

JAN 18 2019

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# A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1.   Pollination by honeybees and other pollinators  
2 is a vital part of agricultural production.   One-third of the  
3 food produced in North America and nearly ninety-five varieties  
4 of fruits and other foods rely on pollination by honeybees.  
5 Over the past several years, however, bee colony collapses and  
6 excessive bee mortality have reached record highs, with some  
7 beekeepers losing large portions of their operations and  
8 suffering reduced production of honey.

9           Scientists have linked the use of systemic neonicotinoid  
10 insecticides to the rapid decline of honeybees and other  
11 pollinators as well as to the deterioration of pollinator  
12 health.   As systemic insecticides, the neonicotinoid  
13 insecticides are absorbed into treated plants and distributed  
14 throughout their vascular systems.   As a result, treating a  
15 plant or coating a seed with a neonicotinoid insecticide can  
16 render many parts of the plant toxic to insects, including the  
17 roots, leaves, stems, flowers, nectar, pollen, and guttation



1 fluid. Neonicotinoid insecticides are also persistent in soil  
2 and are easily transported through air, dust, and water.

3 Neonicotinoid insecticides damage the central nervous  
4 system of insects, causing tremors, paralysis, and death.  
5 Neonicotinoid insecticides also have sublethal effects,  
6 including impaired foraging and feeding behavior,  
7 disorientation, weakened immunity, delayed larval development,  
8 and increased susceptibility to viruses, diseases, and  
9 parasites.

10 Neonicotinoids can also kill or weaken beneficial  
11 invertebrates, birds, and other wildlife, through direct and  
12 indirect effects. Scientists have found that seed coatings  
13 containing neonicotinoid insecticide are harmful to birds.  
14 Recent scientific study has demonstrated that consumption of a  
15 single corn kernel coated with neonicotinoid insecticide can  
16 kill a medium-sized songbird. Environmental contaminations by  
17 neonicotinoid insecticides harm not only honeybees, but other  
18 pollinators, including beneficial insects, birds, and bats.

19 In 2013, the European Union voted to suspend use of three  
20 major neonicotinoid insecticides, imidacloprid, clothianidin,  
21 and thiamethoxam, on certain agricultural crops pending a review



1 of their safety. In 2014, the United States Fish and Wildlife  
2 Service announced that it would phase out uses of neonicotinoid  
3 insecticides by January 2016 in all national wildlife refuges,  
4 including those in Hawaii, due to their harmful effects on  
5 wildlife. Some states, including New York, have also restricted  
6 the use of some neonicotinoid insecticides because of their  
7 risks.

8 The purpose of this Act is to protect Hawaii's honeybees,  
9 insects, bats, birds, and other pollinators from exposure to  
10 neonicotinoid insecticides and defend and protect Hawaii's  
11 agricultural economy and natural ecosystems.

12 This Act shall be liberally construed to fulfill these  
13 purposes.

14 SECTION 2. Chapter 149A, Hawaii Revised Statutes, is  
15 amended by adding a new section to be appropriately designated  
16 and to read as follows:

17 "§149A- County authority. Any county may adopt a rule  
18 or ordinance that places stricter limitations on the use of  
19 neonicotinoid insecticides than those placed by this chapter or  
20 rules adopted pursuant to this chapter. In the case of a  
21 conflict between the requirements or limitations of this chapter



1 and any county rule or ordinance regarding the use of  
2 neonicotinoid insecticides, the more restrictive requirements  
3 shall apply."

4 SECTION 3. Section 149A-2, Hawaii Revised Statutes, is  
5 amended by adding a new definition to be appropriately inserted  
6 and to read as follows:

7 "Neonicotinoid insecticide" means any systemic pesticide  
8 with a common mode of action that affects the central nervous  
9 system of insects containing any of the following active  
10 ingredients: acetamiprid, clothianidin, dinotefuran,  
11 imidacloprid, thiacloprid, thiamethoxam, and any other new  
12 ingredients as may be identified by rule adopted by the  
13 department pursuant to chapter 91."

14 SECTION 4. Section 149A-31, Hawaii Revised Statutes, is  
15 amended to read as follows:

16 **"§149A-31 Prohibited acts.** No person shall:

17 (1) Use any pesticide in a manner inconsistent with its  
18 label, except that it shall not be unlawful to:

19 (A) Apply a pesticide at any dosage, concentration,  
20 or frequency less than that specified on the  
21 label or labeling; provided that the efficacy of



- 1 the pesticide is maintained; provided further  
2 that when a pesticide is applied by a commercial  
3 applicator, the deviation from the label  
4 recommendations shall be with the consent of the  
5 purchaser of the pesticide application services;
- 6 (B) Apply a pesticide against any target pest not  
7 specified in the labeling if the application is  
8 to a crop, animal, or site specified on the label  
9 or labeling; provided that the label or labeling  
10 does not specifically prohibit the use on pests  
11 other than those listed on the label or labeling;
- 12 (C) Employ any method of application not prohibited  
13 by the labeling;
- 14 (D) Mix a pesticide or pesticides with a fertilizer  
15 when the mixture is not prohibited by the label  
16 or labeling; or
- 17 (E) Use in a manner determined by rule not to be an  
18 unlawful act;
- 19 (2) Use, store, transport, or discard any pesticide or  
20 pesticide container in any manner that would have  
21 unreasonable adverse effects on the environment;



- 1           (3) Use or apply restricted use pesticides unless the  
2           person is a certified pesticide applicator or under  
3           the direct supervision of a certified pesticide  
4           applicator with a valid certificate issued pursuant to  
5           rules adopted under section 149A-33(1); provided that  
6           it shall be prohibited to use or apply a restricted  
7           use pesticide for structural pest control uses for a  
8           fee or trading of services, unless the user or  
9           applicator is a pest control operator or is employed  
10          by a pest control operator licensed under chapter  
11          460J;
- 12          (4) Use or apply pesticides in any manner that has been  
13          suspended, canceled, or restricted pursuant to section  
14          149A-32.5;
- 15          (5) Falsify any record or report required to be made or  
16          maintained by rules adopted pursuant to this chapter;
- 17          (6) Fill with water, through a hose, pipe, or other  
18          similar transmission system, any tank, implement,  
19          apparatus, or equipment used to disperse pesticides,  
20          unless the tank, implement, apparatus, equipment,  
21          hose, pipe, or other similar transmission system is



1 equipped with an air gap or a reduced-pressure  
2 principle backflow device meeting the requirements  
3 under section 340E-2 and the rules adopted thereunder;  
4 [~~or~~]

5 (7) Beginning January 1, 2019, use or apply any pesticide  
6 containing chlorpyrifos as an active ingredient;  
7 provided that:

8 (A) The department shall grant to any person, upon  
9 request, a temporary permit authorizing the  
10 person, until December 31, 2022, to use or apply  
11 a pesticide containing chlorpyrifos as an active  
12 ingredient; and

13 (B) Any person who violates this paragraph shall be  
14 subject to a penalty pursuant to section  
15 149A-41[~~-~~]; or

16 (8) After June 30, 2020, apply any neonicotinoid  
17 insecticide without a permit issued by the department  
18 of agriculture or any agency of the federal  
19 government. For the purposes of this paragraph,  
20 application of any neonicotinoid insecticide shall



1           include planting any seeds coated with any  
2           neonicotinoid insecticide."

3           SECTION 5. No later than January 1, 2020, the department  
4 of agriculture shall adopt rules, pursuant to chapter 91, Hawaii  
5 Revised Statutes, to carry out and effectuate the purposes of  
6 this Act. The rules shall contain procedures to obtain a permit  
7 for the one-time use of a neonicotinoid insecticide in instances  
8 where:

- 9           (1) The pest situation poses an immediate threat to human  
10           health or the environment; and  
11           (2) There is no viable alternative to the use of the  
12           proposed neonicotinoid insecticide.

13           SECTION 6. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16           SECTION 7. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.





1 SECTION 8. Statutory material to be repealed is bracketed  
2 and stricken. New statutory material is underscored.

3 SECTION 9. This Act shall take effect on July 1, 2019.

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# S.B. NO. 445

**Report Title:**

Neonicotinoid Insecticide; Pesticides; Agriculture

**Description:**

Prohibits application of neonicotinoid insecticides without a permit after 6/30/20 to protect honeybees and other pollinating animals.

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