

ASSEMBLY BILL NO. 162—ASSEMBLYMEN GORELOW;
BILBRAY-AXELROD, CARTER, PETERS AND WATTS

FEBRUARY 14, 2023

Referred to Committee on Natural Resources

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

FISCAL NOTE: 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.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to pesticides; requiring the Director of the State Department of Agriculture to classify neonicotinoid pesticides as restricted-use pesticides; prohibiting the use of neonicotinoid pesticides on state lands; establishing certain exceptions for neonicotinoid pesticides to certain fees relating to restricted-use pesticides; providing a penalty; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law requires the Director of the State Department of Agriculture to
2 classify any pesticide as a restricted-use pesticide that, unless carefully used, the
3 Director finds is likely to be: (1) injurious to persons, pollinating insects, bees,
4 animals, crops or land, other than the pest or vegetation it is intended to prevent,
5 destroy, control or mitigate; or (2) detrimental to certain vegetation, wildlife or
6 public health and safety. (NRS 586.237) Existing law also prohibits a person from
7 using any restricted-use pesticide without a certificate issued by the Director,
8 except a person using a restricted-use pesticide under the supervision of an
9 authorized commercial applicator, a certified non-private applicator or private
10 applicator. (NRS 555.351) **Section 4** of this bill requires the Director to classify
11 neonicotinoid pesticides as restricted-use pesticides.

12 **Sections 1 and 7** of this bill define “neonicotinoid pesticide.” **Sections 2 and 8**
13 of this bill make conforming changes to incorporate these definitions into the
14 Nevada Revised Statutes.

15 **Sections 3 and 9** of this bill revise the definition of “restricted-use pesticide” to
16 include neonicotinoid pesticides.



17 **Sections 6 and 10** of this bill prohibit the application of neonicotinoid
18 pesticides on state land.

19 Existing law prohibits any person from selling or offering to sell at the retail
20 level or distributing or delivering for transportation for delivery to the consumer or
21 user a restricted-use pesticide unless the person registers with the Director and pays
22 an annual registration fee and, under certain circumstances, a penalty fee. (NRS
23 586.406) **Section 5** of this bill provides that the State Board of Agriculture may not
24 establish a fee for registering a neonicotinoid pesticide.

25 Existing law authorizes the Director to require an applicant for a certificate to
26 use restricted-use pesticides in this State to pass an examination on the proper use
27 and application of restricted-use pesticides and pay a testing fee established by the
28 Board by regulation. (NRS 555.355) **Section 11** of this bill prohibits the Director
29 from collecting a fee for an examination or reexamination from an applicant
30 seeking to only use neonicotinoid pesticides.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

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. 2.** NRS 586.020 is hereby amended to read as follows:

14 586.020 As used in this chapter, unless the context otherwise
15 requires, the words and terms defined in NRS 586.030 to 586.220,
16 inclusive, *and section 1 of this act* have the meanings ascribed to
17 them in those sections.

18 **Sec. 3.** NRS 586.205 is hereby amended to read as follows:

19 586.205 “Restricted-use pesticide” means any pesticide,
20 including any highly toxic pesticide, which:

- 21 1. The Director has determined after a hearing, to be:
 - 22 (a) Injurious to persons, pollinating insects, bees, animals, crops
23 or land, other than pests or vegetation it is intended to prevent,
24 destroy, control or mitigate; or
 - 25 (b) Detrimental to:
 - 26 (1) Vegetation, except weeds;
 - 27 (2) Wildlife; or
 - 28 (3) Public health and safety; ~~for~~



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

4 *3. Is required to be classified as a restricted-use pesticide*
5 *pursuant to subsection 3 of NRS 586.237.*

6 **Sec. 4.** NRS 586.237 is hereby amended to read as follows:

7 586.237 1. The Director shall adopt regulations governing
8 the application and distribution of any pesticides which the Director
9 finds must necessarily be applied in pest control but which unless
10 carefully used are likely to be:

11 (a) Injurious to persons, pollinating insects, bees, animals, crops
12 or land, other than the pest or vegetation it is intended to prevent,
13 destroy, control or mitigate; or

14 (b) Detrimental to:

15 (1) Vegetation, except weeds;

16 (2) Wildlife; or

17 (3) Public health and safety.

18 2. The Director in classifying pesticides as restricted-use
19 pesticides shall determine if:

20 (a) They are highly toxic to humans or other animals, including
21 wildlife.

22 (b) The regulations governing their application and distribution
23 are reasonably calculated to avoid injury and are necessary for their
24 proper use.

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

27 (d) They can be used by permit for purposes other than their
28 registered purposes.

29 *3. The Director shall classify any neonicotinoid pesticide as a*
30 *restricted-use pesticide.*

31 **4.** The Director may adopt such other rules and regulations as
32 are necessary to carry out the provisions of this chapter, including,
33 but not limited to:

34 (a) The collection and examination of pesticides.

35 (b) The use of certain types of containers or packages for
36 specific pesticides, applicable to construction, strength or size to
37 avoid the danger of spillage, breakage or misuse.

38 (c) The safe handling, transportation, storage, display,
39 distribution and disposal of pesticides and their containers.

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

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

43 586.406 1. It is unlawful for any person to sell or offer to sell
44 at the retail level or distribute or deliver for transportation for
45 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.~~ 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.

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.*



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

3 *“Neonicotinoid pesticide” has the meaning ascribed to it in*
4 *section 1 of this act.*

5 **Sec. 8.** NRS 555.2605 is hereby amended to read as follows:

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

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

11 555.2683 “Restricted-use pesticide” means any pesticide,
12 including any highly toxic pesticide, which:

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

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

18 (b) Detrimental to:

19 (1) Vegetation, except weeds;

20 (2) Wildlife; or

21 (3) Public health and safety; ~~or~~

22 2. Has been classified for restricted use in accordance with the
23 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §§
24 136 et seq. ; *or*

25 3. *Is required to be classified as a restricted-use pesticide*
26 *pursuant to subsection 3 of NRS 586.237.*

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

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

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

36 (b) *Any neonicotinoid pesticide on state land.*

37 2. If the Director has adopted regulations requiring:

38 (a) A permit pursuant to NRS 586.403; or

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

40 ➔ for a restricted-use pesticide, a person shall not use that pesticide
41 without obtaining the required permit.

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



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.*

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.*

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

35 2. Sections 1 to 11, 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.

