

Communication from Public

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Council File No: 22-1469

Comments for Public Posting: Thank you for taking action and addressing this important issue. I am hopeful that the committee will continue moving forward with this motion and its implementation, including the amendment to include LAFD brush clearance guidelines, policies and enforcement analysis. As a garden designer and active community member, I have been following issues of biodiversity, watershed health, climate resilience, urban planning, social justice and public health for many years. These issues are all addressed in this motion, and enacting this motion will help to grow the greener Los Angeles that so many community members, government agencies and other groups are working towards. Despite the work of the Biodiversity Experts, and many local NGOs, non-native plants and trees are still being planted along our freeways, streets, in our parks, and in front of municipal buildings. These fields of toxic Ivy, flammable Acacia, and both toxic and flammable Lantana. Instead, these urban landscapes could produce seasonal super blooms of native wildflowers, anchored by native shrubs, sedge, and trees. Resilient blooming meadows, requiring little added water and minimal annual maintenance once established, can provide food and shelter for our regional biodiversity, including our migratory bird and pollinator populations. I also urge you to require accountability from the Los Angeles Fire Department. Their annual brush clearance requirements are the greatest driver of regional landscape maintenance in our city, especially in our hillside communities. The required destructive clear-cutting of native, fire-resistant shrubs and tree saplings both destroys habitat and prevents it from regrowing. Their unreasonable targeting of native plants, for both plant spacing and annual pruning heights, is in direct conflict with the Biodiversity Project's Landscape Guidelines. Instead of promoting science-based fire resilient landscape maintenance, they are creating and promoting landscape type conversion, replacing our drought tolerant, deep-rooted (and erosion-preventing) native landscapes with invasive and more flammable annual grasses, palms, and Mustard. I ask you also to consider adding a further amendment regarding the treatment, sale and planting of landscape plants and seeds with NeoNicatinoid pesticides. Bill AB-2146 was passed by the California state legislature this year, but unfortunately was vetoed by Governor Newsom. Recent

research has conclusively shown that this class of systemic pesticides transforms plants from food sources to death traps, poisoning not just leaves and sap but also pollen and nectar. This is particularly damaging when applied to pollinator host plants, including native plants, and especially for our threatened native bees. Thank you again for your consideration and for taking action on this measure. There will be related issues to consider and details to be worked out. But protecting our native biodiversity, especially pollinators and the plants and insects who anchor our local food chains, is vital to creating and sustaining the Greener Los Angeles that we all want. Please help our city government, and the many landscapes it plants and maintains, to be part of the solutions, instead of perpetuating the problems.

Assembly Bill No. 2146

Passed the Assembly August 30, 2022

Chief Clerk of the Assembly

Passed the Senate August 29, 2022

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2022, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Article 5 (commencing with Section 14085) to Chapter 3 of Division 7 of the Food and Agricultural Code, relating to pesticides.

LEGISLATIVE COUNSEL’S DIGEST

AB 2146, Bauer-Kahan. Neonicotinoid pesticides: prohibited nonagricultural use.

Existing law generally regulates pesticide use by the Department of Pesticide Regulation, and requires the Director of Pesticide Regulation to endeavor to eliminate from use a pesticide that endangers the agricultural or nonagricultural environment. A violation of those provisions and regulations adopted pursuant to those provisions is generally a misdemeanor. Existing law requires the department, on or before July 1, 2018, to issue a determination with respect to its reevaluation of neonicotinoids, and to adopt control measures necessary to protect pollinator health within 2 years, as specified.

This bill would prohibit, beginning January 1, 2024, the sale, possession, or use of neonicotinoid pesticides, as defined, for application to outdoor ornamental plants, trees, or turf, except for use on, or for the protection of, an agricultural commodity, as defined. The bill would authorize the director, in consultation with the Department of Food and Agriculture, to authorize, by written order, the sale, possession, or use of these prohibited pesticides if the director finds that it would address a valid environmental emergency and there are no other, less harmful alternatives, as specified, and would require the director to make reasonable efforts to inform the public of an environmental emergency finding. The bill would also authorize a certified qualified applicator to possess or use a neonicotinoid pesticide for specified purposes, and a licensed pest control dealer to sell a neonicotinoid pesticide, as provided. The bill would provide that these provisions do not apply to certain actions and applications of these pesticides. Because a violation of these provisions and the regulations adopted pursuant to these provisions would be a misdemeanor, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Article 5 (commencing with Section 14085) is added to Chapter 3 of Division 7 of the Food and Agricultural Code, to read:

Article 5. Neonicotinoid Pesticides

14085. For purposes of this article, the following definitions apply:

(a) “Agricultural commodity” has the same meaning as in Section 6000 of Title 3 of the California Code of Regulations.

(b) “Environmental emergency” means an occurrence of a pest that presents a significant risk of harm or injury to the environment or human health, or significant harm, injury, or loss to agricultural crops, including, but not limited to, an exotic or foreign pest that may need preventative quarantine measures to avert or prevent that risk, as determined by the department, in consultation with the Department of Food and Agriculture.

(c) “Neonicotinoid pesticide” means acetamiprid, clothianidin, dinotefuran, imidacloprid, and thiamethoxam, or any other chemical designated by the department as belonging to the neonicotinoid class of chemicals.

14085.1. (a) Beginning January 1, 2024, a person shall not sell, possess, or use a neonicotinoid pesticide for application to outdoor ornamental plants, trees, or turf, except for use on, or for the protection of, an agricultural commodity.

(b) (1) Notwithstanding subdivision (a), the director, in consultation with the Department of Food and Agriculture, may authorize, by written order, the sale, possession, or use of a neonicotinoid pesticide that is prohibited under subdivision (a), if the director finds all of the following:

(A) A valid environmental emergency exists.

(B) The pesticide would be effective in addressing the environmental emergency.

(C) There are no other, less harmful pesticides or pest management practices that would be effective in addressing the environmental emergency.

(2) An order issued by the director pursuant to paragraph (1) shall include the basis for the director's determination and specify the approved time period, geographic scope, and purpose of the permitted sale, possession, or use of the pesticide, shall be valid for a period not to exceed one year, and shall only authorize use by or under the supervision of a certified commercial or private applicator under a permit issued by the county agricultural commissioner.

(3) The director shall make reasonable efforts to inform the public of an environmental emergency finding pursuant to paragraph (1). These efforts may include, but are not limited to, posting the information required pursuant to paragraph (2) on the department's internet website, releasing it using the department's social media tools, or providing it to news media in an affected area.

(c) (1) Notwithstanding subdivision (a), a certified qualified applicator may possess or use a neonicotinoid pesticide for the purpose of applying it to a fruit or nut tree.

(2) A licensed pest control dealer may sell a neonicotinoid pesticide to a certified qualified applicator for applications pursuant to paragraph (1).

14085.2. This article does not apply to both of the following:

(a) An action taken by the department or the Department of Food and Agriculture against an invasive plant or pest, including regulatory, urban, and area-wide treatment programs approved by the Department of Food and Agriculture.

(b) An application to protect agricultural seeds.

14085.3. This article shall not be construed to impose liability on news media that accept or publish advertising for a product or activity that would otherwise be subject to this article.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty

for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2022

Governor