

March 25, 2021

Representative David Bennett
Chair, House Committee on Environment and Natural Resources
Rhode Island State House
Providence RI 02908

Re: The Nature Conservancy Supports H5641 to protect pollinators from harmful pesticides

Dear Chairman Bennett and members of the House Committee on Environment:

The Nature Conservancy **supports** H5641, which would restrict the use of neonicotinoids in order to protect pollinators, birds, and other wildlife. We thank Representatives Kislak, Bennett, Kazarian, Speakman, Cortvriend, Carson, and Donovan for sponsoring this legislation.

The Nature Conservancy stewards more than 10,000 acres of land across Rhode Island. In managing this land, we aim to use organic methods as much as possible – largely avoiding the use of any herbicides or pesticides in favor of mowing and other mechanical systems. We manage our land in this way because it follows best management practices to protect our lands and water and the wildlife that call our lands home. We recognize the public health implications of neonicotinoids and we do not use neonicotinoids on any of our properties in Rhode Island.

In addition to how The Nature Conservancy manages the land that we steward, we see several reasons why this committee should take action to restrict the use of neonicotinoids:

- Neonicotinoids have been studied extensively and are known to negatively impacts bees and other beneficial insects.
- Neonicotinoids have also been shown to negatively impact birds and mammals – including humans.
- Many other states and countries are already restricting the use of neonicotinoids. Other Northeast states – including our direct neighbors Connecticut and Massachusetts – have restricted their use in recent years. The European Union has actually even banned the use of three neonics for outdoor usage because of their effects on wild pollinators.
- The State has sole jurisdiction to regulate pesticides – individual municipalities cannot do this on their own. Unlike legislation we have seen on other issues – such as regulating plastic bags – individual towns cannot implement their own restrictions. Under Rhode Island law, only DEM has the authority to regulate pesticides.
- There are other options available in the market. Big retailers such as WalMart have begun phasing out neonics, and Home Depot has promised to phase out neonic-treated plants. Home Depot has also begun labeling which plants are treated with neonics so that consumers can choose to not purchase neonics.

While we are supportive of the legislation as it stands, The Nature Conservancy would also support an amended SubA (attached) that would make neonicotinoid pesticides labeled for outdoor use “state limited use”. This amended SubA would also include exemptions for veterinary applications; products used to treat bedbugs, lice, and other indoor insect pests; and products used for controlling wood-destroying pests. We understand that challenges arise where specialized solutions are required – but these neonicotinoid treatments should be limited to licensed professionals, such as farmers, veterinarians, and licensed employees of pest control businesses. These harmful chemicals should not be available for non-regulated consumer use.

Thank you for the opportunity to provide this comment. I am available for any questions you may have.

Sincerely,



Sue AnderBois
Climate and Energy Program Manager

The Nature Conservancy is a global organization dedicated to conserving the lands and waters on which all life depends. Working in more than 70 countries, we are tackling climate change, conserving lands, waters and oceans, and helping make cities more sustainable. Here in Rhode Island, we have 4,000 members, and we steward more than 10,000 acres of protected land while maintaining 78 miles of public walking trails.

A N A C T

RELATING TO HEALTH AND SAFETY -- PESTICIDE CONTROL

It is enacted by the General Assembly as follows:

SECTION 1. Section 23-25-4 of the General Laws in Chapter 23-25 entitled "Pesticide Control" is hereby amended to read as follows:

23-25-4. Definitions.

As used in this chapter:

(1) "Active ingredient" means any ingredient which will prevent, destroy, repel, control, or mitigate pests, or which will act as a plant regulator, defoliant, or desiccant.

(2) "Adulterated" applies to any pesticide if its strength or purity falls below the professed standards of quality as expressed on its labeling under which it is sold, or if any substance has been substituted wholly or in part for the pesticide, or if any valuable constituent of the pesticide has been wholly or in part abstracted.

(3) "Agricultural commodity" means any plant, or part of plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by humans or animals.

(4) "Animal" means all vertebrate and invertebrate species, including, but not limited to, man and other mammals, birds, fish, and shellfish.

(5) "Beneficial insects" means those insects which, during their life cycle, are effective pollinators of plants, are parasites or predators of pests, or are otherwise beneficial.

(6) "Board" means the pesticide advisory board as provided for under § 23-25.2-3.

(7) "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant with or without causing abscission.

(8) "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

(9) "Device" means any instrument or contrivance (other than a firearm) which is intended for trapping, destroying, repelling, or mitigating any pest or any other form of plant or animal life (other than humans and other than bacteria, virus, or other micro-organism on or in living humans or other living animals) but not including equipment used for the application of pesticides when

sold separately from it.

(10) "Director" means the director of environmental management.

(11) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver pesticides in this state.

(12) "Environment" includes water, air, land, and all plants and humans and other living animals in it, and the interrelationships which exist among these.

(13) "EPA" means the United States Environmental Protection Agency.

(14) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq., and other legislation supplementary to it and amendatory of it.

(15) "Fungi" means all nonchlorophyll-bearing thallophytes (that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts) as, for example, rusts, smuts, mildews, molds, yeasts, and bacteria, except those in or on living humans or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

(16) "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under the authority of § 25(c)(2) of FIFRA, 7 U.S.C. § 136w(c)(2), or by the director under § 23-25-9(a)(2).

(17) "Imminent hazard" means a situation which exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to § 23-25-8 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the secretary of the interior under 16 U.S.C. § 1531 et seq.

(18) "Inert ingredient" means an ingredient which is not an active ingredient.

(19) "Ingredient statement" means:

(i) Statement of the name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and

(ii) When the pesticide contains arsenic in any form, the ingredient statement shall also include percentages of total and water soluble arsenic, each calculated as elemental arsenic.

(20) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six (6) legged, usually winged forms, as for example, moths, beetles, bugs, bees, flies, and their immature stages, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example, spiders, mites, ticks, centipedes, and wood lice.

(21) "Integrated Pest Management (IPM)" refers to a method of pest control that uses a systems approach to reduce pest damage to tolerable levels through a variety of techniques, including natural predators and parasites, genetically resistant hosts, environmental modifications and, when necessary and appropriate, chemical pesticides. IPM strategies rely upon nonchemical defenses first and chemical pesticides second.

(22) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

(23) "Labeling" means the label and all other written, printed, or graphic matter:

(i) Accompanying the pesticide or device at any time; or

(ii) To which reference is made on the label or in literature accompanying the pesticide or device, except to current official publications of EPA, the United States Departments of Agriculture and Interior, and the department of health and human services; state experiment stations; state agricultural colleges; and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(24) "Land" means all land and water areas, including airspace, all plants, animals, structures, buildings, contrivances, and machinery appurtenant to it or situated on it, fixed or mobile, including any used for transportation.

(25) "Nematode" means invertebrate animals of the phylum Nematelminthes and class Nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(26) "Neonicotinoids" means any of a class of systemic water soluble insecticides related to nicotine that affect the central nervous system of insects by selectively binding to the postsynaptic nicotinic receptors of insects thereby causing paralysis and death. Neonicotinoids include, but are not limited to:

(i) Imidacloprid;

(ii) Acetamiprid;

(iii) Clothianidin;

(iv) Nitenpyram;

(v) Nithiazine;

(vi) Thiacloprid;

(vii) Thiamethoxam; and

(viii) Dinotefuran.

~~(26)~~(27) "Plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for altering the behavior of plants or the produce of these but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants, and soil amendments. Also, the term "plant regulator" is not required to include any of those nutrient mixtures or soil amendments as are commonly known as vitamin-hormone horticultural products, intended for improvement, maintenance, survival, health, and propagation of plants, are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

~~(27)~~(28) "Permit" means a written certificate, issued by the director, authorizing the purchase, possession, and/or use of certain pesticides or pesticide uses defined in subdivisions (34) and (35) of this section.

~~(28)~~(29) "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity, or any organized group of persons whether incorporated or not.

~~(29)~~(30) "Pest" means:

- (i) Any insect, rodent, nematode, fungus, or weed; and
- (ii) Any other form of terrestrial or aquatic plant or animal life or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living humans or other living animals) which the director declares to be a pest under § 23-25-9(a)(1).

~~(30)~~(31) "Pesticide" means:

- (i) Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and
- (ii) Any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant.

~~(31)~~(32) "Pesticide dealer" means any person who distributes within the state any pesticide product classified for restricted use by EPA or limited use by the director.

~~(32)~~(33)(i) "Private applicator" means any person who uses or supervises the use of any pesticide for purposes of producing any agricultural commodity on land owned or rented by him or her or his or her employer or (if applied without compensation other than trading of personal services between producers of agricultural commodities) on land of another person.

(ii) "Certified private applicator" means any private applicator who is certified under § 23-25-14 as authorized to purchase, acquire, apply, or supervise the application of any pesticide classified for restricted use by EPA or limited use by the director.

(iii) "Commercial applicator" means any person (whether or not that person is a private applicator with respect to some uses), including employees of any federal, state, county or municipal agency, department, office, division, section, bureau, board, or commission, who applies or supervises the application of any pesticide for any purpose or on any property other than as provided by the definition of "private applicator".

(iv) "Certified commercial applicator" means any commercial applicator who is certified under § 23-25-13 as authorized to purchase, acquire, apply, or supervise the application of a pesticide classified for restricted use by EPA or limited use by the director.

(v) "Licensed commercial applicator" means any commercial applicator who is licensed under § 23-25-12 as authorized to use or supervise the use of any pesticide not classified for restricted use by EPA or limited use by the director on land not owned or rented by him or her.

~~(33)~~[\(34\)](#) "Protect health and the environment" means protection against any unreasonable adverse effects on the environment.

~~(34)~~[\(35\)](#) "Registrant" means a person who has registered any pesticide pursuant to the provisions of this chapter.

~~(35)~~[\(36\)](#) "Restricted use pesticide" means a pesticide or pesticide use that is classified for restricted use by the administrator of EPA, or under § 23-25-6(h).

~~(36)~~[\(37\)](#) "State limited use pesticide" means any pesticide or pesticide use which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions to prevent unreasonable adverse effects on the environment including humans, land, beneficial insects, animals, crops, and wildlife, other than pests.

~~(37)~~[\(38\)](#) "Under the direct supervision" means that on-site supervision of any pesticide application by an appropriately certified or licensed applicator who is responsible for the application and is capable of dealing with emergency situations which might occur.

~~(38)~~[\(39\)](#) "Unreasonable adverse effects on the environment" means any unreasonable risk to humans or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide.

~~(39)~~[\(40\)](#) "Weed" means any plant which grows where not wanted.

~~(40)~~[\(41\)](#) "Wildlife" means all living things that are neither human nor, as defined in this chapter, pests, including but not limited to mammals, birds, and aquatic life.

SECTION 2. Chapter 23-25 of the General Laws entitled "Pesticide Control" is hereby amended by adding thereto the following section:

23-25-40. Neonicotinoids ~~prohibited~~ restricted.

~~Notwithstanding any law to the contrary, no person shall purchase, acquire, possess, use, apply or permit the use of any neonicotinoid, or pesticide, insecticide, herbicide, rodenticide, bactericide, fungicide or larvicide which contains a neonicotinoid ingredient, or any seeds coated with neonicotinoids, or product containing neonicotinoid on any land for any purpose within this state.~~

(a) This section does not apply to:

(1) Pet or veterinary care products used for preventing, destroying, repelling, or mitigating fleas, mites, ticks, heartworms, or other insects or organisms when applied to or administered to companion animals, livestock, or captive wild animals, regardless of whether the application or administration occurs indoors or outdoors;

(2) Personal care products used for preventing, destroying, repelling, or mitigating lice or bedbugs;

(3) Indoor pest control products used for preventing, destroying, repelling, or mitigating insects indoors; and

(4) Products used for controlling wood-destroying pests.

(b) Any neonicotinoids registered in the state and labelled as approved for outdoor use shall immediately be classified as state limited use. Such neonicotinoids shall not be:

(1) Sold or distributed to any person other than a certified applicator;

(2) Used or applied by any person other than a certified applicator or any person working under the direct supervision of a certified applicator;

(3) Applied, except in the course of academic research, to any linden or basswood tree; or

(4) Applied, except in the course of academic research, to any plant when such plant bears blossoms.

(c) The director shall promulgate all rules and regulations necessary to carry out and enforce the provisions of this section.

(d) Nothing in this section shall prohibit the director from further restricting or regulating neonicotinoids pursuant to § 23-25-9.

SECTION 3. This act shall take effect ~~upon passage~~ on January 1, 2022