

Committee Action:
Do Pass _____
Amend & Do Pass _____
Other _____

Assembly Committee on Natural Resources

This measure may be considered for action during today's work session.

ASSEMBLY BILL 162

Revises provisions governing restricted-use pesticides containing certain chemicals. (BDR 51-97)

Sponsored By: Assemblywoman Gorelow, et al.
Date Heard: March 1, 2023
Fiscal Notes: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.
Effect on the State: Yes.

Assembly Bill 162 requires the Director of the State Department of Agriculture to classify neonicotinoid pesticides as restricted-use pesticides, defines and lists neonicotinoid pesticides, and prohibits the use of neonicotinoid pesticides on State land.

Additionally, AB 162 exempts neonicotinoid pesticides from:

- The registration fee required to engage in certain sales or distributions of restricted-use pesticides; and
- The examination fee required in connection with applying to use restricted-use pesticides.

Amendments:

1. Assemblywoman Gorelow proposed an amendment that removes provisions requiring neonicotinoid pesticides to be classified as a restricted-use pesticide, provisions prohibiting the use of neonicotinoid pesticides on State land, and the exemption of fees for registering or using these pesticides, and instead:
 - Lists permissible uses of neonicotinoid pesticides;
 - Prohibits the sale, delivery, or use of neonicotinoid pesticides on plants not grown for commercial agricultural purposes;
 - Limits the permissible purchase of neonicotinoid pesticides for use on plants to those who possess a certificate of commercial agricultural use;
 - Defines "commercial agricultural purposes" and "certificate of commercial agricultural use"; and
 - Adds cosponsors to the bill.
2. Tray Abney, on behalf of the American Chemistry Council, submitted a friendly amendment that adds structural insulation to the list of permissible uses of neonicotinoid pesticides.

Amendment 1 to AB162

Submitted by Assemblywoman Michelle Gorelow, sponsor

ASSEMBLY BILL NO. 162–ASSEMBLYMEN GORELOW;
BILBRAY-AXELROD, CARTER, PETERS, ~~AND WATTS~~, LA
RUE HATCH, BROWN-MAY, CONSIDINE, GONZALEZ,
AND NEWBY

Summary: This amendment withdraws classification of a neonicotinoid pesticide as a “restricted use” pesticide which may not be use on state lands and instead 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. *Imidacloprid;*
- 10 5. *Nithiazine;*
- 11 6. *Thiacloprid; and*
- 12 7. *Thiamethoxam.*
- 13 Sec. 1.5. NRS 586 is hereby amended by adding thereto a new
- 14 section to read as follows:
- 15 1. Permissible uses of neonicotinoids are limited to any of the

16 following products insofar as they are used as specifically
17 directed by the product label or instructions: pet care,
18 veterinary, personal care, indoor pest control pesticide
19 products; outdoor products used around structures provided
20 that the product is not intended to be sprayed or applied on any
21 plant; wood preservative pesticides or pesticide-treated wood
22 products.

23
24 2. Except as provided for in subsection 4, it is unlawful for
any person to sell or deliver any neonicotinoid pesticide for the
purpose of application to plants that are not grown for a
commercial agricultural purpose.

25 3. Except as provided for in subsection 4, it shall be unlawful
for any person to apply any neonicotinoid pesticide to a plant
not grown for commercial agricultural purposes.

26 4. Permissible purchase of neonicotinoids for use on plants shall
be limited to possessors of a certificate of commercial
agricultural use that:

27 (A) Identifies that the use of pesticides identified in this act
shall only be used for Commercial Agricultural purposes

28 (B) Identifies the State of Nevada business license number of
the entity seeking to obtain a certificate of commercial
agricultural use

29 (C) Be available on the website of the Nevada Department of
Agriculture Website, free of charge to any Nevada commercial
agricultural producer that wishes to obtain a certificate

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

6. “Certificate of commercial agricultural use” means a
certificate produced by the Nevada Department of Agriculture
and be publicly available to any Nevada business.

30 **Sec. 2.** NRS 586.020 is hereby amended to read as follows:
31 586.020 As used in this chapter, unless the context otherwise
32 requires, the words and terms defined in NRS 586.030 to 586.220,
33 inclusive, *and section 1 of this act* have the meanings ascribed to
34 them in those sections.

~~35 **Sec. 3.** NRS 586.205 is hereby amended to read as follows:~~
~~36 ~~586.205 “Restricted use pesticide” means any pesticide,~~~~

~~37 including any highly toxic pesticide, which:~~
~~38 1. The Director has determined after a hearing, to be:~~
~~39 (a) Injurious to persons, pollinating insects, bees, animals, crops~~
~~40 or land, other than pests or vegetation it is intended to prevent,~~
~~41 destroy, control or mitigate; or~~
~~42 (b) Detrimental to:~~
~~43 (1) Vegetation, except weeds;~~
~~44 (2) Wildlife; or~~
~~45 (3) Public health and safety; [or]~~
~~46 2. Has been classified for restricted use by or under~~
~~47 the supervision of a certified applicator in accordance with the~~
~~48 Federal Environmental Pesticide Control Act, 7 U.S.C. §§ 136 et~~
~~49 seq.; or~~
~~50 3. Is required to be classified as a restricted use pesticide~~
~~51 pursuant to subsection 3 of NRS 586.237.~~

(Deleted by amendment)

~~‡ **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.~~

~~23 (c) The safe handling, transportation, storage, display,~~
~~24 distribution and disposal of pesticides and their containers.~~

~~25 (d) The information to be recorded and maintained of the sale,~~
~~26 use and distribution of pesticides classified for restricted use.~~

~~(Deleted by amendment)~~

~~27 **Sec. 5.** NRS 586.406 is hereby amended to read as follows:~~

~~28 586.406 1. It is unlawful for any person to sell or offer to sell~~
~~29 at the retail level or distribute or deliver for transportation for~~
~~40 delivery to the consumer or use 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. [The] 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.~~

Proposed by Tray Abney on behalf of the American Chemistry Council

Proposed Amendment to AB 162

Section 1.5

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