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H.688

Introduced by Representatives Sheldon of Middlebury, Troiano of Stannard,  
Ancel of Calais, Bartholomew of Hartland, Belaski of Windsor,  
Buckholz of Hartford, Burke of Brattleboro, Carr of Brandon,  
Chesnut-Tangerman of Middletown Springs, Christensen of  
Weathersfield, Cina of Burlington, Connor of Fairfield,  
Conquest of Newbury, Donovan of Burlington, Dunn of Essex,  
Fields of Bennington, Gannon of Wilmington, Haas of  
Rochester, Hooper of Montpelier, Kitzmiller of Montpelier,  
Lanpher of Vergennes, Lippert of Hinesburg, Lucke of  
Hartford, Macaig of Williston, Masland of Thetford,  
McCormack of Burlington, McCullough of Williston, Miller of  
Shaftsbury, Mrowicki of Putney, O’Sullivan of Burlington,  
Pajala of Londonderry, Squirrell of Underhill, Stevens of  
Waterbury, Sullivan of Burlington, Till of Jericho, Walz of  
Barre City, Webb of Shelburne, Weed of Enosburgh, Yacovone  
of Morristown, and Yantachka of Charlotte

Referred to Committee on

Date:

Subject: Agriculture; pesticides; pollinator protection; neonicotinoid pesticides

1 Statement of purpose of bill as introduced: This bill proposes to regulate the  
2 sale and application of neonicotinoid pesticides in order to protect pollinator  
3 populations. The bill requires the Secretary of Agriculture, Food and Markets  
4 to register as a restricted use pesticide any neonicotinoid pesticide that is  
5 distributed, sold, or offered for sale in the State. The bill prohibits a person  
6 from selling a neonicotinoid pesticide at retail unless the person has a pesticide  
7 dealer license and the pesticide is sold to a person with a Class A applicator  
8 license. The bill allows neonicotinoid pesticides to be used only for farming.  
9 The bill requires the Secretary to recommend treated article seeds that are  
10 appropriate for the control of the specific pests that threaten Vermont crops.  
11 The bill requires a person using a treated article seed to report the amount of  
12 seed used and the location of use. The bill increases pesticide registration fees.  
13 The fees would be deposited in a fund to compensate persons whose  
14 pollinators or crops are damaged by application of a neonicotinoid pesticide or  
15 treated article seed. The bill requires the Secretary to establish an Integrated  
16 Pest and Pollinator Management Program by contracting with a university with  
17 agricultural expertise.

18 An act relating to pollinator protection

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 \* \* \* Retail Sale of Neonicotinoid Pesticides \* \* \*

3 Sec. 1. 6 V.S.A. § 911 is amended to read:

4 § 911. DEFINITIONS

5 ~~For the purpose of~~ As used in this chapter:

6 \* \* \*

7 (4) ~~Secretary~~ “Secretary” means the Secretary of Agriculture, Food and  
8 Markets.

9 (5) “Economic poison” means:

10 (A) any substance produced, distributed, or used for preventing,  
11 destroying, or repelling any insects, rodents, nematodes, fungi, weeds, or other  
12 forms of plant or animal life or viruses, except viruses on or in living ~~man~~  
13 humans or other animals, which the Secretary shall declare to be a pest;

14 (B) any substance produced, distributed, or used as a plant regulator,  
15 defoliant, or desiccant.

16 \* \* \*

17 (7) “Fungicide” means any substance or mixture of substances intended  
18 for preventing, destroying, repelling, or mitigating any fungi.

19 (8) “Herbicide” means any substance or mixture of substances intended  
20 for preventing, destroying, repelling, or mitigating any weed.

21 \* \* \*

1 (12) "Insecticide" means any substance or mixture of substances  
2 intended for preventing, destroying, repelling, or mitigating any insects ~~which~~  
3 that may be present in any environment whatsoever.

4 \* \* \*

5 (16) "Person" means any individual, partnership, association,  
6 corporation, or organized group of persons whether incorporated or not.

7 (17) "Registrant" means the person registering any economic poison  
8 pursuant to the provisions of this chapter.

9 (18) "Rodenticide" means any substance or mixture of substances  
10 intended for preventing, destroying, repelling, or mitigating rodents or any  
11 other vertebrate animal ~~which~~ that the Secretary shall declare to be a pest.

12 (19) "Weed" means any plant ~~which~~ that grows where not wanted.

13 (20) "Nematocide" means any substance produced, distributed, or used  
14 for preventing, destroying, or repelling nematodes.

15 (21) "Plant regulator" means any substance produced, distributed, or  
16 used for the purposes of accelerating or retarding the rate of growth or rate of  
17 maturation, or otherwise altering the behavior of plants but shall not include  
18 substances produced, distributed, or used for plant nutrients, trace elements,  
19 nutritional chemicals, plant inoculants, and soil amendments.

20 (22) "Defoliant" means any substance produced, distributed, or used for  
21 causing the foliage to drop from a plant, with or without causing abscission.

1 (23) "Desiccant" means any substance produced, distributed, or used for  
2 artificially accelerating the drying of plant tissues.

3 \* \* \*

4 (25) "Neonicotinoid pesticide" means any economic poison containing a  
5 chemical belonging to the neonicotinoid class of chemicals, including:

6 (A) imidacloprid;

7 (B) nithiazine;

8 (C) acetamiprid;

9 (D) clothianidin;

10 (E) dinotefuran;

11 (F) thiecloprid;

12 (G) thiamethoxam; and

13 (H) any other chemical designated by the Secretary by rule.

14 Sec. 2. 6 V.S.A. § 918 is amended to read:

15 § 918. REGISTRATION

16 (a) Every economic poison ~~which~~ that is distributed, sold, or offered for  
17 sale within this State or delivered for transportation or transported in intrastate  
18 commerce or between points within this State through any point outside this  
19 State shall be registered in the Office of the Secretary, and such registration  
20 shall be renewed annually; provided that products ~~which~~ that have the same  
21 formula are manufactured by the same person, the labeling of which contains

1 the same claims, and the labels of which bear a designation identifying the  
2 product as the same economic poison may be registered as a single economic  
3 poison; and additional names and labels shall be added by ~~supplement~~  
4 supplemental statements during the current period of registration. It is further  
5 provided that any economic poison imported into this State, which is subject to  
6 the provisions of any federal act providing for the registration of economic  
7 poisons and which has been duly registered under the provisions of this  
8 chapter, may, in the discretion of the Secretary, be exempted from registration  
9 under this chapter; when sold or distributed in the unbroken immediate  
10 container in which it was originally shipped. The registrant shall file with the  
11 Secretary a statement including:

12 (1) The name and address of the registrant and the name and address of  
13 the person whose name will appear on the label, if other than the registrant.

14 (2) The name of the economic poison.

15 (3) A complete copy of the labeling accompanying the economic poison  
16 and a statement of all claims to be made for it, including directions for use.

17 (4) If requested by the Secretary, a full description of the tests made and  
18 the results thereof upon which the claims are based. In the case of renewal of  
19 registration, a statement shall be required only with respect to information  
20 ~~which~~ that is different from that furnished when the economic poison was  
21 registered or last reregistered.

1 (b) The registrant shall pay an annual fee of ~~\$175.00~~ \$200.00 for each  
2 product registered, and \$160.00 of that amount shall be deposited in the special  
3 fund created in section 929 of this title, of which \$5.00 from each product  
4 registration shall be used for an educational program related to the proper  
5 purchase, application, and disposal of household pesticides, and \$5.00 from  
6 each product registration shall be used to collect and dispose of obsolete and  
7 unwanted pesticides. Of the registration fees collected under this subsection,  
8 \$15.00 of the amount collected shall be deposited in the Agricultural Water  
9 Quality Special Fund under section 4803 of this title. Of the registration fees  
10 collected under this subsection, \$25.00 of the amount collected shall be  
11 deposited in the Pollinator Damage Compensation Fund under section 930 of  
12 this title. The annual registration year shall be from December 1 to  
13 November 30 of the following year.

14 \* \* \*

15 (f) The Secretary shall register as a restricted use pesticide any  
16 neonicotinoid pesticide that is distributed, sold, or offered for sale within this  
17 State or delivered for transportation or transported in intrastate commerce or  
18 between points within this State through any point outside this State, provided  
19 that the Secretary shall not register the following products as restricted use  
20 pesticides:

1           (1) pet care products used for preventing, destroying, repelling, or  
2           mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

3           (2) personal care products used for preventing, destroying, repelling, or  
4           mitigating lice or bedbugs; and

5           (3) indoor pest control products used for preventing, destroying,  
6           repelling, or mitigating insects indoors.

7           Sec. 3. 6 V.S.A. § 930 is added to read:

8           § 930. POLLINATOR DAMAGE COMPENSATION FUND

9           (a)(1) The Pollinator Damage Compensation Fund is established pursuant  
10           to 32 V.S.A. chapter 7, subchapter 5 to be administered by the Secretary of  
11           Agriculture, Food and Markets. The Fund shall consist of:

12                   (A) revenues, including fees collected under this chapter, dedicated  
13                   for deposit into the Fund by the General Assembly; and

14                   (B) other gifts, donations, and other funds received from any source,  
15                   public or private, dedicated for deposit into the Fund and approved under  
16                   32 V.S.A. § 5.

17           (2) Notwithstanding any contrary provisions of 32 V.S.A. chapter 7,  
18           subchapter 5, unexpended balances shall remain in the Fund from year to year.

19           (b) The Secretary may use monies deposited in the Fund to compensate a  
20           person if application of a neonicotinoid pesticide or treated article containing a  
21           neonicotinoid pesticide results in one or more of the following:



1           (1) destruction of bees, an apiary, a pollinator colony, or a hive  
2           registered under chapter 172 of this title;

3           (2) damage to a crop or crop-bearing plant other than grass; and

4           (3) other damage specified by the Secretary by rule.

5           (c) Notwithstanding the requirements of 32 V.S.A. § 588(3), interest earned  
6           by the Fund shall be retained in the Fund from year to year.

7           (d) The Secretary may adopt by rule requirements to implement this  
8           section, including:

9           (1) the process for applying for compensation under subsection (b) of  
10          this section;

11          (2) eligibility criteria for compensation under subsection (b) of this  
12          section; and

13          (3) other types of damage that qualify for compensation under  
14          subsection (b) of this section.

15          Sec. 4. 6 V.S.A. § 1101 is amended to read:

16          § 1101. DEFINITIONS

17                 As used in this chapter unless the context clearly requires otherwise:

18                 (1) “Secretary” shall have the same meaning ~~stated~~ as in subdivision  
19                 911(4) of this title.

20                                 \* \* \*

1 (3) "Dealer or pesticide dealer" means any person who regularly sells  
2 pesticides in the course of business, but not including a casual sale.

3 (4) "Economic poison" shall have the same meaning ~~stated~~ as in  
4 subdivision 911(5) of this title.

5 (5) "Pest" means any insect, rodent, nematode, fungus, weed, or any  
6 other form of terrestrial or aquatic plant or animal life or virus, bacteria, or  
7 other microorganisms, ~~which~~ that the Secretary declares as being injurious to  
8 health or environment. Pest shall not mean any viruses, bacteria, or other  
9 microorganisms on or in living humans or other living animals.

10 (6) "Pesticide" ~~for the purposes of this chapter~~ shall be used  
11 interchangeably with "economic poison."

12 \* \* \*

13 (8) "Farming" shall have the same meaning as in 10 V.S.A. § 6001.

14 (9) "Neonicotinoid pesticide" means any economic poison containing a  
15 chemical belonging to the neonicotinoid class of chemicals, including:

16 (A) imidacloprid;

17 (B) nithiazine;

18 (C) acetamiprid;

19 (D) clothianidin;

20 (E) dinotefuran;

21 (F) thiecloprid;

1           (G) thiamethoxam; and

2           (H) any other chemical designated by the Secretary by rule.

3           (10) “Ornamental plants” means any shrub, bush, tree, or other plant  
4 used or intended for a use other than farming as that term is defined in  
5 10 V.S.A. § 6001.

6           (11) “Pollinator foraging area” means an area with flowering plants or  
7 fruit trees that is one or more of the following:

8                   (A) a natural, undisturbed area;

9                   (B) land that is planted or cultivated, or both; or

10                   (C) an area planted to attract intentionally pollinators.

11       Sec. 5. 6 V.S.A. § 1105b is added to read:

12       § 1105b. RETAIL SALE OF NEONICOTINOID PESTICIDES

13           (a) Except as provided under subsection (b) of this section, a person shall  
14 not sell a neonicotinoid pesticide at retail in the State unless:

15                   (1) the person has a pesticide dealer license from the Secretary  
16 authorizing the sale of restricted use pesticides; and

17                   (2) the neonicotinoid pesticide is sold to a person with a Class A  
18 applicator license.

19           (b) The prohibition on the retail sale of neonicotinoid pesticides shall not  
20 apply to the following products:

1           (1) pet care products used for preventing, destroying, repelling, or  
2           mitigating fleas, mites, ticks, heartworms, or other insects or organisms;

3           (2) personal care products used for preventing, destroying, repelling, or  
4           mitigating lice or bedbugs; and

5           (3) indoor pest control products used for preventing, destroying,  
6           repelling, or mitigating insects indoors.

7           Sec. 6. 6 V.S.A. § 1105c is added to read:

8           § 1105c. APPLICATION OF NEONICOTINOID PESTICIDES

9           (a) A person shall not apply neonicotinoid pesticides to ornamental plants  
10          in the State.

11          (b) A person shall only apply neonicotinoid pesticides in the State for the  
12          purposes of farming. When a person applies neonicotinoid pesticides for  
13          farming, the person shall not apply neonicotinoid pesticides within 50 feet of a  
14          pollinator foraging area.

15          Sec. 7. RECOMMENDED TREATED ARTICLE SEED FOR VERMONT

16          (a) On or before January 15, 2019, the Secretary of Agriculture, Food and  
17          Markets shall submit to the House Committees on Agriculture and Forestry  
18          and on Natural Resources, Fish, and Wildlife and the Senate Committees on  
19          Agriculture and on Natural Resources and Energy a recommended list of the  
20          treated article seeds that are most appropriate to control the specific insects,  
21          weeds, and other pests that threaten agricultural crops in Vermont.

1       (b) The Secretary shall develop the recommended list of treated article  
2       seeds after consideration of all of the following:

3           (1) the type of pesticide or pesticides contained in or sprayed on  
4       the seed;

5           (2) whether a pesticide or pesticides contained in or on a seed are  
6       intended to control an insect, weed, or other pest present in or threatening to  
7       enter Vermont and, if so, whether:

8           (A) the pesticide has a potential adverse effect on human health,  
9       pollinator health, or the environment and the severity of the adverse effect;

10          (B) an alternative pesticide is available on the market that would  
11       have less of an adverse effect on human health, pollinator health, or the  
12       environment;

13          (C) if a safer alternative pesticide is available on the market, there  
14       would be an increased cost of buying treated article seed with only that  
15       pesticide or combination of safer alternative pesticides; and

16          (D) a treated article seed with a safer alternative pesticide or  
17       pesticides could be made available to Vermont farmers in sufficient quantity to  
18       meet potential demand.

19          (3) if a pesticide or pesticides contained in or on a seed are not intended  
20       to control an insect, weed, or other pest present in or threatening to enter  
21       Vermont, whether:

1           (A) the pesticide or pesticides have a potential adverse effect on  
2           human health, pollinator health, or the environment;

3           (B) if the pesticide or pesticides have an adverse effect on human  
4           health, pollinator health, or the environment, why the pesticide should be  
5           allowed for use in Vermont considering its lack of efficacy to control insects,  
6           weeds, or other pests in Vermont; and

7           (C) a safer alternative pesticide or pesticides are available to control  
8           insects, weeds, or other pests present in or threatening Vermont and, if so, why  
9           they should not be required as an alternative to those pesticides lacking  
10          efficacy in Vermont.

11          (c) The Secretary shall document his or her findings under subsection (b) of  
12          this section for each treated article seed sold in Vermont.

13           \* \* \* Licensed and Certified Applicators; Reporting; Education \* \* \*

14          Sec. 8. 6 V.S.A. § 1112 is amended to read:

15          § 1112. LICENSING PESTICIDE APPLICATORS; PESTICIDE

16                   COMPANIES; DEALERS

17          (a) The Secretary may adopt rules requiring persons selling Class A and B  
18          pesticides to be licensed under this chapter. In addition, the Secretary may  
19          adopt rules requiring companies that hire applicators or conduct pesticide  
20          applications to be licensed and applicators who use pesticides to be certified  
21          under this chapter. The Secretary may establish reasonable requirements for

1 obtaining licenses and certificates. The fees for dealers, licensed companies,  
2 and applicator certificates under this chapter shall be as follows:

3 (1) Class A Dealer License—\$50.00;

4 (2) Class B Dealer License—\$50.00;

5 (3) Pesticide Company License—\$75.00;

6 (4) Commercial and Noncommercial Applicator Certification fee—  
7 \$30.00 per category or subcategory with a maximum of \$120.00;

8 (5) Second and third time examination fee for dealer licenses and  
9 applicator certification—\$25.00;

10 (6) Private Applicator—\$25.00;

11 (7) State Government, Municipal, and Public ~~Education~~ Educational  
12 Institution Applicators—\$30.00.

13 (b) All license and certification fees shall be for one year or any part  
14 thereof for each dealer, licensed pesticide applicator company, or certified  
15 commercial and noncommercial applicator. The license and certification  
16 period shall be January 1 to December 31.

17 (c) Notwithstanding the fees provided in subsection (a) of this section, the  
18 Secretary shall exempt the federal government and its agencies and  
19 instrumentalities from license and certification fees.

20 (d) An applicator licensed or certified under this section on or before  
21 January of each year shall report to the Secretary the type and volume of

1 pesticide applied in the prior calendar year. The report shall be made on forms  
2 and in a manner to be prescribed by the Secretary.

3 (e) When an applicator is licensed or certified under this section or rules  
4 adopted under this chapter, the Secretary shall provide the applicator with  
5 educational materials regarding the effect of pesticides on pollinator health and  
6 requirements or methods for reducing the effect of pesticides on pollinators.

7 \* \* \* Treated Article Seed; Untreated Seed \* \* \*

8 Sec. 9. 6 V.S.A. § 641 is amended to read:

9 § 641. DEFINITIONS

10 As used in this chapter:

11 (1) "Agricultural seed" includes grass, forage, cereal, oil, fiber, and  
12 other kinds of crop seeds commonly recognized as agricultural seeds, lawn  
13 seeds, and combinations of such seeds, and may include noxious weed seeds  
14 used as agricultural seed.

15 (2) "Secretary" means the Secretary of Agriculture, Food and Markets  
16 or ~~his or her~~ designee.

17 (3) "Agency" means the Agency of Agriculture, Food and Markets.

18 (4) "Flower seed" includes seed of herbaceous plants grown for their  
19 blooms, ornamental foliage, or other ornamental parts, and commonly known  
20 and sold under the name of flower seed.

21 \* \* \*





1     § 651. USE OF TREATED ARTICLE SEED; REPORTING

2           A person who plants treated article seed in the State annually shall report to  
3     the Agency of Agriculture, Food and Markets the total amount of treated  
4     article seed planted by weight and the location of the planting. The report shall  
5     be made on forms and in a manner to be prescribed by the Secretary.

6           \* \* \* Integrated Pest and Pollinator Management Program \* \* \*

7     Sec. 11. INTEGRATED PEST AND POLLINATOR MANAGEMENT  
8           PROGRAM

9           (a) The Secretary of Agriculture, Food and Markets shall establish the  
10     Integrated Pest and Pollinator Management Program to provide farmers and  
11     others in Vermont with expertise and advice on methods for limiting, wherever  
12     feasible, the adverse effect of pesticides on pollinator health. The Secretary  
13     shall implement the program through a contract or financing of a program at a  
14     university or college with agricultural expertise or coursework.

15          (b) The Integrated Pest and Pollinator Management Program shall include  
16     assistance regarding:

17           (1) the efficient application of a pesticide so that not more is applied  
18     than is necessary to control insects, weeds, or other pests;

19           (2) the need to apply a pesticide, including whether application is not  
20     needed when no verified insect, weed, or other pest is present or is threatened  
21     to be present;

1           (3) the need to prioritize the use of pesticides that have lower toxicity or  
2           lower persistence, or both; and

3           (4) the appropriate and effective use of nonpesticidal controls.

4   \* \* \* Effective Dates \* \* \*

5           Sec. 12. EFFECTIVE DATES

6           (a) This section and Sec. 11 (Integrated Pest and Pollinator Management  
7           Program) shall take effect on passage.

8           (b) Secs. 1-6 (sale, registration, and use of neonicotinoid pesticides) and  
9           Secs. 9-10 (treated article seeds) shall take effect on January 1, 2019.

10          (c) All other sections shall take effect on July 1, 2018.