~4. [Each] Except as otherwise provided in subsection 5, each~~  
13 ~~person registering shall pay:~~

14 ~~(a) An annual registration fee established by regulation of the~~  
15 ~~State Board of Agriculture; and~~

16 ~~(b) A penalty fee of \$5 if the person's previous registration has~~  
17 ~~expired by the failure to reregister on or before February 1, unless~~  
18 ~~the person's registration is accompanied by a signed statement that~~  
19 ~~no person named on the registration statement has sold or~~  
20 ~~distributed any restricted use pesticides during the year the~~  
21 ~~registration was not in effect.~~

22 ~~5. The State Board of Agriculture may not establish a fee for~~  
23 ~~registering a neonicotinoid pesticide classified in accordance with~~  
24 ~~subsection 3 of NRS 586.237.~~

25 ~~6. Each person who is registered shall maintain for 2 years a~~  
26 ~~record of each sale and distribution of restricted use pesticides in~~  
27 ~~accordance with the requirements for State certification plans set~~  
28 ~~forth in 40 C.F.R. § 171.303(b)(7)(vii).~~

29 ~~[6.] 7. Each person registered pursuant to this section shall, on~~  
30 ~~or before the 15th day of each month, file a report with the Director~~  
31 ~~specifying the restricted use pesticides sold or distributed during the~~  
32 ~~previous month. The Director shall provide the form for the report.~~  
33 ~~The form must be filed regardless of whether the person sold or~~  
34 ~~distributed any pesticides during the previous month.~~

~~(deleted by amendment)~~

35 ~~Sec. 6. NRS 586.945 is hereby amended to read as follows:~~

36 ~~586.945 1. It shall be unlawful for any person to apply [any]~~  
37 ~~;~~

38 ~~(a) Any restricted use pesticide for which regulations have been~~  
39 ~~adopted, except as provided in such regulations [.]; and~~

40 ~~(b) Any neonicotinoid pesticide on state land.~~

41 ~~2. As used in this section, "state land" has the meaning~~  
42 ~~ascribed to it in NRS 383.425.~~

43 ~~(deleted by amendment)~~

44 ~~Sec. 7. Chapter 555 of NRS is hereby amended by adding~~  
1 ~~thereto a new section to read as follows:~~

2 ~~*"Neonicotinoid pesticide" has the meaning ascribed to it in*~~  
3 ~~*section 1 of this act.*~~

4 ~~Sec. 8. NRS 555.2605 is hereby amended to read as follows:~~

5 ~~555.2605 As used in NRS 555.2605 to 555.460, inclusive,~~  
6 ~~unless the context otherwise requires, the words and terms defined~~  
7 ~~in NRS 555.261 to 555.2695, inclusive, *and section 1 of this act*~~  
8 ~~have the meanings ascribed to them in those sections.~~

9 ~~Sec. 9. NRS 555.2683 is hereby amended to read as follows:~~

10 ~~555.2683 "Restricted use pesticide" means any pesticide,~~  
11 ~~including any highly toxic pesticide, which:~~

~~12 1. The Director has found and determined, after a hearing, to  
13 be:~~

~~14 (a) Injurious to persons, pollinating insects, bees, animals, crops  
15 or land, other than pests or vegetation it is intended to prevent,  
16 destroy, control or mitigate; or~~

~~17 (b) Detrimental to:~~

~~18 (1) Vegetation, except weeds;~~

~~19 (2) Wildlife; or~~

~~20 (3) Public health and safety; [or]~~

~~21 2. Has been classified for restricted use in accordance with the  
22 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§  
23 136 et seq.; or~~

~~24 3. Is required to be classified as a restricted use pesticide  
25 pursuant to subsection 3 of NRS 586.237.~~

~~(Deleted by amendment)~~

~~26 **Sec. 10.** NRS 555.351 is hereby amended to read as follows:~~

~~27 555.351 1. Except as otherwise provided in subsection 3, a  
28 person shall not use [any]:~~

~~29 (a) Any restricted use pesticide within this State at any time  
30 without a certificate issued by the Director except a person using  
31 any restricted use pesticide under the supervision of an authorized  
32 commercial applicator who complies with the provisions of  
33 subsection 3, certified non-private applicator or private applicator,  
34 ; or~~

~~35 (b) Any neonicotinoid pesticide on state land.~~

~~36 2. If the Director has adopted regulations requiring:~~

~~37 (a) A permit pursuant to NRS 586.403; or~~

~~38 (b) A special use permit pursuant to NRS 586.405,~~

~~39 for a restricted use pesticide, a person shall not use that pesticide  
40 without obtaining the required permit.~~

~~41 3. A person licensed as a commercial applicator and authorized  
42 to engage in pest control is authorized to use or supervise the use of  
43 a restricted use pesticide without obtaining a certificate issued by  
44 the Director pursuant to NRS 555.357, if the person:~~

~~45 1 (a) Demonstrates that he or she satisfies the standards set forth  
2 in 40 C.F.R. § 171.103; and~~

~~3 (b) Otherwise complies with the provisions of this chapter and  
4 any regulations adopted pursuant to this chapter governing the use  
5 of restricted use pesticides.~~

~~6 4. As used in this section, "state land" has the meaning  
7 ascribed to it in NRS 383.425.~~

~~(Deleted by amendment)~~

~~8 **Sec. 11.** NRS 555.355 is hereby amended to read as follows:~~

~~9 555.355 1. The Director may require [the] an applicant for a  
10 certificate to show, upon examination, that the applicant possesses  
11 adequate knowledge concerning the proper use and application of  
12 restricted use pesticides and the dangers involved and precautions to  
13 be taken in connection with the application of those pesticides.~~

~~14 2. In addition, the Director may require the applicant to meet  
15 special qualifications of competency to meet the special needs of a  
16 given locality regarding the use or application of a specific  
17 restricted use pesticide.~~

~~18 3. The Director shall require an applicant to demonstrate:~~

~~19 (a) If the applicant is applying to be certified as a non private  
20 applicator, that he or she satisfies the standards set forth in 40  
21 C.F.R. § 171.103.~~

~~22 (b) If the applicant is applying to be certified as a private  
23 applicator, that he or she satisfies the standards set forth in 40  
24 C.F.R. § 171.105.~~

~~25 4. [T h e] Except as otherwise provided in subsection 5, the  
26 Director shall collect from each person applying for an examination  
27 or reexamination, in connection with the issuance of a certificate, a  
28 testing fee established by regulation of the State Board of  
29 Agriculture for any one examination period.~~

~~30 5. The Director shall not collect a fee for an examination or  
31 reexamination, in connection with the issuance of a certificate,  
32 from an applicant seeking to use only neonicotinoid pesticides.~~

~~(Deleted by amendment)~~

33 **Sec. 12.** 1. This section becomes effective upon passage and  
34 approval.

35 2. Sections 1 to ~~11~~8, inclusive, of this act become effective:

36 (a) Upon passage and approval for the purpose of adopting any  
37 regulations and performing any other preparatory administrative  
38 tasks that are necessary to carry out the provisions of this act; and

39 (b) On January 1, 2024, for all other purposes.