

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4722**

BY DELEGATE WALKER

[Introduced February 15, 2022; Referred to the  
Committee on Agriculture and Natural Resources  
then Government Organization]

1 A BILL to amend the Code of West Virginia, 1931, amended, by adding thereto a new section,  
2 designated §19-16A-28, relating to restricting the use of neonicotinoid pesticides.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 16A. WEST VIRGINIA PESTICIDE CONTROL ACT.**

**§19-16A-28. Limitations on neonicotinoid pesticides; definitions; rulemaking authority.**

1 (a) As used in this section:

2 “Agricultural plant” means any plant, or part thereof, grown, maintained, or otherwise  
3 produced for commercial purposes, including any plant grown, maintained, or otherwise produced  
4 for sale or trade, for research or experimental purposes, or for use in part or their entirety in  
5 another location. “Agricultural plant” includes, but is not limited to, grains, fruits, and vegetables;  
6 wood fiber or timber products; flowering and foliage plants and trees; seedlings and transplants;  
7 and turf grass produced for sod. “Agricultural plant” does not include pasture or rangeland used  
8 for grazing.

9 “Environmental emergency” means an occurrence of any pest which presents a significant  
10 risk of harm or injury to the environment, or significant harm, injury, or loss to agricultural crops,  
11 including, but not limited to, any exotic or foreign pest which may need preventative quarantine  
12 measures to avert or prevent that risk, as determined by the Department of Environmental  
13 Protection in consultation with the state Department of Agriculture.

14 “Neonicotinoid pesticide” means any pesticide containing a chemical belonging to the  
15 neonicotinoid class of chemicals, including, but not limited to, acetamiprid, clothianidin,  
16 dinotefuran, flonicamid, imidacloprid, nitenpyram, nithiazine, thiacloprid, thiamethoxam, or any  
17 other chemical designated by the department as belonging to the neonicotinoid class of  
18 chemicals.

19 “Restricted use pesticide” means a pesticide that can be purchased and used only by a  
20 certified and licensed pesticide applicator, as determined by the department pursuant to the  
21 “Pesticide Control Act of 1971,” or persons working under the direct supervision of a certified and

22 licensed pesticide applicator.

23 (b) No later than 12 months after the effective date of this section and every three years  
24 thereafter, the Department of Agriculture shall review the latest scientific information concerning  
25 neonicotinoid pesticides, and classify as a restricted use pesticide any neonicotinoid pesticide  
26 that the department determines will cause harm to populations of pollinating bees, birds, other  
27 pollinating wildlife, or aquatic invertebrates. Any person may petition the department at any time  
28 pursuant to an administrative process developed by the department by July 1, 2023, to classify a  
29 pesticide pursuant to this section.

30 (c) Notwithstanding the provisions of this section to the contrary, the application by a  
31 licensed pesticide applicator of a neonicotinoid pesticide adjacent to a building foundation  
32 perimeter to manage structural pests may be extended by an additional four feet, if such additional  
33 area is necessary to treat the source of the infestation and the application is limited to a spot  
34 targeted treatment of the source of the infestation only.

35 (d) Notwithstanding the provisions of this section to the contrary, the commissioner, in  
36 consultation with the department, may, by written order, authorize one or more licensed pesticide  
37 applicators to use a pesticide that is prohibited under this section if the commissioner finds that:

38 (1) A valid environmental emergency exists;

39 (2) The pesticide would be effective in addressing the environmental emergency; and

40 (3) No other, less harmful pesticide or pest management practice would be effective in  
41 addressing the environmental emergency.

42 Any order issued by the commissioner pursuant to this subsection shall include the basis  
43 for the commissioner's determination and specify the approved time period, geographic scope,  
44 and purpose of the permitted sale or use of a pesticide. An order issued pursuant to this  
45 subsection shall be valid for a period not to exceed one year.

46 (e) The commissioner shall promulgate any state rule necessary to implement this section.

47 (f) This section shall take effect January 1, 2023.

NOTE: The purpose of this bill is to restrict the use of neonicotinoid pesticides; providing definitions and rulemaking authority; and setting an effective date.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.