

Amendment No. 285

Assembly Amendment to Assembly Bill No. 162	(BDR 51-97)
<b>Proposed by:</b> Assembly Committee on Natural Resources	
<b>Amends:</b> Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes	

ASSEMBLY ACTION			Initial and Date		SENATE ACTION			Initial and Date		
Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____		Adopted	<input type="checkbox"/>	Lost	<input type="checkbox"/>	_____
Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Concurred In	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____
Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____		Receded	<input type="checkbox"/>	Not	<input type="checkbox"/>	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) variations of green bold underlining is language proposed to be added in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill proposed to be retained in this amendment.





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

FEBRUARY 14, 2023

Referred to Committee on Natural Resources

SUMMARY—~~[Revises]~~ Establishes provisions governing ~~[restricted use]~~ the use of neonicotinoid 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;]~~ for certain purposes; providing a penalty; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

Existing law ~~[requires the Director of the State Department of Agriculture to classify any pesticide as a restricted-use pesticide that, unless carefully used, the Director finds is likely to be: (1) injurious to persons, pollinating insects, bees, animals, crops or land, other than the pest or vegetation it is intended to prevent, destroy, control or mitigate; or (2) detrimental to certain vegetation, wildlife or public health and safety. (NRS 586.237) Existing law also prohibits a person from using any restricted-use pesticide without a certificate issued by the Director, except a person using a restricted-use pesticide under the supervision of an authorized commercial applicator, a certified non-private applicator or private applicator. (NRS 555.351) Section 4 of this bill requires the Director to classify neonicotinoid pesticides as restricted-use pesticides.]~~ establishes the Nevada Pesticides Act to regulate the use of pesticides in this State. (Chapter 586 of NRS) Section 1.6 of this bill prohibits the purchase or use of neonicotinoid pesticides on plants in this State except for commercial agricultural use. Section 1.6 further requires any person seeking to use neonicotinoid pesticides for commercial agricultural purposes to obtain a certificate of commercial agricultural use from the Internet website of the State Department of Agriculture.

Sections ~~[H]~~ 1.3 and 7 of this bill define “neonicotinoid pesticide.” Sections 2 and 8 of this bill make conforming changes to incorporate these definitions into the Nevada Revised Statutes.

~~[Sections 3 and 9 of this bill revise the definition of “restricted-use pesticide” to include neonicotinoid pesticides.]~~

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

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

~~Existing law authorizes the Director to require an applicant for a certificate to use restricted use pesticides in this State to pass an examination on the proper use and application of restricted use pesticides and pay a testing fee established by the Board by regulation. (NRS 555.355) Section 11 of this bill prohibits the Director from collecting a fee for an examination or reexamination from an applicant seeking to only use neonicotinoid pesticides.] **in violation of the requirements of section 1.6.**~~

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

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**Section 1.** Chapter 586 of NRS is hereby amended by adding thereto ~~[a new section to read as follows:]~~ **the provisions set forth as sections 1.3 and 1.6 of this act.**

**Sec. 1.3.** *“Neonicotinoid pesticide” means any pesticide containing a chemical belonging to the neonicotinoid class of chemicals, including, without limitation:*

1. Acetamiprid;
2. Clothianidin;
3. Dinotefuran;
4. Imidacloprid;
5. Nithiazine;
6. Thiacloprid; and
7. Thiamethoxam.

**Sec. 1.6.** **1. A person shall not purchase or use neonicotinoid pesticides on plants in this State, except for commercial agricultural purposes.**

**2. Neonicotinoid pesticides may be purchased and used in this State for purposes other than for use on plants, including, without limitation:**

- (a) Pet care.
- (b) Veterinary treatment.
- (c) Personal care products.
- (d) Pest control pesticides that are for indoor use.
- (e) Outdoor items and structures, other than plants. This paragraph does not authorize the spraying or application of a neonicotinoid pesticide on any plant.
- (f) Pesticides that are intended to act as a wood preservative and pesticide-treated wood products.
- (g) Structural insulation.

**↪ Any purchase or use of neonicotinoid pesticides pursuant to this section must be in accordance with the on-label use of such neonicotinoid pesticide and as directed by the instructions.**

**3. The Director shall make available on the Internet website of the State Department of Agriculture an application for a certificate of commercial agricultural use. The certificate must, without limitation:**

- (a) State that the use of neonicotinoid pesticides is limited to commercial agricultural purposes; and

(b) Include a space for the business identification number of the person seeking a certificate of commercial agricultural use.

4. Any person seeking to apply neonicotinoid pesticides for commercial agricultural purposes must obtain a certificate of commercial agricultural use from the Internet website of the State Department of Agriculture.

5. The Director may adopt regulations to carry out the provisions of this section.

6. As used in this section, "commercial agricultural purposes" means the cultivation of plants or the use of farm and agricultural land to produce an agricultural product to be sold in commerce.

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

586.020 As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 586.030 to 586.220, inclusive, **and section ~~##~~ 1.3 of this act** have the meanings ascribed to them in those sections.

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

~~586.205 "Restricted-use pesticide" means any pesticide, including any highly toxic pesticide, which:~~

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

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

~~(b) Detrimental to:~~

~~(1) Vegetation, except woods;~~

~~(2) Wildlife; or~~

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

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

~~3. Is required to be classified as a restricted use pesticide pursuant to subsection 3 of NRS 586.237.] (Deleted by amendment.)~~

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

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

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

~~(b) Detrimental to:~~

~~(1) Vegetation, except woods;~~

~~(2) Wildlife; or~~

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

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

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

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

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

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

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

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

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

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

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

~~(d) The information to be recorded and maintained of the sale, use and distribution of pesticides classified for restricted use.] (Deleted by amendment.)~~

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

~~586.406 1. It is unlawful for any person to sell or offer to sell at the retail level or distribute or deliver for transportation for delivery to the consumer or user a pesticide classified for restricted use pursuant to NRS 586.237 or the Federal Environmental Pesticide Control Act, 7 U.S.C. §§ 136 et seq., unless the person is registered with the Director.~~

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

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

~~(b) The name and address of any person who, on behalf of the person registering, sells, offers to sell, distributes or delivers for transportation a restricted-use pesticide.~~

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

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

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

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

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

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

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

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

586.945 ~~[H]~~ It shall be unlawful for any person to apply ~~[any]~~ :

~~[(a)] 1. Any~~ restricted-use pesticide for which regulations have been adopted, except as provided in such regulations ~~[ ]~~ ; and

~~[(b)] 2. Any neonicotinoid pesticide [on state land]~~

~~2. As used in this section, "state land" has the meaning ascribed to it in NRS 383.425.] in violation of the requirements of section 1.6 of this act.~~

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

*"Neonicotinoid pesticide" has the meaning ascribed to it in section ~~[H]~~ 1.3 of this act.*

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

2       555.2605 As used in NRS 555.2605 to 555.460, inclusive, unless the context  
3 otherwise requires, the words and terms defined in NRS 555.261 to 555.2695,  
4 inclusive, *and section ~~7~~ 7 of this act* have the meanings ascribed to them in those  
5 sections.

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

7       ~~555.2683 "Restricted-use pesticide" means any pesticide, including any~~  
8 ~~highly toxic pesticide, which:~~

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

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

12       ~~(b) Detrimental to:~~

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

14       ~~(2) Wildlife; or~~

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

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

18       ~~3. Is required to be classified as a restricted-use pesticide pursuant to~~  
19 ~~subsection 3 of NRS 596.227.] (Deleted by amendment.)~~

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

21       555.351 1. Except as otherwise provided in subsection 3, a person shall not  
22 use ~~any~~:

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

28       (b) *any neonicotinoid pesticide [on state land] in violation of the*  
29 *requirements of section 1.6 of this act. Any person seeking to apply a*  
30 *neonicotinoid pesticide for commercial agricultural purposes must obtain a*  
31 *certificate of commercial agricultural use pursuant to section 1.6 of this act.*

32       2. If the Director has adopted regulations requiring:

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

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

35       ↳ for a restricted-use pesticide, a person shall not use that pesticide without  
36 obtaining the required permit.

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

41       (a) Demonstrates that he or she satisfies the standards set forth in 40 C.F.R. §  
42 171.103; and

43       (b) Otherwise complies with the provisions of this chapter and any regulations  
44 adopted pursuant to this chapter governing the use of restricted-use pesticides.

45       4. *As used in this section, [“state land”] “commercial agricultural*  
46 *purposes” has the meaning ascribed to it in [NRS 393.425.] section 1.6 of this act.*

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

48       ~~555.355 1. The Director may require [the] an applicant for a certificate to~~  
49 ~~show, upon examination, that the applicant possesses adequate knowledge~~  
50 ~~concerning the proper use and application of restricted use pesticides and the~~  
51 ~~dangers involved and precautions to be taken in connection with the application of~~  
52 ~~those pesticides.~~

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

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

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

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

9 ~~4. [The] *Except as otherwise provided in subsection 5, the* Director shall~~  
10 ~~collect from each person applying for an examination or reexamination, in~~  
11 ~~connection with the issuance of a certificate, a testing fee established by regulation~~  
12 ~~of the State Board of Agriculture for any one examination period.~~

13 ~~5. *The Director shall not collect a fee for an examination or reexamination,*~~  
14 ~~*in connection with the issuance of a certificate, from an applicant seeking to use*~~  
15 ~~*only neonicotinoid pesticides.*~~ **(Deleted by amendment.)**

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

17 2. Sections 1 to 11, inclusive, of this act become effective:

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

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