

OFFICE OF POLICY AND LEGAL ANALYSIS

To: Members, Joint Standing Committee on Agriculture, Conservation and Forestry
From: Karen S. Nadeau, Legislative Analyst
Date: March 2, 2021
Subj: **LD 155 Resolve, Directing the Board of Pesticides Control To Prohibit the Use of Certain Neonicotinoids for Outdoor Residential Use**

- Directs the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control to prohibit the use of any product containing certain neonicotinoids used for application in outdoor residential landscapes such as on lawn, turf or ornamental vegetation.
- Provides that products used for preserving wood, controlling or treating indoor insects and treating pets are specifically exempt from the prohibition.

Proponents: *Xerces Society; Environment Maine; Maine Conservation Voters; Conservation Law Foundation; Maine Organic Farmers and Gardeners Association; Sierra Club Maine Chapter; Defend Our Health; Residents of Arundel and Blue Hill*

Written testimony only: Residents of Ellsworth, Nobleboro, Blue Hill, Benton, Morrill, Yarmouth, Waldoboro, Freeport, Portland, and Belfast; Wood Prairie Farm; Natural Resources Council of Maine; Maine Audubon; Belfast Garden Club; University of Maine professor; Maine Public Health Association; Physicians for Social Responsibility Maine Chapter; and Wild Tilt Farm

- Neonicotinoids are a class of insecticides that affect the central nervous system; they are systemic chemicals, meaning when they are absorbed into a plant, they become available in nectar and pollen. Neonics are highly toxic to invertebrates, such as bees and butterflies.
- A growing body of scientific evidence links neonics with the alarming decline of bee populations. In addition to killing bees outright, research has shown that even low levels of these dangerous pesticides impair bees' ability to learn, find their way back to the hive, collect food, produce new queens and mount an effective immune response.
- Pollination is critical for many of our food crops; this bill supports our farmers by limiting cosmetic uses of chemicals which are known to have lethal and sublethal effects on bees.
- BPC can use its rule structure to restrict use for untrained and unlicensed homeowners – thus removing these products from store shelves – and then further limit use by commercial applicators in the specific setting of residential landscaping, which is entirely cosmetic.

Opponents: *TruGreen Lawncare; Northern Turf Management*

Written only: Responsible Industry for a Sound Environment; National Association of Landscape Professionals; CropLife America; Hughes Inc. Arbor & Land Management; Residents of Scarborough and Kennebunkport

- The EPA has established strict guidelines for the responsible use of neonicotinoids which we follow. The product label language reflects these guidelines and it is our responsibility as licensed applicators to follow all label instructions.
- Regulation of individual pesticides or groups of pesticides should be left to the Board of Pesticides.
- LD 155 sets a dangerous precedent by superseding the regulatory authority that already operates effectively in the State.

NFNA: *Board of Pesticides Control; Maine Potato Board*

Written only: Maine Veterinary Medical Association

- BPC's board structure, member experience and its required robust public input process make BPC well-suited to address the directive in this bill.

- Some topics may benefit from additional discussion at the work session and would aid the BPC rulemaking process, such as how best to incorporate the prohibitions of use presented in the bill into rule – restricted and/or limited use; how best to achieve the allowances for use presented in the bill; how to prevent transition to the use of pesticides with greater toxicity; and clarify potential impacts and/or exemptions.
- MVMA exemption for products that treat pets is necessary to ensure that products, including flea and tick topicals and collars, can continue to be available to pet populations in Maine.

SUGGESTED AMENDMENT

- **Sponsor proposed an amendment to clarify an exemption for structural applications** *(to address concerns of the New England Pest Management Association, Household and Commercial Products Association, and the American Chemistry Council)*

Products used for preserving wood, controlling or treating indoor ~~insects~~ pests, controlling or treating insects outside around foundations and other parts of structures, and or treating pets, as defined under Title 7, section 712, subsection 16, are specifically exempt from the prohibition under this section.

RECENT LEGISLATION

129th Legislature – LD 2083, “An Act To Require the Board of Pesticides Control To Annually Publish Certain Information Regarding Pesticides and To Prohibit Certain Uses of Neonicotinoids

- Committee vote was tie w/ 6 voting OTP-A (Report “A”) and 6 voting OTP-A (Report “B”); one member abstained.
- LD 2083 died between bodies when the Legislature adjourned in March 2020 (due to the pandemic) and did not reconvene.
- LD 155 is almost identical to Report “A” from the 129th Legislature.
- LD 2083 Report “B” from the 129th Legislature directed the BPC to establish an Environmental Risk Advisory Committee to assess the environmental risks associated with the use of neonicotinoids, particularly the impact the use of neonicotinoids has on pollinator species.

RELEVANT LAWS/RULES

- Title 7, Chapter 103, Subchapter 2-A: Maine Pesticide Control Act of 1975
<http://legislature.maine.gov/legis/statutes/7/title7ch103sec0.html>
- Chapter 40 Rules: Maine Restricted and Limited Use Pesticides
- Chapter 41 Rules: Special Restrictions on Pesticide Use
- EPA Interim Decisions for Neonicotinoids January 30, 2020
<https://www.epa.gov/pesticides/epa-releases-proposed-interim-decisions-neonicotinoids>
- EPA Reopens Public Comment Period on Proposed Interim Decisions for Neonicotinoids
<https://www.epa.gov/pesticides/epa-reopens-public-comment-period-proposed-interim-decisions-neonicotinoids>
- EPA Schedule for Review of Neonicotinoid Pesticides
<https://www.epa.gov/pollinator-protection/schedule-review-neonicotinoid-pesticides>

STATE POLLINATOR LAWS

(source: National Conference of State Legislatures, September 2020)

<https://www.ncsl.org/research/environment-and-natural-resources/pollinator-health.aspx>

PRELIMINARY FISCAL IMPACT STATEMENT: *Not yet received.*