

HOUSE No. 4187

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 11, 2016.

The committee on the Environment, Natural Resources and Agriculture to whom were referred the petition (accompanied by bill, House, No. 655) of Carolyn C. Dykema and others relative to the use and protection of pollinators, the petition (accompanied by bill, House, No. 731) of Keiko M. Orrall and others for legislation to establish an advisory committee on the protection of honeybees in the Commonwealth and the petition (accompanied by bill, House, No. 3417) of Paul McMurtry and others for an investigation by a special commission (including members of the General Court) relative to solutions to prevent the collapsing of bee colonies, reports recommending that the accompanying bill (House, No. 4187) ought to pass.

For the committee,

PAUL A. SCHMID, III.

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act protecting Massachusetts pollinators.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1 of chapter 132B of the General Laws, as appearing in the 2014
2 Official Edition, is hereby amended by inserting after the definition of “Agricultural
3 commodity” the following definition:-

4 “Agricultural use”, the spraying, release, deposit or application of a neonicotinoid on land
5 which is in agricultural use, as defined in section 1 of chapter 61A.

6 SECTION 2. Said section 1 of said chapter 132B, as so appearing, is hereby further
7 amended by inserting after the definition of “Anti-microbial pesticide”, the following definition:-

8 “Blooming season,” the period of the calendar year in which blooming or flowering
9 plants are actively blooming

10 SECTION 3. Said section 1 of said chapter 132B, as so appearing, is hereby further
11 amended by inserting after the definition of “Fungi”, the following definition:-

“Horticultural use”, the spraying, release, deposit or application of a neonicotinoid on land which is in horticultural use, as defined in section 2 of chapter 61A.

SECTION 4. Said section 1 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of “Nematode” the following definition:-

“Neonicotinoid,” a pesticide belonging to the neonicotinoid class of chemicals which act selectively on nicotine acetylcholine receptors of organisms, including but not limited to, imidacloprid, acetamiprid, clothianidin, dinotefuran, nithiazine, nitenpyram, thiacloprid, and thiamethoxam and any other pesticide identified as a neonicotinoid by the United States Environmental Protection Agency or designated as a neonicotinoid by the pesticide board subcommittee, established pursuant to section 3A, in accordance with section 6L. Neonicotinoids are absorbed into plant tissue and can be present in pollen and nectar, making them potentially toxic to pollinators.

SECTION 5. Section 6 of said chapter 132B, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

No person shall distribute a neonicotinoid pesticide, or any substance containing a neonicotinoid pesticide, for agricultural or horticultural use, excluding neonicotinoid-treated nursery plants, to any person other than a certified commercial applicator, a certified private applicator, or a licensed applicator.

SECTION 6. Said chapter 132B is hereby further amended by inserting after section 6K the following section:-

Section 6L. (a) Neonicotinoids shall not be sprayed, released, deposited or applied on any property within the commonwealth, except as follows:-

(1) During the blooming season, neonicotinoids shall be used for agricultural and horticultural uses only.

(2) A neonicotinoid used during the blooming season for agricultural or horticultural uses shall only be sprayed, released, deposited or applied by certified commercial applicator, certified private applicator or licensed applicator who has received a certificate of training pursuant to the fourth paragraph of section 10

(3) On any date outside of the blooming season, neonicotinoids shall only be sprayed, released, deposited or applied by a certified commercial applicator, a certified private applicator, or a licensed applicator.

(b) Prior to spraying, releasing, depositing or applying any neonicotinoid in accordance with subsection (a), a certified commercial applicator, certified private applicator or licensed applicator shall provide the owner of the property on which the neonicotinoid is to be so used with: (i) information on the risks associated with its use, including, but not limited to, its potential effects on the central nervous system of pollinators and non-target organisms and an overview of the effects of neonicotinoids on honeybees; (ii) a list of alternative non-neonicotinoid products; and (iii) an acknowledgment signifying that the owner has received and understands this information. The informational materials, list and acknowledgement required by this subsection shall be in a form prescribed by the department. This subsection shall not apply to any certified commercial applicator, certified private applicator, or licensed applicator so using a neonicotinoid on property which he or she owns.

(c) No blooming or flowering plant, plant material or seed that has been treated with a neonicotinoid shall be sold within the commonwealth unless it is clearly and conspicuously labeled as having been treated with a neonicotinoid and includes a brief description of the risks to pollinators and other non-target organisms associated with the use of neonicotinoids.

SECTION 7. Section 10 of said chapter 132B, as so appearing, is hereby amended by inserting after the third paragraph, the following paragraph:-

The department shall require that any certified commercial applicator, certified private applicator, or licensed applicator who will use neonicotinoids pursuant to paragraph (1) of subsection (a) of section 6L satisfactorily completes training on the risks associated with the use of neonicotinoids and the proper techniques to use in order to minimize those risks. The department shall integrate said neonicotinoid training into the current licensing and certification process to create a streamlined process for existing certified commercial applicators, certified private applicators, or licensed applicators.

SECTION 8. Section 14 of said chapter 132B, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word “inclusive”, in line 9, the following words:-
section 6L.

SECTION 9. The department of agricultural resources shall work with The Center for Agriculture, Food and the Environment at University of Massachusetts in Amherst in order to develop the training required by section 4 on or before January 1, 2017. Such training may, if practicable, include the attendance of any existing courses, programs or initiatives at said center.

SECTION 10. (a) That a special commission, to consist of: 1 member of the senate to be appointed by the Senate President, 1 member of the house of representatives to be appointed by

the Speaker, 1 member of the senate appointed by the Senate Minority Leader, 1 member of the house of representatives appointed by the House Minority Leader, and the secretary of energy and environmental affairs, or a designee who shall serve as chair and 5 persons to be appointed by the Governor, 1 of whom shall be a university faculty member specializing in the science of pollinator health; 1 of whom shall represent an advocacy group for nurseries, greenhouse producers or lawn care specialists; 1 of whom shall represent an advocacy group for farmers; 1 of whom shall represent an advocacy group for organic farmers; 1 of whom shall represent an advocacy group for cranberry producers, and 6 persons to be appointed by the Attorney General, 1 of whom shall represent an advocacy group dedicated to the protection of pollinators and invertebrates; 1 of whom shall represent an advocacy group dedicated to environmental protection; 1 of whom shall be a commercial beekeeper; 1 of whom is certified as a master gardener, representing the public; and 2 of whom shall be beekeepers, representing the County Beekeeping Associations, is hereby established pursuant to section 2A of chapter 4 for the purpose of making an investigation and study of methods and solutions to protect and promote pollinators health. Said special commission shall be appointed not later than 6 months after the passage of this act.

(b) The special commission shall undertake activities to examine issues relevant to pollinator health, including:

(i) studying current regulations in Massachusetts and from other states and countries related to pollinators and pollinator health;

(ii) studying public education and outreach plans regarding pollinator health that have been successful in other states;

(iii) evaluating the current apiary inspection program with specific focus on parasitic diseases;

(iv) identifying adequacy of funding for efforts to promote or protect pollinator health;

(v) investigating the means used by other states to gather data on populations pollinators;

(vi) evaluating existing best management practices for promoting pollinator health, including but not limited to foraging and proper food source diversity; and

(vii) evaluating proposed state pollinator protection plans.

(c) The special commission may take actions necessary and proper to carry out the work of the task force, including but not limited to scheduling hearings and taking testimony on matters related to pollinator health.

(d) The special commission shall defer to the State Pesticide Board on matters regarding the regulation, review and use of pesticides, including neonicotinoids.

(e) The special commission shall issue a final report to the general court the results of its investigation, study and recommendations, if any, together with drafts of legislation necessary to carry out those recommendations into effect. The commission shall submit its final report to the House and Senate clerks and the joint committee on environment, natural resources and agriculture on or before December 28, 2016.