

Synopsis of Original Bill

Senate Bill 103 amends the Pesticide Control Act to restrict the use of neonicotinoid class of pesticides with certain exceptions outlined in the act. The bill requires New Mexico State University to adopt rules for a certification program to educate and train private applicators and makes minor terminology and grammatical changes to update and clarify language in the act.

The effective date of the provisions of this act is July 1, 2021.

FISCAL IMPLICATIONS

NMDA reports a reduction of pesticide registration fee income of about \$14 thousand annually as a result of approximately 140 affected products that will no longer be registered in the state.

SIGNIFICANT ISSUES

NMDA notes SB103 supports its continued efforts related to pollinator protection outreach.

Because of the inclusion of the term *not pollinated by insects*, NMDA believes SB103 provides it the authority to allow for the use of neonicotinoid pesticides on commercial agricultural crops.

NMDA reports that neonicotinoids remain the most widely used insecticides in the world for residential and commercial markets. The popularity of neonicotinoid insecticides appears to be primarily due to its ability to control hard-to-manage pests and its relatively inexpensive cost.

Of the 540 neonicotinoid products registered with NMDA, 140 will no longer be registered for residential use. Those uses include protection of structures from termites, control of garden (aphids, ants) and turf pests (golf courses, athletic fields, parks) and for cockroach and fly baits. Impacts to commercial agriculture include the loss of fly control products (dairy, horse barns), pesticide management tools for use on specific crops, in addition to the administrative burden for dealers/distributors regarding monitoring purchases and distribution of neonicotinoid products.

NMDA notes the use of neonicotinoids is also a common treatment of nursery plants to protect from insect damage. The bill would require business owners to post pollinator-specific warning labels on their nursery products treated with neonicotinoids. However, it may be difficult for some business owners to determine the neonicotinoid status of plants that are bought wholesale.

Manufacturers may need to re-label products to comply. This may result in confusion regarding conflicts between national labeled uses on the product, and more restrictive state approved uses.

PERFORMANCE IMPLICATIONS

NMDA is concerned enforcement may be difficult given the universal availability of neonicotinoids in the United States (adjacent states, e-commerce, agricultural brokers).

ADMINISTRATIVE IMPLICATIONS

The NMDA administers the Pesticide Control Act. However, the restrictions on the transportation and use of neonicotinoid class pesticides could have implications for the federal Clean Water Act, as it relates to surface water discharge permits in New Mexico. NMED reports

it certifies each permit issued by the U.S. Environmental Protection Agency (EPA) for discharges of pesticides into surface water in New Mexico. This EPA permit does not ban use of neonicotinoid class pesticides. On January 15, 2021, EPA published the draft 2021 Pesticide General Permit for a 60-day public comment period. If SB103 is enacted before NMED completes its review of the draft, NMED will consider whether the change in state law regarding neonicotinoid class pesticides warrants NMED imposing a condition to restrict such pesticides in New Mexico. Pesticide use that does not involve a discharge to surface water, such as ground application to control pests on agricultural crops, forest floors, or range lands, is not subject to the EPA Pesticide General Permit.

TECHNICAL ISSUES

NMDA provided the following comments:

Page 5 line 14: The word “visited” within the definition of “not pollinated by insects” is overly broad. All crops/plants are “visited” by pollinators. A literal interpretation would preclude the use of neonicotinoids on all New Mexico agricultural crops/plants.

Page 28 Line 24: Requires that the educational and training material be for a license applicant taking any licensing category exam. Not all license categories require the use of pesticides and would be irrelevant to the category work.

Page 14, Line 8, 12: Provides NMDA authority to register neonicotinoid use in agricultural ‘crops’ not pollinated by insects. Provisions for the department to register neonicotinoids for non-crop use in agriculture is not provided. The result is the loss of neonicotinoid use for fly control on or around agricultural sites (dairies).

OTHER SUBSTANTIVE ISSUES

According to the U.S. Department of Agriculture, neonicotinoids are a class of insecticide taken up by a plant’s vascular system and distributed throughout the plant. Insects that feed on any plant parts over time can receive a lethal dose. A main concern is how these products affect foraging pollinators and non-target organisms, and contribute to colony collapse disorder in bees.

According to the U.S. Food & Drug Administration, honey bees are big money makers for agriculture. These insects produce six hive products – honey, pollen, royal jelly, beeswax, propolis and venom – all collected and used for nutritional and medicinal purposes. The pharmaceutical industry also uses the substance as a binding and time-release agent, and drug carrier. But the greatest importance of honey bees is to agriculture for their role as crop pollinators. This benefit is estimated to be up to 20 times the total value of honey and beeswax. In fact, again according to the FDA, bee pollination accounts for \$15 billion in added crop value.

According to the U.S. Department of Health and Human Services, neonicotinoid pesticides exert neurotoxic effects by binding to certain receptors in insects – those same receptors are also present in nervous systems of mammals, including humans. Therefore, use of these substances on food crops raises concerns for adverse human health impacts with chronic low-level exposure.

ALTERNATIVES

NMDA suggests delaying promulgation of the amended regulations in the bill until EPA publishes additional restrictions directed at neonicotinoid use at the national level.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Pollinator exposure to neonicotinoid pesticides in New Mexico will remain at current levels.

AHO/al/sb