

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:

- 1 (a) IDENTIFY THE SIGNIFICANCE OF HEALTHY POLLINATOR  
2 COMMUNITIES AND THE ROLE OF NATIVE POLLINATORS IN SUPPORTING  
3 HEALTHY ECOSYSTEMS AND HUMAN WELL-BEING, WITH A FOCUS ON  
4 POLLINATING INSECTS;
- 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;

- 1 (F) THIACTOPRID; AND  
2 (G) THIAMETHOXAM; AND  
3 (II) SULFOXIMINE PESTICIDES.  
4 (c) THE COMMISSIONER SHALL PROMULGATE RULES TO ESTABLISH  
5 AN EXEMPTION FROM THE RESTRICTED USE OF PESTICIDES PURSUANT TO  
6 SUBSECTION (3.5)(b) OF THIS SECTION FOR THE USE OF A PRODUCT  
7 CONTAINING ONE OR MORE OF THE ACTIVE INGREDIENTS LISTED IN  
8 SUBSECTION (3.5)(b)(I) OF THIS SECTION IF THE PRODUCT IS USED IN  
9 ACCORDANCE WITH THE DIRECTIONS ON THE PRODUCT'S LABEL AND AS A:  
10 (I) PET-CARE PRODUCT;  
11 (II) PERSONAL-CARE PRODUCT;  
12 (III) INDOOR PEST-CONTROL PRODUCT;  
13 (IV) PESTICIDE USED FOR PRESERVED WOOD PRODUCTS; OR  
14 (V) PRODUCT USED ON GOLF COURSES.  
15 (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~~  
16 ~~coordinated, that~~ creates statewide ~~uniform~~ baseline standards and that  
17 conforms with both state and federal technical standards and requirements  
18 is essential to the public health, safety, and welfare; ~~and finds that local~~  
19 ~~regulation of pesticides that is inconsistent with and adopts different~~  
20 ~~standards from federal and state requirements does not assist in achieving~~  
21 ~~these benefits;~~

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

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

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

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

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

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

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