



Legislation Details (With Text)

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**Title:** A Local Law to amend the administrative code of the city of New York, in relation to enacting a Pesticide Application Act.

**Sponsors:** Jerome X. O'Donovan, Kathryn E. Freed, Stephen DiBrienza, June M. Eisland, Karen Koslowitz, Stephen J. Fiala, Pedro G. Espada, Adolfo Carrion, Gifford Miller

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Int. No. 915

By Council Members O'Donovan, Freed, DiBrienza, Eisland, Koslowitz and Fiala; also Council Members Espada, Carrion and Miller.

A Local Law to amend the administrative code of the city of New York, in relation to enacting a Pesticide Application Act.

Be it enacted by the Council as follows:

Section 1. Title 17 of the administrative code of the city of New York is hereby amended by adding thereto a new chapter 10 to read as follows:

CHAPTER 10

PESTICIDE APPLICATION ACT

- § 17-1001 Short title
- § 17-1002 Definitions
- § 17-1003 Pesticide use prohibitions
- § 17-1004 Exemptions
- § 17-1005 Waiver
- § 17-1006 Report
- § 17-1007 Rules

§ 17-1001 Short title. This chapter shall be known and may be cited as the “Pesticide Application Act.”

§ 17-1002 Definitions. As used in this chapter, the following terms shall be defined as follows:

a. “Antimicrobial pesticide” means a pesticide as defined by 7 U.S.C. 136 (mm).

b. “Pest” means any insect, rodent, fungus, weed or any other form of terrestrial or aquatic or animal life or virus, bacteria, or other microorganism (except viruses, bacteria or other microorganisms on or in living man or other living animals) which the commissioner of the New York state department of environmental conservation declares to be a pest.

c. “Pesticide” means any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; and any substance or mixture of substances intended for use as a plant regulator, defoliator or desiccant. It shall include all pesticide products registered as such by the United States environmental protection agency and the New York state department of environmental conservation, and all products for which experimental use permits and provisional registrations have been granted by the United States environmental protection agency and the New York state department of environmental conservation.

§ 17-1003 Pesticide use prohibitions. a. Effective September 1, 2001, no department or agency of the city of New York, or pesticide applicator employed by the city as a contractor or subcontractor for pest control purposes, shall apply on city property any pesticide classified as Toxicity Category I by the United States environmental protection agency, or any pesticide classified as a known, likely, or probable human carcinogen by the United States environmental protection agency or the New York state department of environmental conservation.

b. Effective September 1, 2002, no department or agency of the city of New York, or pesticide applicator employed by the city as a contractor or subcontractor for pest control purposes, shall apply on city property any pesticide classified as Toxicity Category II by the United States environmental protection agency, or any pesticide classified as restricted use by the United States environmental protection agency or the New York state department of environmental conservation.

c. Effective September 1, 2003, no department or agency of the city of New York, or pesticide applicator employed by the city as a contractor or subcontractor for pest control purposes, shall apply any pesticide on city property.

§17-1004 Exemptions. Notwithstanding section 17-1003 of this chapter, the following pesticides shall not be subject to the restrictions of this section and may be applied on city property:

a. Pesticides otherwise lawfully used for the purpose of maintaining a safe drinking water supply at drinking water treatment plants, wastewater treatment plants, reservoirs, and related collection, distribution, and treatment facilities;

b. Antimicrobial pesticides;

c. Pesticides in contained baits for the purposes of rodent or insect control;

d. Pesticides classified by the United States environmental protection agency as exempt materials under 40 C.F.R. 152.25;

e. Boric acid when used according to its label; and

f. Pesticides prescribed by a licensed veterinarian for the control of parasites of wild, domestic or exotic animals.

§17-1005 Waiver. Any department or agency of the city of New York that determines that a human health emergency warrants the use of a pesticide not allowed under this section may apply for a single-use waiver from the board of health. Such application shall be in the form and manner prescribed by the commissioner of the department of health, and shall contain such information as the commissioner deems reasonable and necessary to allow the board of health to determine whether or not such single-use waiver should be granted. Such application shall contain a written commitment from the department or agency requesting such waiver that it will take all necessary action to avoid the need for such pesticide use in the future.

a. The board of health shall determine if such a single-use waiver is warranted based on the following

criteria:

1. The pest situation poses an immediate threat to human health or valuable public resources; and

2. That effective, viable alternatives to such pesticide use do not exist.

b. When a pesticide prohibited by this section is used under the authority of a single-use waiver obtained from the board of health, the department, agency, or pesticide applicator employed by the city as a contractor or subcontractor for pest control purposes engaged in the emergency pesticide application shall post a notice, in the form and manner prescribed by the commissioner of the department of health, the following information at the site of application at least three days prior to such application:

1. The address where the pesticide application is to occur and the specific sites to be treated by the pesticide application;

2. The date and approximate time at which the pesticide is to be applied;

3. The type of pest intended to be controlled by the pesticide application and the pesticide to be used and trade names (if any) of such pesticide;

4. The acute and chronic toxicity of the pesticide, duration of toxicity and appropriate warnings;

5. The name and telephone number of the department or agency responsible for the pesticide application;

6. The phone number and address of the poison control center;

7. The name of the city department responsible for routine pest management procedures on that premises;

8. The date of posting; and

9. A statement that, in the event inclement weather prevents the application of the pesticide on the date designated on the posting, the pesticide will be applied on the first day that inclement weather does not prevent its application.

c. In the event that inclement weather prevents the lawful application of the pesticide on the date

designated in the single-use waiver, the pesticide shall be applied on the first day that inclement weather does not prevent its lawful application.

§17-1006 Report. Not later than thirty (30) days after any pesticide application is completed pursuant to a single-use waiver, the city department or agency that requested such waiver shall submit a report to the board of health and the city council detailing the reasons why the waiver was necessary, which pesticide was applied, how, when and where the application of pesticide was made, the steps to be taken to avoid the need for such pesticide use in the future, and such other information as deemed necessary by the board of health.

§ 17-1007 Rules. The commissioner of the department of health shall promulgate rules in accordance with the provisions of this chapter, and such other rules as may be necessary for the purpose of implementing and carrying out the provisions of this chapter.

§2. This local law shall take effect immediately.

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