

ERIE COUNTY LEGISLATURE

PATRICK B. BURKE
 7th District Legislator



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Commissioner Basil Seggos
 625 Broadway
 Albany New York 12233

Dear Commissioner Seggos,

I am a Legislator representing the 7th District in Erie County, New York. A month ago I drafted a local law that would ban the consumer use of neonicotinoids in Erie County. Having seen the harmful effects of this class of insecticides on our environment and public health, this was a common sense measure in response to a growing body of literature establishing a link between the pervasive use of neonicotinoids and the significant loss in bee colonies in New York State. In 2015, New York State lost over fifty percent of its honeybees- threatening the state's beekeepers, food supply, and agricultural industry. Under the current restrictions it is not possible to pass this bill, as Erie County lacks the authority to regulate pesticides as it pertains to its own internal environmental affairs.

Based on the scientific evidence as well as the firsthand testimony from farmers and area beekeepers, I ask you to allow Erie County to regulate the use of neonicotinoids as it pertains to the protection of the county's pollinators. According to Environmental Conservation Law §33-0301 and §0303, the Department of Environmental Conservation has "Jurisdiction in all matters pertaining to the distribution, sale, use and transportation of pesticides, is by this article vested exclusively in the commissioner." In past years the DEC Commissioner has granted exceptions to the inability of local municipalities to regulate pesticides in the case of public health. According to the DEC's NYS Pollinator Protection Plan, "Recognizing the potential groundwater impacts of imidacloprid, the DEC reached an agreement with the registrant to add a statement which prohibited the sale, use or distribution of outdoor imidacloprid homeowner products in Nassau, Suffolk, Kings, or Queens Counties due to potential negative impact on the underlying sole source aquifer" (p.20).

I believe local government should have the ability to enact legislation that implements more stringent regulations than state or federal statutes in the interest of public health. In 1991, the United States Supreme Court ruled in Wisconsin Public

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Intervenor v. Mortier that local municipalities have the right to implement stricter pesticide regulations in place of federal law in the interest of protecting public health. This ruling prompted seven states to pass laws allowing for local control over pesticide ordinances including Alaska, Hawaii, Utah, Nevada, Maryland, Vermont, and Maine. New York State did not join these others, but bills to do so were proposed in both the Assembly and Senate. I have reached out to the New York State Legislature to approve Senate Bill S2431 and Assembly Bill A5006 which would "grant local authorities power to enact pesticide local laws, ordinances, and regulations, subject to certain limits, but which may be more stringent than state law." This would in essence solve the problem of localities not having jurisdiction over their own internal environmental affairs.

While these measures are being reintroduced in Albany, I am reaching out to you as well because I see no reason why the provisions of the Honeybee Protection Act should not be allowed to be passed by the Erie County Legislature. The DEC has already limited the use of a specific type of neonicotinoid, imidacloprid, as it pertains to groundwater concerns in Long Island. Imidacloprid is able to enter groundwater because neonicotinoids are water soluble, allowing them to penetrate soil quickly- where they can contaminate water sources. This solubility is what is so dangerous for bees as well: the plants tissue quickly soaks up the neonic and when a bee comes to collect pollen, it attacks their central nervous system.

Counties in New York once had the authority to restrict the use of pesticides in their own jurisdictions; however, this was then overturned due to the efforts of the chemical lobby. Chemical companies pushed for preemptive legislation that would not allow local governments to regulate pesticides. They compromised the health and safety of everyday Americans in their own pursuit of profits. They knew change would be much harder to facilitate at the state level than if any local entity could introduce bills to protect the environment. As an elected representative, I know what is best for our local environment far better than the state capital. I ask you as the head of the organization charged with ensuring the protection of New York State's environment as well as the health and safety of all New York State residents, to allow the passage of a measure that soundly corresponds with the mission statement of the Department of Environmental Conservation.

Sincerely,

PATRICK B. BURKE
7th District Legislator

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