



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO #193

December 10, 2019

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 5343 entitled:

“AN ACT to amend the environmental conservation law, in relation to prohibiting the use of chlorpyrifos; and providing for the repeal of such provisions upon expiration thereof”

NOT APPROVED

This bill would amend Article 33 of the Environmental Conservation Law (ECL) to phase out the use of chlorpyrifos so that by December 1, 2021 the use of chlorpyrifos would be completely prohibited. Chlorpyrifos is an organophosphate pesticide, which is currently approved for use in fifty different products, the majority of which are registered for use in agricultural production. The largest agricultural market for chlorpyrifos in terms of total pounds of active ingredient is corn. It is also used on soybeans, fruit and nut trees, Brussels sprouts, broccoli, and cauliflower, seed treatments, as well as other row crops. Non-agricultural uses include golf courses, turf, green houses, and on non-structural wood treatments such as utility poles and fence posts.

The application of any pesticide must be done in a manner that is protective of public health and the environment. When there is evidence to suggest that a product approved for use in the state may have health effects when used below levels previously approved for use, it is correct to challenge the manufacturer's product safety data. New York State is one of a few states in the country with a regulatory program designed specifically to review and register pesticides, implement regulatory controls, and enforce worker protection standards. ECL Article 33 affords the Department of Environmental Conservation (DEC) with a broad range of regulatory powers including the ability to restrict the use of a pesticide to certain crops, limit application to specific conditions, and even to revoke a product's registration.

This bill bypasses the rigorous process available to challenge an approved product and substitute the legislature's judgment for the expertise of chemists, health experts and other subject matter experts in this field. Given the lengthy timeframe in the bill, which would continue to allow the use for virtually all of the approved uses until December 2020, New York must go through its existing Article 33 process.

While I do not agree that a pesticide should be banned by legislative decree, I agree that New York must lead the way by taking action to assure the public that all regulatory options are taken to limit exposure to chlorpyrifos. The United States Environmental Protection Agency (EPA) recently declined to revoke all food tolerance levels for chlorpyrifos on the basis that they did not have enough data to support revocation. However, EPA's actions do not prevent New York from moving forward with its own review of this ingredient.

Therefore, I am directing the DEC to take immediate action based on the data available on chlorpyrifos exposure ban aerial spraying, and take further regulatory action to ban its use for all purposes except apple tree trunk spraying by July 2021 and banning all uses as soon as possible. DEC must recommend a course of action and initiate action so that such measures are in place on a timeframe faster than that contained in this bill.

The bill is disapproved.