

SENATE BILL REPORT

SSB 5972

As Amended by House, March 1, 2024

Title: An act relating to the use of neonicotinoid pesticides.

Brief Description: Concerning the use of neonicotinoid pesticides.

Sponsors: Senate Committee on Agriculture, Water, Natural Resources & Parks (originally sponsored by Senators Liias, Van De Wege, Billig, Nobles, Pedersen and Salomon).

Brief History:

Committee Activity: Agriculture, Water, Natural Resources & Parks: 1/11/24, 1/18/24 [DPS-WM, DNP].

Ways & Means: 2/01/24, 2/05/24 [DPS (AWNP), DNP, w/oRec].

Floor Activity: Passed Senate: 2/13/24, 29-20.

Passed House: 3/1/24, 78-16.

Brief Summary of First Substitute Bill

- Prohibits a person from using neonicotinoid pesticides on outdoor plants beginning January 1, 2026, unless the application is made by a licensed application or during the production of an agricultural commodity. Allows the Director of the Washington State Department of Agriculture to authorize the use of neonicotinoid pesticides upon identification of an urgent pest threat.

SENATE COMMITTEE ON AGRICULTURE, WATER, NATURAL RESOURCES & PARKS

Majority Report: That Substitute Senate Bill No. 5972 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Van De Wege, Chair; Salomon, Vice Chair; Liias, Shewmake, Stanford and Warnick.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Muzzall, Ranking Member; Short and Wagoner.

Staff: Karen Epps (786-7424)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5972 as recommended by Committee on Agriculture, Water, Natural Resources & Parks be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Nguyen, Vice Chair, Operating; Billig, Conway, Dhingra, Hasegawa, Hunt, Keiser, Pedersen, Randall, Saldaña, Van De Wege and Wellman.

Minority Report: Do not pass.

Signed by Senators Wilson, L., Ranking Member, Operating; Schoesler, Ranking Member, Capital; Rivers, Assistant Ranking Member, Capital; Boehnke, Braun, Muzzall, Torres and Wagoner.

Minority Report: That it be referred without recommendation.

Signed by Senators Mullet, Vice Chair, Capital; Gildon, Assistant Ranking Member, Operating; Warnick, Assistant Ranking Member, Capital.

Staff: Jed Herman (786-7346)

Background: Pesticide Control Act and Pesticide Application Act. The Washington State Department of Agriculture (WSDA) administers the state Pesticide Control Act and the state Pesticide Application Act. Its activities include adopting rules requiring the registration and restricted use of pesticides, testing and certifying pesticide applicators, issuing handler and worker pesticide training documentation, and providing technical assistance to pesticide applicators and workers.

All individuals who are licensed, or who are required to be licensed as pesticide applicators, pesticide operators, structural pest inspectors, and pest control consultants, must be certified through examination in the area in which they operate or consult. To be certified, a person must attain a passing score of at least 70 percent on a certification examination.

Examinations are administered by WSDA, and WSDA collects a fee from the applicant for each exam at an amount set in rule. License classifications address the control of a variety of pests, including insects and diseases, pest animals in agricultural situations, aquatic pests, both generally and in irrigation systems, and weeds.

Summary of First Substitute Bill: Beginning January 1, 2026, a person may not use neonicotinoid pesticides on outdoor plants in this state, unless the application is made by a licensed application or during the production of an agricultural commodity.

Upon identification of an urgent pest threat, the Director of WSDA (Director) may authorize the sale, possession, or use of neonicotinoid pesticides by written order. The Director must make reasonable efforts to inform the public of the urgent pest threat identified. The written order must include certain information, including:

- identification of the urgent pest threat and the neonicotinoid pesticide to be used in addressing the urgent pest threat;
- a description of all other less harmful pesticides or pest management practices considered that were not deemed to be effective in addressing the urgent pest threat;
- a description of the geographic scope of the written order; and
- the duration the order is in effect, not to exceed one year.

WSDA must review and update rules related to neonicotinoid pesticides by June 30, 2025, and every four years thereafter.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Agriculture, Water, Natural Resources & Parks): *The committee recommended a different version of the bill than what was heard.* PRO: Pesticides are a critical piece of our agricultural landscape and having a strong and healthy agriculture sector is important to our communities and human health. Individuals using this class of pesticides in urban areas are not always following directions and there are harmful effects on pollinators. This bill would support conservation of threatened or endangered pollinator species by reducing the volume and often excess use of neonicotinoid pesticides. Neonics have been found in runoff and are detrimental to aquatic insect communities. Insectivorous birds are a concern and declines are increasing and this bill would aid in their conservation and recovery. Research has made clear that neonicotinoid pesticides are a major driver of pollinator declines. This bill will make neonics restricted use and will take the important step of prohibiting outdoor uses in lawns and gardens. Locations like Spokane, Vancouver, and Seattle are high priority conservation areas and this bill will make a meaningful contribution to pesticide reductions in those areas. Controlling the use of neonics will make a big difference for insects and this bill is one step forward in creating more bug heroes. This bill will help to manage neonicotinoid pesticides in a way that is sustainable for us and our planet. There is a need for explicit labeling on retail plants because if those plants have been exposed to neonicotinoids, they cause a bigger problem when planted in a pollinator garden.

CON: There is concern about the bill because it could push consumers to other types of

products. There was a study done by WSDA in 2001 that found there were no bee kills to managed pollinators from neonic products. The 2016 study from WSU showed little or no impacts from neonic pesticides on the bee population in Washington. The bill should not apply to agricultural applications and be directed at retail products. There needs to be a review of the products listed in the bill because some of them are not neonics. There are concerns about requiring certain label terms to trigger a restricted use status and prohibit product sales. The prohibition on the use of these products on outdoor plants is broadly applied with unintended consequences. While it is important to protect our pollinators, these products already have labels to protect pollinators and the label is the law. Beekeepers are in favor of reducing pesticide exposure to honeybees and other pollinators but there is concern that eliminating neonics from household use could negatively affect pollinators and honeybees because homeowners could use a product to control bugs on their house, in their backyard, and on their property that is more toxic than neonics. Keeping products available to licensed pesticide applicators who use neonics is a crucial tool that farmers need in the absence of alternatives. Taking away these products means farmers will have nothing to replace them with and they must protect their crops. Taking away neonics from homeowners means they will not be able to control invasive pests, which will affect surrounding farms.

OTHER: Because of Washington's agricultural diversity, with over 300 commercially produced crops and microclimates, the impacts of the use of neonicotinoids in other parts of the country have not been seen here. Since WSDA made one neonicotinoid pesticide restricted use in 2007 there have been no documented bee kills in Washington associated with these chemicals. Lawmakers in ten states, such as California, Maine, Nevada, and Vermont, have enacted legislation restricting the use of neonicotinoids, specifically their residential use and have generally focused on restricting the same commonly used neonics listed in this bill. Like the ten other states that passed legislation, this bill would allow application of neonics on non-blossoming plants during the production of an agricultural commodity.

Persons Testifying (Agriculture, Water, Natural Resources & Parks): PRO: Senator Marko Liias, Prime Sponsor; Rosemary Malfi, The Xerces Society for Invertebrate Conservation; Erin Sullivan, Woodland Park Zoo; Taylor Cotten, WDFW; Trudi Inslee; David Jennings, President, Washington Native Bee Society.

CON: Billy Olesen, Washington State Pest Management Association; Christopher Finarelli, The Household & Commercial Products Association; Ben Buchholz, WA Friends of Farms and Forests, Far West Agribusiness Association, NW Ag Cooperative Council; Ethan Crowder; Tim Hiatt, Washington State Beekeepers Association; Larry Treleven, Sprague Pest Solutions/WSPMA; Caleb Gwerder, Washington Farm Bureau; Eric Olson.

OTHER: Kelly McLain, Washington State Department of Agriculture; Justin Gulino, National Caucus of Environmental Legislators.

Persons Signed In To Testify But Not Testifying (Agriculture, Water, Natural

Resources & Parks): No one.

Staff Summary of Public Testimony on First Substitute (Ways & Means): PRO: This bill will help protect pollinators and food commodities that rely on pollinators. There is a large body of evidence about the risk of neonicotinoids. Preventive measures are the most cost effective options.

OTHER: This bill positions Washington with other states that have banned neonicotinoids, or are in the process of considering a ban. This product needs to be removed entirely from use. The approach is too broad, please consider our amendments to better specify uses. There are some concerns about impacts to homeowner needs and uses, therefore our fiscal note asked for funding to study the impact to homeowners. WSU entomology studies have shown little impact to pollinators from these products.

Persons Testifying (Ways & Means): PRO: Erin Sullivan, Woodland Park Zoo; Rosemary Malfi, The Xerces Society for Invertebrate Conservation.

OTHER: Justin Gulino, National Caucus of Environmental Legislators; Kelly McLain, Washington State Department of Agriculture; John Roskelley; Christopher Finarelli; Ben Buchholz, WA Friends of Farms and Forests, Far West Agribusiness Association, NW Ag Cooperative Council.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.

EFFECT OF HOUSE AMENDMENT(S):

- Replaces the use of the term "pesticide" with the term "insecticide."
- Clarifies that a person may not use neonicotinoid insecticides on nonproduction outdoor ornamental plants, trees, and turf, unless the application is made as part of a licensed application, a tree injection, or during the production of an agricultural commodity.
- Allows the director of WSDA to authorize the use of neonicotinoid insecticides that are restricted upon identification of an urgent pest threat.