

SENATE COMMITTEE OF REFERENCE AMENDMENT

Committee on Agriculture & Natural Resources.

SB22-131 be amended as follows:

1 Amend printed bill, strike everything below the enacting clause and
2 substitute:

3 **"SECTION 1. Legislative declaration.** (1) The general
4 assembly hereby finds and determines that:

5 (a) Pollinators are vital to ecosystem health and are essential in
6 producing much of our food supply;

7 (b) Pollination supports the state's agriculture and the state's
8 overall economy;

9 (c) Pollinators provide critical ecosystem benefits that are
10 essential to maintaining the diversity of the state's native flowering plants
11 and the state's biodiversity;

12 (d) The decline in pollinator populations has implications for the
13 state's food supply, the resilience of the state's ecosystems, and the health
14 of the state's citizens;

15 (e) The protection of healthy and diverse habitats in the state
16 protects the health of its pollinators and people alike; and

17 (f) The judicious use of pesticides in agriculture, urban
18 landscapes, and natural areas utilizes different practices and approaches
19 to pesticide use that are best determined based on the unique needs for
20 such uses.

21 (2) The general assembly declares that the state should establish
22 a comprehensive framework for the protection of both pollinators and
23 people through the creation of programs that:

24 (a) Build healthy, diverse, and sustainable habitats for pollinators;

25 (b) Improve agricultural practices;

26 (c) Promote the protection of safe and healthy ecosystems that
27 support both pollinator and human health;

28 (d) Grant local governments the authority to protect local
29 resources and public health; and

30 (e) Raise awareness throughout the state of the need to protect
31 pollinators.

32 **SECTION 2.** In Colorado Revised Statutes, **add 24-33-118** as
33 follows:

34 **24-33-118. Pollinator health study - stakeholder input -**
35 **reporting.** (1) THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF
36 NATURAL RESOURCES, REFERRED TO IN THIS SECTION AS THE "EXECUTIVE
37 DIRECTOR", OR THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL CONDUCT A
38 STUDY AND DEVELOP RECOMMENDATIONS ON HOW TO ADDRESS THE
39 CHALLENGES ASSOCIATED WITH POLLINATOR DECLINE AND INCREASE
40 POLLINATOR HEALTH IN THE STATE. AT A MINIMUM, THE STUDY MUST:

5 (b) SUMMARIZE CURRENT KNOWLEDGE OF POLLINATOR HEALTH
6 BASED ON EXISTING RESEARCH AND DATA;

7 (c) IDENTIFY FACTORS THAT, WHETHER INDIVIDUALLY OR
8 COMBINED, NEGATIVELY AFFECT POLLINATOR COMMUNITIES, INCLUDING:

9 (I) CHANGES IN STATE LAND USE;

10 (II) HABITAT LOSS AND FRAGMENTATION;

11 (III) STATE LAND MANAGEMENT PRACTICES;

12 (IV) FOOD AND NUTRITION;

13 (V) PESTICIDES;

14 (VI) PARASITES AND PATHOGENS; AND

15 (VII) CLIMATE CHANGE;

16 (d) IDENTIFY EXISTING POLLINATOR CONSERVATION PROJECTS IN
17 THE STATE AND ANY PUBLIC-PRIVATE PARTNERSHIP AND FUNDING
18 OPPORTUNITIES FOR POLLINATOR CONSERVATION;

19 (e) IDENTIFY ANY GAPS IN KNOWLEDGE REGARDING POLLINATOR
20 HEALTH, INCLUDING WILD BEE DISTRIBUTIONS AND POPULATION
21 DYNAMICS, POLLINATOR SPECIES THAT ARE AT RISK OF DECLINE, AND BEST
22 PRACTICES FOR STATE LAND MANAGERS TO PROMOTE HEALTHY AND
23 DIVERSE POLLINATOR COMMUNITIES;

24 (f) IDENTIFY OPPORTUNITIES FOR:

25 (I) POLLINATOR PROTECTION AND RECOVERY EFFORTS THROUGH
26 THE DEVELOPMENT OF PROGRAMS THAT MITIGATE FACTORS THAT
27 NEGATIVELY AFFECT POLLINATOR COMMUNITIES; AND

28 (II) THE DEVELOPMENT OF ECOLOGICAL LAND MANAGEMENT
29 PRACTICES THAT RESTORE HABITAT FUNCTIONALITY;

30 (g) RECOMMEND HOW TO DEVELOP AN EDUCATION AND OUTREACH
31 PROGRAM TO RAISE AWARENESS AND PUBLIC ENGAGEMENT REGARDING,
32 AND TO INCENTIVIZE ACTION TO BENEFIT POLLINATOR HEALTH; AND

33 (h) RECOMMEND HOW BEST TO ENGAGE WITH, AND WORK ACROSS,
34 STATE AGENCIES WHEN DEVELOPING AND IMPLEMENTING POLICIES ABOUT
35 POLLINATORS

36 (2) IN CONDUCTING THE STUDY, THE EXECUTIVE DIRECTOR OR THE
37 EXECUTIVE DIRECTOR'S DESIGNEE SHALL:

38 (a) CONVENE A GROUP OF STAKEHOLDERS THAT INCLUDES
39 INTERESTED PERSONS THROUGHOUT THE STATE; AND

40 (b) CONSULT WITH:

41 (I) OTHER STATE AGENCIES, INCLUDING THE DEPARTMENT OF
42 TRANSPORTATION, DEPARTMENT OF AGRICULTURE, AND DEPARTMENT OF
43 PUBLIC HEALTH AND ENVIRONMENT:

44 (II) FEDERAL AGENCIES, INCLUDING THE ENVIRONMENTAL
45 PROTECTION AGENCY, THE UNITED STATES FISH AND WILDLIFE SERVICE,

1 AND THE UNITED STATES FOREST SERVICE; AND
2 (III) INDEPENDENT SCIENTISTS WITH EXPERTISE IN POLLINATOR
3 HEALTH, ECOLOGICAL PROCESSES, BIODIVERSITY, NATIVE PLANTS, AND
4 ECOLOGICAL LAND MANAGEMENT.

5 (3) ON OR BEFORE JANUARY 1, 2024, THE EXECUTIVE DIRECTOR OR
6 THE EXECUTIVE DIRECTOR'S DESIGNEE SHALL SUBMIT A REPORT OF THE
7 STUDY TO THE GENERAL ASSEMBLY AND THE GOVERNOR.

8 **SECTION 3.** In Colorado Revised Statutes, 35-9-103, **amend** the
9 introductory portion and (12); and **add** (9.5) and (13) as follows:

10 **35-9-103. Definitions.** As used in this ~~article~~ ARTICLE 9, unless
11 the context otherwise requires:

12 (9.5) "NEONICOTINOID PESTICIDE" MEANS A PESTICIDE
13 CONTAINING AN ACTIVE INGREDIENT BELONGING TO THE NEONICOTINOID
14 CLASS OF INSECTICIDES.

15 (12) "Restricted-use pesticide" means any pesticide ~~designated~~
16 THAT THE COMMISSIONER OR THE ADMINISTRATOR OF THE EPA
17 DESIGNATES as a restricted-use pesticide. ~~by the commissioner or the~~
18 ~~administrator of the environmental protection agency~~.

19 (13) "SULFOXIMINE PESTICIDE" MEANS A PESTICIDE CONTAINING
20 AN ACTIVE INGREDIENT BELONGING TO THE SULFOXIMINE CLASS OF
21 INSECTICIDES.

22 **SECTION 4.** In Colorado Revised Statutes, 35-9-118, **add** (3.5)
23 as follows:

24 **35-9-118. Powers and duties of the commissioner - legislative
25 declaration - rules.** (3.5) (a) THE GENERAL ASSEMBLY DECLARES THAT
26 THE PURPOSE OF THIS SUBSECTION (3.5) IS TO PROHIBIT THE APPLICATION
27 OF NEONICOTINOID AND SULFOXIMINE PESTICIDES TO OUTDOOR
28 ORNAMENTAL PLANTS AND TURF OR THE TREATMENT OF OUTDOOR
29 ORNAMENTAL PLANTS AND TURF WITH NEONICOTINOID AND SULFOXIMINE
30 PESTICIDES, EXCEPT:

31 (I) AS USED FOR AGRICULTURAL PURPOSES;
32 (II) AS USED IN PET-CARE, PERSONAL-CARE, AND INDOOR
33 PEST-CONTROL PRODUCTS;
34 (III) AS USED FOR PRESERVED WOOD PRODUCTS; AND
35 (IV) AS PRODUCTS USED ON GOLF COURSES.

36 (b) ON OR BEFORE MARCH 1, 2023, THE COMMISSIONER SHALL
37 ADOPT RULES THAT IDENTIFY THE FOLLOWING AS RESTRICTED-USE
38 PESTICIDES:

39 (I) PESTICIDES CONTAINING ANY OF THE FOLLOWING ACTIVE
40 INGREDIENTS:

41 (A) IMIDACLOPRID;
42 (B) NITHIAZINE;
43 (C) ACETAMIPRID;
44 (D) CLOTHIANIDIN;
45 (E) DINOTEFURAN;

- (F) THIACLOPRID; AND
- (G) THIAMETHOXAM; AND
- (II) SULFOXIMINE PESTICIDES.

(c) THE COMMISSIONER SHALL PROMULGATE RULES TO ESTABLISH EXEMPTION FROM THE RESTRICTED USE OF PESTICIDES PURSUANT TO SECTION (3.5)(b) OF THIS SECTION FOR THE USE OF A PRODUCT CONTAINING ONE OR MORE OF THE ACTIVE INGREDIENTS LISTED IN SECTION (3.5)(b)(I) OF THIS SECTION IF THE PRODUCT IS USED IN ACCORDANCE WITH THE DIRECTIONS ON THE PRODUCT'S LABEL AND AS A:

- (I) PET-CARE PRODUCT;
- (II) PERSONAL-CARE PRODUCT;
- (III) INDOOR PEST-CONTROL PRODUCT;
- (IV) PESTICIDE USED FOR PRESERVED WOOD PRODUCTS; OR
- (V) PRODUCT USED ON GOLF COURSES.

(d) NOTHING IN THIS SUBSECTION (3.5):

16 (I) PREVENTS THE COMMISSIONER FROM IDENTIFYING OTHER
17 NEONICOTINOID PESTICIDES OR SULFOXIMINE PESTICIDES AS
18 RESTRICTED-USE PESTICIDES IF RESTRICTING THEIR USE IS DONE IN
19 ACCORDANCE WITH THE COMMISSIONER'S AUTHORITY UNDER THIS ARTICLE
20 9;

21 (II) ALTERS, LIMITS, OR EXPANDS THE COMMISSIONER'S EXISTING
22 AUTHORITY TO DESIGNATE A PESTICIDE THAT IS NOT A NEONICOTINOID
23 PESTICIDE OR SULFOXIMINE PESTICIDE AS A STATE RESTRICTED-USE OR
24 LIMITED-USE PESTICIDE UNDER THIS ARTICLE 9; OR

25 (III) ALTERS OR LIMITS THE APPLICATION OF PESTICIDES FOR
26 AGRICULTURAL USE. THE COMMISSION SHALL ADOPT RULES REGARDING
27 THE MANNER IN WHICH A PERSON MAY DEMONSTRATE, AT THE POINT OF
28 SALE, THAT A PURCHASE OF PESTICIDES IS FOR AGRICULTURAL USE,
29 INCLUDING ANY DOCUMENTATION THAT THE PERSON MUST PRODUCE AT
30 THE POINT OF SALE.

31 **SECTION 5.** In Colorado Revised Statutes, 35-10-112, **amend**
32 (3) as follows:

33 **35-10-112. Notification requirements - registry of**
34 **pesticide-sensitive persons - rules.** (3) No county, city and county,
35 municipality, home rule county, home rule city and county, or home rule
36 municipality shall enact or impose any notification requirements upon
37 commercial applicators which are more stringent than those imposed by
38 this article; except that each county, city and county, municipality, home
39 rule county, home rule city and county, and home rule municipality shall
40 retain the authority to impose any notification requirements upon private
41 individuals, property owners, and the general public. Any such
42 notification requirement imposed by any county, city and county,
43 municipality, home rule county, home rule city and county, or home rule
44 municipality on private individuals, property owners, or the general
45 public shall not be held to be applicable to any commercial applicator, nor

1 shall any commercial applicator be exposed to any liability for a failure
2 to comply with any such notification requirement. NOTHING IN THIS
3 SECTION SUPERSEDES OR AFFECTS A LOCAL GOVERNMENT'S ABILITY TO
4 ENFORCE AN ORDINANCE, RESOLUTION, RULE, CHARTER PROVISION, OR
5 STATUTE GOVERNING NOTIFICATION IF SUCH ORDINANCE, RESOLUTION,
6 RULE, CHARTER PROVISION, OR STATUTE IS AS STRINGENT AS OR MORE
7 STRINGENT THAN THIS ARTICLE 10.

8 **SECTION 6.** In Colorado Revised Statutes, **amend** 35-10-112.5
9 as follows:

10 **35-10-112.5. Statewide and local government pesticide control**
11 **and regulation - exceptions.** (1) The general assembly hereby
12 determines that:

13 (a) The citizens of this state benefit from a system of safe,
14 effective, and scientifically sound pesticide regulation;

15 (b) A system of pesticide regulation that ~~is consistent and~~ coordinated, that creates statewide ~~uniform~~ baseline standards and that
16 conforms with both state and federal technical standards and requirements
17 is essential to the public health, safety, and welfare; and ~~finds that local~~
18 ~~regulation of pesticides that is inconsistent with and adopts different~~
19 ~~standards from federal and state requirements does not assist in achieving~~
20 ~~these benefits;~~

21 (c) Through statute and regulation, the state has created a system
22 of pesticide regulation based upon scientific standards that protects the
23 citizens of this state;

24 (d) Although the cultivation of marijuana is illegal under federal
25 law and so the use of pesticides in cultivating marijuana is not specifically
26 allowed by any pesticide's label, the cultivation of marijuana is
27 specifically allowed and regulated by Colorado law, and the use of
28 pesticides should be regulated pursuant to this ~~article~~ ARTICLE 10 and
29 rules promulgated pursuant to this ~~article~~ ARTICLE 10 rather than pursuant
30 to local laws; and

31 (e) Pesticide regulation is a matter of ~~MIXED~~ statewide AND LOCAL
32 concern.

33 (2) A local government shall not adopt, ~~or~~ continue in effect, OR
34 ENFORCE any ordinance, rule, resolution, charter provision, or statute
35 regarding the use of any pesticide by persons regulated by this ~~article~~
36 ARTICLE 10 or federal law and pertaining to:

37 (a) Any labeling or registration requirements for pesticides,
38 including requirements regarding the name of the product, the name and
39 address of the manufacturer, and any applicable registration numbers;

40 (b) (I) The use and application of pesticides by persons regulated
41 by this ~~article~~ ARTICLE 10 or federal law, including but not limited to,
42 directions for use, classification of pesticides as general or restricted use,
43 mixing and loading, site of application, target pest, dosage rate, method
44 of application, application equipment, frequency and timing of

1 applications, application rate, reentry intervals, worker specifications,
2 container storage and disposal, required intervals between application and
3 harvest of food or feed crops, rotational crop restrictions, and warnings
4 against use on certain crops, animals, or objects or against use in or
5 adjacent to certain areas.

6 (II) Subparagraph (I) of this paragraph (b) SUBSECTION (2)(b)(I)
7 OF THIS SECTION applies to the use and application of pesticides by
8 persons regulated by this ~~article~~ ARTICLE 10 or federal law in connection
9 with the cultivation of marijuana.

10 (c) Except as specifically provided in this ~~article~~ ARTICLE 10, any
11 warnings and precautionary statements, notifications, or statements of
12 practical treatment; or

13 (d) Licensure, training, or certification requirements for persons
14 regulated under this ~~article~~ ARTICLE 10, including any insurance and
15 record-keeping requirements;

16 (e) USE OF PESTICIDES ON LAND CONTROLLED BY THE STATE OR
17 THE FEDERAL GOVERNMENT THAT IS LOCATED WITHIN THE BOUNDARIES
18 OF THE LOCAL GOVERNMENT;

19 (f) USE OF PESTICIDES BY A PUBLIC UTILITY, AS DEFINED IN
20 SECTION 40-1-103 (1)(a), ON PROPERTY OWNED OR CONTROLLED BY THE
21 PUBLIC UTILITY TO PROTECT UTILITY INFRASTRUCTURE OR TO MANAGE
22 VEGETATION FOR THE OPERATION OF UTILITY INFRASTRUCTURE;

23 (g) THE USE OF PESTICIDES BY A WATER CONSERVANCY DISTRICT
24 CREATED PURSUANT TO ARTICLE 45 OF TITLE 37, A WATER CONSERVATION
25 DISTRICT CREATED IN ARTICLES 46 TO 50 OF TITLE 37, A MUNICIPAL WATER
26 SERVICE PROVIDER, AN IRRIGATION DISTRICT FORMED PURSUANT TO
27 ARTICLE 41, 42, OR 43 OF TITLE 37, OR A DITCH OR RESERVOIR COMPANY,
28 IN THE OPERATION AND MAINTENANCE OF WATER SUPPLY COLLECTION,
29 CONVEYANCE, OR DISTRIBUTION FACILITIES THAT WHOLLY OR PARTIALLY
30 SUPPLY WATER FOR AGRICULTURAL, INDUSTRIAL, OR MUNICIPAL USE; OR

31 (h) THE USE OF PESTICIDES IN THE PRODUCTION OF AGRICULTURAL
32 PRODUCTS, INCLUDING BUT NOT LIMITED TO USE FOR:

33 (I) GROWING FEED FOR LIVESTOCK;

34 (II) MANAGING LIVESTOCK; AND

35 (III) MAINTAINING AGRICULTURAL WATER SUPPLY FACILITIES,
36 INCLUDING IRRIGATION DITCHES AND OTHER WATER INFRASTRUCTURE.

37 (3) (a) Nothing in this ~~article~~ may be construed to limit ARTICLE
38 10 LIMITS the authority of a local government as defined by state law to:

39 (I) Zone for the sale or storage of any pesticide, provide or
40 designate sites for disposal of any pesticide or pesticide container, adopt
41 or enforce building and fire code requirements, regulate the transportation
42 of pesticides consistently with and in no more strict of a manner than state
43 and federal law, adopt regulations pursuant to a storm water management
44 program that is consistent with federal or state law, or adopt regulations
45 to protect surface or groundwater drinking water supplies consistent with

1 state or federal law concerning the protection of drinking water supplies;

2 (II) Take any action specifically authorized or required by any
3 federal or state law or regulation with respect to pesticides, or to take any
4 action otherwise prohibited by this ~~article~~ ARTICLE 10 in order to comply
5 with any specific federal or state requirement or in order to avoid a fine
6 or other penalty under federal or state law;

7 (III) Regulate the use of pesticides on property owned or leased
8 by the local government;

9 (IV) Issue local general occupational licenses to persons regulated
10 by this ~~article~~ ARTICLE 10.

11 (b) This subsection (3) does not authorize a local government to
12 utilize the police power or the authority to zone, to provide or designate
13 disposal sites, to adopt and enforce building and fire codes, or to regulate
14 the transportation of pesticides as described in ~~paragraph (a) of this~~
15 ~~subsection (3)~~ SUBSECTION (3)(a) OF THIS SECTION to directly or indirectly
16 regulate or prohibit the application of pesticides by persons regulated by
17 this ~~article~~ ARTICLE 10 or by federal law, including in connection with the
18 cultivation of marijuana.

19 (c) Nothing in this ~~article~~ ARTICLE 10 shall be construed to be an
20 implicit grant of authority to a local government that is not otherwise
21 granted by state law.

22 (4) ~~Any~~ A local government, ~~that promulgates~~ IN PROMULGATING
23 an ordinance, REGULATION, RESOLUTION, OR CHARTER PROVISION that
24 concerns pesticides OR that is promulgated pursuant to section 31-15-707
25 (1)(b), ~~E.R.S.~~, ~~or that is promulgated pursuant to any authority described~~
26 ~~in paragraph (a) of subsection (3) of this section concerning pesticides~~
27 shall file, WITHIN NINETY DAYS AFTER FINAL ADOPTION OF THE
28 ORDINANCE, REGULATION, RESOLUTION, OR CHARTER PROVISION, the
29 following with the department of agriculture:

30 (a) A certified copy of the ordinance, REGULATION, RESOLUTION,
31 OR CHARTER PROVISION; and

32 (b) A map or legal description of the geographic area that the local
33 government intends to regulate under the ordinance, REGULATION,
34 RESOLUTION, OR CHARTER PROVISION.

35 (5) (a) IN ADOPTING A NEW ORDINANCE, REGULATION,
36 RESOLUTION, OR CHARTER PROVISION, A LOCAL GOVERNMENT SHOULD
37 CONSIDER PUBLIC HEALTH CONCERNS ARISING FROM STRUCTURAL PESTS,
38 INCLUDING BED BUGS, TERMITES, AND RODENTS.

39 (b) A LOCAL GOVERNMENT'S ORDINANCE, REGULATION,
40 RESOLUTION, OR CHARTER PROVISION ADDRESSING INDOOR PEST CONTROL
41 SHOULD CONSIDER INCLUDING EDUCATION ABOUT THE USE OF PESTICIDES.

42 (6) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION,
43 NOTHING IN THIS ARTICLE 10 OR ANY RULES ADOPTED PURSUANT TO THIS
44 ARTICLE 10 SUPERSEDES OR AFFECTS ANY LOCAL GOVERNMENT'S
45 ORDINANCE, REGULATION, RESOLUTION, OR CHARTER PROVISION STATUTE

1 THAT:

2 (a) IS AS STRINGENT AS OR MORE STRINGENT THAN THIS ARTICLE
3 10 OR ANY RULES ADOPTED PURSUANT TO THIS ARTICLE 10;

4 (b) PROHIBITS THE SALE OR USE OF ANY PESTICIDE AS PROHIBITED
5 BY THIS ARTICLE 10 OR ANY RULES ADOPTED PURSUANT TO THIS ARTICLE
6 10; AND

7 (c) IS ENFORCED EXCLUSIVELY BY THE LOCAL GOVERNMENT.

8 **SECTION 7. Act subject to petition - effective date.** Sections
9 5 and 6 of this act take effect March 1, 2023, and the remainder of this act
10 takes effect at 12:01 a.m. on the day following the expiration of the
11 ninety-day period after final adjournment of the general assembly; except
12 that, if a referendum petition is filed pursuant to section 1 (3) of article V
13 of the state constitution against this act or an item, section, or part of this
14 act within such period, then the act, item, section, or part will not take
15 effect unless approved by the people at the general election to be held in
16 November 2022 and, in such case, will take effect on the date of the
17 official declaration of the vote thereon by the governor; except that
18 sections 5 and 6 of this act take effect on March 1, 2023.".

*** * * * *