A BILL FOR AN ACT

RELATING TO ENVIRONMENTAL PROTECTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Pollination by honeybees and other pollinators is a vital part of agricultural production. One-third of the food produced in North America and nearly ninety-five varieties of fruits and other foods rely on pollination by honeybees. Over the past several years, however, bee colony collapses and excessive bee mortality have reached record highs, with some beekeepers losing large portions of their operations and suffering reduced production of honey.

Scientists have linked the use of systemic neonicotinoid insecticides to the rapid decline of honeybees and other pollinators as well as to the deterioration of pollinator health. As systemic insecticides, the neonicotinoid insecticides are absorbed into treated plants and distributed throughout their vascular systems. As a result, treating a plant or coating a seed with a neonicotinoid insecticide can render many parts of the plant toxic to insects, including the roots, leaves, stems, flowers, nectar, pollen, and guttation...
fluid. Neonicotinoid insecticides are also persistent in soil and are easily transported through air, dust, and water.

Neonicotinoid insecticides damage the central nervous system of insects, causing tremors, paralysis, and death.

Neonicotinoid insecticides also have sublethal effects, including impaired foraging and feeding behavior, disorientation, weakened immunity, delayed larval development, and increased susceptibility to viruses, diseases, and parasites.

Neonicotinoids can also kill or weaken beneficial invertebrates, birds, and other wildlife, through direct and indirect effects. Scientists have found that seed coatings containing neonicotinoid insecticide are harmful to birds.

Recent scientific study has demonstrated that consumption of a single corn kernel coated with neonicotinoid insecticide can kill a medium-sized songbird. Environmental contaminations by neonicotinoid insecticides harm not only honeybees, but other pollinators, including beneficial insects, birds, and bats.

In 2013, the European Union voted to suspend use of three major neonicotinoid insecticides, imidacloprid, clothianidin, and thiamethoxam, on certain agricultural crops pending a review
of their safety. Other states, including New York, have restricted the use of some neonicotinoid insecticides because of their risks. In 2014, the United States Fish and Wildlife Service announced that it would phase out uses of neonicotinoid insecticides in all national wildlife refuges, including those in Hawaii, by January 2016, due to their harmful effects on wildlife.

The purposes of this Act are to protect Hawaii's honeybees, insects, bats, birds, and other pollinators from exposure to neonicotinoid insecticides and to defend and protect Hawaii's agricultural economy and natural ecosystems.

This Act shall be liberally construed to fulfill these purposes.

SECTION 2. Chapter 149A, Hawaii Revised Statutes, is amended by adding a new section to part III to be appropriately designated and to read as follows:

"§149A- County authority. Any county may adopt a rule or ordinance that places stricter limitations on the use of neonicotinoid insecticides than those placed by this chapter or rules adopted pursuant to this chapter. In the case of a conflict between the requirements or limitations of this chapter
and any county rule or ordinance regarding the use of neonicotinoid insecticides, the more restrictive requirements shall apply."

SECTION 3. Section 149A-2, Hawaii Revised Statutes, is amended by adding a new definition to be appropriately inserted and to read as follows:

"'Neonicotinoid insecticide' means any systemic pesticide with a common mode of action that affects the central nervous system of insects containing any of the following active ingredients: acetamiprid, clothianidin, dinotefuran, imidacloprid, thiacloprid, thiamethoxam, and any other new ingredients as may be identified by rule adopted by the department pursuant to chapter 91."

SECTION 4. Section 149A-31, Hawaii Revised Statutes, is amended to read as follows:

§149A-31 Prohibited acts. No person shall:

(1) Use any pesticide in a manner inconsistent with its label, except that it shall not be unlawful to:

(A) Apply a pesticide at any dosage, concentration, or frequency less than that specified on the label or labeling; provided that the efficacy of
the pesticide is maintained and further provided that, when a pesticide is applied by a commercial applicator, the deviation from the label recommendations must be with the consent of the purchaser of the pesticide application services;

(B) Apply a pesticide against any target pest not specified in the labeling if the application is to a crop, animal, or site specified on the label or labeling; provided that the label or labeling does not specifically prohibit the use on pests other than those listed on the label or labeling;

(C) Employ any method of application not prohibited by the labeling;

(D) Mix a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the label or labeling; or

(E) Use in a manner determined by rule not to be an unlawful act;

(2) Use, store, transport, or discard any pesticide or pesticide container in any manner which would have unreasonable adverse effects on the environment;
(3) Use or apply restricted use pesticides unless the person is a certified pesticide applicator or under the direct supervision of a certified pesticide applicator with a valid certificate issued pursuant to rules adopted under section 149A-33(1); provided that it shall be prohibited to use or apply a restricted use pesticide for structural pest control uses for a fee or trading of services, unless the user or applicator is a pest control operator or is employed by a pest control operator licensed under chapter 460J;

(4) Use or apply pesticides in any manner that has been suspended, canceled, or restricted pursuant to section 149A-32.5;

(5) Falsify any record or report required to be made or maintained by rules adopted pursuant to this chapter;

(6) Fill with water, through a hose, pipe, or other similar transmission system, any tank, implement, apparatus, or equipment used to disperse pesticides, unless the tank, implement, apparatus, equipment,
hose, pipe, or other similar transmission system is equipped with an air gap or a reduced-pressure principle backflow device meeting the requirements under section 340E-2 and the rules adopted thereunder; or

(7) After June 30, 2017, apply any neonicotinoid insecticide without a permit issued by the department of agriculture or any agency of the federal government. For the purposes of this paragraph, application of any neonicotinoid insecticide shall include planting any seeds coated with any neonicotinoid insecticide."

SECTION 5. Not later than January 1, 2017, the department of agriculture shall adopt rules, pursuant to chapter 91, Hawaii Revised Statutes, to carry out and effectuate the purposes of this Act. The rules shall contain procedures to obtain a permit for the one-time use of a neonicotinoid insecticide in instances where:

(1) The pest situation poses an immediate threat to human health or the environment; and
(2) There is no viable alternative to the use of the proposed neonicotinoid insecticide.

SECTION 6. This Act does not affect rights and duties that matured, penalties that were incurred, and proceedings that were begun before its effective date.

SECTION 7. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 8. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 9. This Act shall take effect on July 1, 2016.
Report Title:
Neonicotinoid Insecticide; Pesticides; Agriculture

Description:
Prohibits application of neonicotinoid insecticides without a permit after 6/30/17 to protect honeybees and other pollinating animals.

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