HOUSE . . . . . No. 4041

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, November 20, 2017.

The committee on Environment, Natural Resources and Agriculture to whom were referred the petition (accompanied by bill, Senate, No. 2164) of James B. Eldridge, Carolyn C. Dykema, Jason M. Lewis, Julian Cyr and other members of the General Court for legislation to protect Massachusetts pollinators, and the petition (accompanied by bill, House, No. 2113) of Carolyn C. Dykema and others relative to the use and protection of pollinators by further regulating the spraying, release, deposit or application of a neonicotinoid on certain agricultural land, reports recommending that the accompanying bill (House, No. 4041) ought to pass.

For the committee,

SMITTY PIGNATELLI.

FILED ON: 11/14/2017

HOUSE . . . . . No. 4041

The Commonwealth of Massachusetts

In the One Hundred and Ninetieth General Court
(2017-2018)

An Act to protect 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:

SECTION 1. Section 1 of chapter 132B of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after the definition of "Agricultural commodity" the following definition:-

"Agricultural use", the spraying, release, deposit or application of a neonicotinoid on land in agricultural use, as defined in section 1 of chapter 61A.

SECTION 2. Said section 1 of said chapter 132B, as so appearing, is hereby further amended by inserting after the definition of , "Beneficial insects" the following definition:-

"Blooming season," the period of the calendar year during which blooming or flowering plants are actively blooming, which shall include, at a minimum, the period between March 1 and October 31, provided, that the department may increase the period of time by regulation.

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

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

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

17 “Neonicotinoid,” a pesticide belonging to the neonicotinoid class of chemicals which act
18 selectively on nicotine acetylcholine receptors of organisms and are absorbed into plant tissue
19 and can be present in pollen and nectar, including but not limited to, imidacloprid, acetamiprid,
20 clothianidin, dinotefuran, nithiazine, nitenpyram, thiacloprid, and thiamethoxam and any other
21 pesticide identified as a neonicotinoid by the United States Environmental Protection Agency.

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

24 No person shall distribute a neonicotinoid, or any substance containing a neonicotinoid,
25 for agricultural use or horticultural use, except a neonicotinoid-treated nursery plant, to any
26 person except a certified commercial applicator, a certified private applicator, or a licensed
27 applicator.

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

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

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

34 (2) A neonicotinoid used during the blooming season for agricultural use or horticultural
35 use shall only be sprayed, released, deposited or applied by certified commercial applicator,
36 certified private applicator or licensed applicator who has received a certificate of training.

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

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

51 (c) The subsections (a) and (b) shall not apply to the following products: (i) pet care
52 products used to mitigate fleas, mites, ticks, heartworms, or other animals that are harmful to the
53 health of a domesticated animal; (ii) personal care products used to mitigate lice and bedbugs;
54 (iii) indoor pest control products used to mitigate insects indoors, including ant bait and (iv) any

55 products used by licensed or certified applicators for use in industrial, institutional, structural and
56 health related pest control, as defined in 333 CMR 10.03.7.

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

59 The department shall require that any certified commercial applicator, certified private
60 applicator, or licensed applicator using neonicotinoids pursuant to paragraph (2) of subsection (a)
61 of section 6L satisfactorily completes training regarding the risks associated with the use of
62 neonicotinoids and the proper techniques to minimize said risks. The department shall include
63 the neonicotinoid training in the licensing and certification process for certified commercial
64 applicators, certified private applicators, or licensed applicators.

65 SECTION 8. Section 14 of said chapter 132B, as so appearing, is hereby amended by
66 inserting after the word "inclusive", in lines 9 and 10, the following words:- , section 6L.

67 SECTION 9. The department of agricultural resources shall work with the center for
68 agriculture, food and the environment at University of Massachusetts at Amherst in order to
69 develop the training required by section 4 within six months of the passage of this Act. Such
70 training may, if practicable, include the attendance of any existing courses, programs or
71 initiatives at said center.

72 SECTION 10. The Massachusetts Department of Transportation shall identify
73 opportunities in the commonwealth for the replacement of non-native, cool-season turf grasses
74 around solar energy installations on property owned by the department with native plant
75 communities that include flowers, wildflowers, vegetables, weeds, herbs, ornamental plants,
76 cover crops and legume species to attract honey bees and other pollinators.

77 SECTION 11. The department of agricultural resources shall develop the informational
78 materials, list of alternative products and acknowledgement form required by section 6 within 6
79 months of the passage of this act.

80 SECTION 12. Section 8 shall take effect on January 1, 2019. No penalties shall be
81 assessed for a violation of this act prior to such date.