

Chapter 662

(House Bill 211)

AN ACT concerning

**Neonicotinoid Pesticides – ~~Labeling, Signage, and~~ Restrictions on Sales and Use
(Pollinator Protection Act of 2016)**

FOR the purpose of ~~prohibiting a person from selling at retail in the State certain seeds, material, or plants that have been treated with a neonicotinoid pesticide unless the seeds, material, or plants bear a label with, or are in close proximity to a sign that displays in a certain manner, a certain statement;~~ prohibiting a person from selling at retail in the State, on or after a certain date, a neonicotinoid pesticide unless the person also sells a restricted use pesticide; prohibiting a person from using a neonicotinoid pesticide on or after a certain date unless the person is a certified applicator or a person working under the supervision of a certified applicator, a farmer or a person working under the supervision of a farmer who uses the product for a certain purpose, or a veterinarian; ~~establishing certain civil penalties for a violation of this Act;~~ requiring the Department of Agriculture to incorporate certain practices into a certain pollinator protection plan; requiring the Department to review certain laws and regulations and make recommendations regarding certain matters; requiring the Department to report its findings and recommendations to the Governor and General Assembly within a certain period of time after the publication of a certain pollinator risk assessment; establishing a certain civil penalty for a violation of this Act; exempting this Act from certain provisions of law; providing for the application of certain provisions of this Act; defining a certain term ~~terms~~ term; and generally relating to neonicotinoid pesticides.

BY repealing and reenacting, without amendments,

Article – Agriculture

Section 5–201(a), (c), and (r), 12–101, 12–102, and 12–103

Annotated Code of Maryland

(2007 Replacement Volume and 2015 Supplement)

BY adding to

Article – Agriculture

Section 5–2A–01 ~~and 5–2A–02~~ through ~~5–2A–03 5–2A–04~~ 5–2A–05 to be under the new subtitle “Subtitle 2A. Neonicotinoid Pesticides”

Annotated Code of Maryland

(2007 Replacement Volume and 2015 Supplement)

BY repealing and reenacting, with amendments,Article – AgricultureSection 12–104Annotated Code of Maryland(2007 Replacement Volume and 2015 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Agriculture

5–201.

(a) In this subtitle the following words have the meanings indicated.

(c) “Certified applicator” means a person who is certified by the Secretary under this subtitle.

(r) “Restricted use pesticide” means a pesticide so classified by the provisions in this title or by the federal government or the Secretary of Agriculture, State of Maryland.

SUBTITLE 2A. NEONICOTINOID PESTICIDES.

5–2A–01.

~~(A) IN THIS SUBTITLE, THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.~~

~~(B) “NEONICOTINOID~~ **“NEONICOTINOID PESTICIDE” MEANS ANY PESTICIDE CONTAINING A CHEMICAL BELONGING TO THE NEONICOTINOID CLASS OF CHEMICALS, INCLUDING:**

(1) IMIDACLOPRID;

(2) NITHIAZINE;

(3) ACETAMIPRID;

(4) CLOTHIANIDIN;

(5) DINOTEFURAN;

(6) THIAACLOPRID;

(7) THIAMETHOXAM; AND

(8) ANY OTHER CHEMICAL DESIGNATED BY THE DEPARTMENT AS BELONGING TO THE NEONICOTINOID CLASS OF CHEMICALS.

~~(C) “NURSERY STOCK” MEANS:~~

~~(1) ANY HARDY PLANT OR PLANT THAT SURVIVES MARYLAND WINTERS, INCLUDING A DECIDUOUS OR EVERGREEN TREE, SHRUB, OR WOODY VINE, WHETHER CULTIVATED, NATIVE, OR WILD, AND ALL VIABLE PARTS OF THE PLANT;~~

~~(2) ANY NONHARDY PLANT OR PLANT PART TO BE DISTRIBUTED IN ANOTHER STATE THAT REQUIRES PLANT INSPECTION AND CERTIFICATION BEFORE ENTERING THAT STATE; OR~~

~~(3) ANY OTHER PLANT INCLUDED BY THE SECRETARY, IF REGULATING ITS MOVEMENT IS NECESSARY TO CONTROL ANY DANGEROUSLY INJURIOUS PLANT PEST.~~

5-2A-02.

~~(A) A PERSON MAY NOT SELL AT RETAIL IN THE STATE ANY SEED, PLANT MATERIAL, NURSERY STOCK, ANNUAL PLANT, BEDDING PLANT, OR OTHER PLANT THAT HAS BEEN TREATED WITH A NEONICOTINOID PESTICIDE UNLESS THE SEED, PLANT MATERIAL, NURSERY STOCK, ANNUAL PLANT, BEDDING PLANT, OR OTHER PLANT BEARS A LABEL WITH, OR IS IN CLOSE PROXIMITY TO A SIGN THAT PROMINENTLY DISPLAYS, THE FOLLOWING STATEMENT:~~

~~“WARNING: THIS PRODUCT HAS BEEN TREATED WITH NEONICOTINOID PESTICIDES, FOUND TO HARM OR IMPAIR NONTARGET ORGANISMS, INCLUDING BEES AND OTHER POLLINATORS, BIRDS, EARTHWORMS, AND AQUATIC INVERTEBRATES.”~~

~~(B) (A) (1) THIS SUBSECTION AND SUBSECTION (C) OF THIS SECTION DO DOES NOT APPLY TO A FLEA OR TICK COLLAR THAT CONTAINS A NEONICOTINOID PESTICIDE:~~

~~(I) PET CARE PRODUCTS USED TO MITIGATE FLEAS, MITES, TICKS, HEARTWORMS, OR OTHER ANIMALS THAT ARE HARMFUL TO THE HEALTH OF A DOMESTICATED ANIMAL;~~

~~(II) PERSONAL CARE PRODUCTS USED TO MITIGATE LICE AND BEDBUGS; AND~~

~~(III) INDOOR PEST CONTROL PRODUCTS USED TO MITIGATE INSECTS INDOORS, INCLUDING ANT BAIT.~~

(2) ON OR AFTER JANUARY 1, ~~2017~~ 2018, A PERSON MAY NOT SELL AT RETAIL IN THE STATE A NEONICOTINOID PESTICIDE UNLESS THE PERSON ALSO SELLS A RESTRICTED USE PESTICIDE, AS DEFINED IN § 5-201 OF THIS TITLE.

~~(c)~~ (B) ON OR AFTER JANUARY 1, ~~2017~~ 2018, A PERSON MAY NOT USE A NEONICOTINOID PESTICIDE UNLESS THE PERSON IS:

(1) A CERTIFIED APPLICATOR OR A PERSON WORKING UNDER THE SUPERVISION OF A CERTIFIED APPLICATOR, AS DEFINED IN § 5-201 OF THIS TITLE;

(2) A FARMER, OR A PERSON UNDER THE SUPERVISION OF A FARMER, WHO USES THE PESTICIDE FOR AGRICULTURAL PURPOSES, INCLUDING CROP PRODUCTION, LIVESTOCK, POULTRY, EQUINE, AND NONCROP AGRICULTURAL FIELDS; OR

(3) A VETERINARIAN.

5-2A-03.

~~A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF \$250.~~

THE DEPARTMENT SHALL INCORPORATE POLLINATOR HABITAT EXPANSION AND ENHANCEMENT PRACTICES INTO THE STATE'S MANAGED POLLINATOR PROTECTION PLAN DEVELOPED IN COORDINATION WITH THE U.S. ENVIRONMENTAL PROTECTION AGENCY.

5-2A-04.

(A) ON COMPLETION OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S POLLINATOR RISK ASSESSMENT OF THE NEONICOTINOID PESTICIDES IMIDACLOPRID, CLOTHIANIDIN, THIAMETHOXAM, AND DINOTEFURAN, THE DEPARTMENT SHALL REVIEW THE STATE'S PESTICIDE LAWS AND REGULATIONS AND MAKE RECOMMENDATIONS FOR ANY CHANGES NECESSARY TO ENSURE STATE LAWS AND REGULATIONS ARE PROTECTIVE OF POLLINATORS, TAKING INTO ACCOUNT THE U.S. ENVIRONMENTAL PROTECTION AGENCY RECOMMENDATIONS.

(B) WITHIN 6 MONTHS OF THE U.S. ENVIRONMENTAL PROTECTION AGENCY'S COMPLETED POLLINATOR RISK ASSESSMENT OF NEONICOTINOID PESTICIDES, THE DEPARTMENT SHALL REPORT ITS FINDINGS AND RECOMMENDATIONS TO THE GOVERNOR AND, IN ACCORDANCE WITH § 2-1246 OF THE STATE GOVERNMENT ARTICLE, THE GENERAL ASSEMBLY.

5-2A-05.

A PERSON WHO VIOLATES THIS SUBTITLE IS SUBJECT TO A CIVIL PENALTY OF \$250.

12-101.

Any person who violates any provision of this article is guilty of a misdemeanor. Unless another penalty specifically is provided elsewhere in this article, the person, upon conviction, is subject to a fine not exceeding \$500, or imprisonment not exceeding three months, or both, with costs imposed in the discretion of the court.

12-102.

Unless another penalty specifically is provided elsewhere in this article, any person found guilty of a second or subsequent violation of any provision of the same title, is subject to a fine not exceeding \$1,000, or imprisonment not exceeding one year, or both, with costs imposed in the discretion of the court. For the purposes of this section, a second or subsequent violation is one which has occurred within two years of any prior violation of this title and which arises out of a separate set of circumstances.

12-103.

In addition to any administrative penalty provided in this article, violation of any rule or regulation adopted by the Secretary pursuant to the provisions of this article is a misdemeanor and is punishable as provided in §§ 12-101 and 12-102 of this subtitle.

12-104.

This title does not apply to a violation of:

- (1) Title 1, Subtitle 3 of this article; AND**
- (2) TITLE 5, SUBTITLE 2A OF THIS ARTICLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2016.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 28, 2016.