

## Assembly Bill No. 363

### CHAPTER 520

An act to amend Section 12838 of the Food and Agricultural Code, relating to pesticides.

[Approved by Governor October 8, 2023. Filed with Secretary of State October 8, 2023.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 363, Bauer-Kahan. Pesticides: neonicotinoids for nonagricultural use: reevaluation: control measures.

Existing law, added by the Governor's Reorganization Plan No. 1 of 1991, creates the Department of Pesticide Regulation, which is administered by the Director of Pesticide Regulation. Existing law requires the director to endeavor to eliminate from use a pesticide that endangers the agricultural or nonagricultural environment. Existing law requires pesticides to be registered by the department, and requires that a pesticide be thoroughly evaluated prior to registration. Existing law provides for the continued evaluation of registered pesticides. Existing law requires the department, by July 1, 2018, to issue a determination with respect to its reevaluation of neonicotinoids and to adopt any control measures necessary to protect pollinator health within 2 years after making that determination. Existing law provides that every person who violates a provision of any of certain laws relating to pesticides, or a regulation issued pursuant to any of those laws, is guilty of a misdemeanor and shall be punished by specified fines or by imprisonment of not more than 6 months, or both.

This bill, beginning January 1, 2025, would prohibit a person from selling, possessing, or using a pesticide containing one or more neonicotinoid pesticides, as defined, for any nonagricultural use on nonproduction outdoor ornamental plants, trees, or turf, except as provided. The bill would require the department to evaluate, taking into account relevant routes of exposure, the potential impacts of those neonicotinoid pesticide uses on pollinating insects, aquatic organisms, and human health. The bill would require the department, among other things, to issue a determination on those impacts on or before July 1, 2027, and adopt necessary control measures for the use of neonicotinoid pesticides on or before July 1, 2029.

Because the adoption of control measures for the use of neonicotinoid pesticides would require regulations, and a violation of those regulations and the above-described prohibition of the sale, possession, and use of neonicotinoid pesticides would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

*The people of the State of California do enact as follows:*

SECTION 1. Section 12838 of the Food and Agricultural Code is amended to read:

12838. (a) On or before July 1, 2018, the department shall issue a determination with respect to its reevaluation of neonicotinoids.

(b) (1) Within two years after making the determination specified in subdivision (a), the department shall adopt any control measures necessary to protect pollinator health.

(2) If the department is unable to adopt the necessary control measures within two years as required in paragraph (1), the department shall submit a report to the appropriate committees of the Legislature setting forth the reasons the requirement of paragraph (1) has not been met.

(3) The department shall update the report submitted to the appropriate committees of the Legislature pursuant to paragraph (2) every year until the department adopts the necessary control measures specified in paragraph (1).

(c) (1) For purposes of this subdivision, the following definitions apply:

(A) “Cumulative impacts of exposure” means the collective impact of exposure to two or more neonicotinoid pesticides.

(B) “Neonicotinoid pesticide” means a pesticide containing acetamiprid, clothianidin, dinotefuran, imidacloprid, thiamethoxam, or any other chemical designated by the department as belonging to the neonicotinoid class of chemicals.

(2) Beginning January 1, 2025, a person shall not sell, possess, or use a pesticide containing one or more neonicotinoid pesticides for any use that is excluded from the definition of “agricultural use” in Section 11408 on nonproduction outdoor ornamental plants, trees, or turf, with the exception of use and possession by state certified applicators and sale by state licensed pest control dealers.

(3) The department shall evaluate, at a minimum, the potential impacts of the neonicotinoid pesticide uses described in paragraph (2) on pollinating insects, aquatic organisms, and human health, taking into account relevant routes of exposure, as follows:

(A) On or before January 1, 2024, the department shall issue a draft human health risk assessment of imidacloprid.

(B) On or before July 1, 2024, the department shall initiate a reevaluation of neonicotinoid pesticides relative to pollinating insects, aquatic organisms, and human health, taking into account relevant routes of exposure.

(C) On or before January 1, 2025, the department shall issue a final human health risk assessment for imidacloprid.

(D) On or before January 1, 2025, the department shall issue draft human health risk assessments for the neonicotinoid chemicals described in subparagraph (B) of paragraph (1) other than imidacloprid.

(E) On or before July 1, 2025, the department shall issue an evaluation of the impact of neonicotinoid pesticides on aquatic organisms.

(F) On or before January 1, 2026, the department shall issue final human health risk assessments for the neonicotinoid chemicals described in subparagraph (B) of paragraph (1) other than imidacloprid.

(G) On or before July 1, 2027, the department shall issue a determination with respect to the reevaluation of neonicotinoid pesticides on their impacts to pollinating insects, aquatic organisms, and human health.

(4) On or before July 1, 2029, the department shall adopt any necessary control measures for the use of neonicotinoid pesticides that are determined by the department to be necessary, based on the evaluations described in paragraph (3).

(5) If the department is unable to meet any deadline required in paragraph (3) or (4), the department shall submit a report to the appropriate committees of the Legislature setting forth the reasons the deadline or deadlines have not been met.

(6) In performing the evaluations described in paragraph (3), the department shall consider the cumulative impacts of exposure to multiple neonicotinoid pesticides unless the department can demonstrate with substantial evidence that one or more neonicotinoid pesticides do not share a common mechanism of toxicity and do not present risk of cumulative harm.

(7) The department is not required to conduct a reevaluation of any use of neonicotinoid pesticides for the protection of agricultural commodities, as defined in Section 6000 of Title 3 of the California Code of Regulations.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.