

## Chapter 661

## (Senate Bill 198)

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 direct supervision of a certified applicator, a farmer or a person working under the direct supervision of a farmer who uses the product for a certain purpose, or a veterinarian; ~~establishing prohibiting the Department of Agriculture from limiting the use of certain pesticides in a certain manner;~~ requiring the Department of Agriculture to incorporate certain practices into a certain pollinator protection plan; requiring the Department to study review certain laws and regulations and make recommendations regarding certain matters; requiring the Department to report its findings and recommendations to the Governor and the General Assembly within a certain period of time after the publication of a certain pollinator risk assessment; establishing certain civil penalties 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 ~~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 through ~~5–2A–02 5–2A–03~~ 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 ~~DIRECT~~ SUPERVISION OF A CERTIFIED APPLICATOR, AS DEFINED IN § 5-201 OF THIS TITLE;

(2) A FARMER, OR A PERSON WORKING UNDER THE ~~DIRECT~~ 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.

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~~ 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 ~~CONSISTENT WITH~~ 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 ~~\$50~~ \$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.**