I

116TH CONGRESS
1ST SESSION

H. R. 1337

To direct the Administrator of the Environmental Protection Agency to take certain actions related to pesticides that may affect pollinators, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 25, 2019

Mr. BLUMENAUER (for himself, Mr. MCGOVERN, Ms. DELAURO, Ms. GABBARD, Mr. HUFFMAN, Ms. KUSTER of New Hampshire, Ms. LEE of California, Mr. LEWIS, Mr. RYAN, Mrs. WATSON COLEMAN, Mr. DEFAZIO, Ms. PINGREE, Mr. TONKO, Ms. CASTOR of Florida, Mr. TED LIEU of California, Ms. CLARK of Massachusetts, Ms. HAALAND, Mr. KEATING, Mr. CARTWRIGHT, Ms. JACKSON LEE, Mr. COHEN, Ms. WASSERMAN SCHULTZ, Ms. KAPTUR, Ms. VELÁZQUEZ, Ms. SCHAKOWSKY, Mr. CONNOLLY, Mr. RASKIN, Ms. OMAR, and Ms. MCCOLLUM) introduced the following bill; which was referred to the Committee on Agriculture

---

A BILL

To direct the Administrator of the Environmental Protection Agency to take certain actions related to pesticides that may affect pollinators, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Saving America's Pollinators Act of 2019''.

SEC. 2. FINDINGS.

Congress finds the following:

(1) Pollination services are a vital part of agricultural production, valued at over $125,000,000,000 globally. According to a 2014 Presidential memorandum, pollinators provide for an annual amount of $24,000,000,000 to the economy of the United States and honey bees account for $15,000,000,000 of such amount. Similarly, pollination services of native pollinators, such as bumblebees, squash bees, and mason bees, contribute over $3,000,000,000 to the United States agricultural economy and are estimated to contribute between $937,000,000 and $2,400,000,000 to the economy of California alone.

(2) One-third of food produced in North America—including nearly 100 varieties of fruits and vegetables such as almonds, avocados, cranberries, and apples—depends on pollination by bees.

(3) Over the past several years, documented incidents of colony collapse disorder and other forms of excess bee mortality have been at a record high, with some beekeepers repeatedly losing 100 percent of their operations. The national honey crop reported in 2013 was the lowest in many decades.

(4) National surveys sponsored by the Federal Government indicates that United States beekeepers lost between 35 and 46 percent of their hives annually between 2012 and 2018. On average, two-thirds of beekeepers experienced loss rates greater than the established acceptable winter mortality rates.

(5) According to scientists at the Department of Agriculture, current losses of honey bee colonies are too high to confidently ensure the United States will be able to meet the pollination demands for agricultural crops.

(6) Native pollinators, such as bumblebees, have also suffered alarming population declines. There are currently more than 40 pollinator species federally listed as threatened or endangered, and most recently, the iconic monarch butterfly has declined by 90 percent.

(7) Scientists have linked the use of a certain class of systemic insecticides, known as neonicotinoids, to the rapid decline of pollinators and to the deterioration of pollinator health.

(8) Neonicotinoids cause sublethal effects, including impaired foraging and feeding behavior, disorientation, weakened immunity, delayed larval development, and increased susceptibility to viruses,

diseases, and parasites. Numerous reports also document acute, lethal effects from the application of neonicotinoids.

(9) Conclusions from a recent global review of the impacts of systemic pesticides, primarily neonicotinoids, warn that they are causing significant damage to a wide range of beneficial invertebrate species, are a key factor in the decline of bees, and pose a global threat to biodiversity and ecosystem services. Another recent global review documented high levels of freshwater contamination.

(10) Science has demonstrated that a single corn kernel coated with a neonicotinoid is toxic enough to kill a songbird. Peer-reviewed research from the Netherlands has shown that the most severe bird population declines occurred in those areas where neonicotinoid pollution was highest. Starlings, tree sparrows, and swallows were among the most affected.

(11) In June 2013, over 50,000 bumblebees were killed as a direct result of exposure to a neonicotinoid applied to linden trees for cosmetic purposes.

(12) In February 2014, Eugene, Oregon, voted to ban the use of neonicotinoid pesticides on city property. Similar bans and restrictions have been

enacted in Thurston County, Spokane, and Seattle, Washington, Portland, Oregon, Skagway, Alaska, and several other communities across the United States.

(13) In June 2014, a Presidential memorandum established a Pollinator Health Task Force after identifying pollinator decline as a threat to the sustainability of food production systems, the agricultural economy, and the health of the environment in the United States.

(14) In July 2014, the United States Fish and Wildlife Service announced plans to phase out neonicotinoid pesticides in all national wildlife refuges across the United States by January 2016. The United States Fish and Wildlife Service recognized that the prophylactic use of neonicotinoids for agricultural purposes harms a wide range of nontarget species and is therefore inconsistent with the management policy of the United States Fish and Wildlife Service.

(15) In October 2014, an assessment by the Environmental Protection Agency found that neonicotinoid seed coatings provide little benefit to overall soybean crop yield. Additional studies determined that in approximately 80 to 90 percent of row crop

uses, neonicotinoid coatings are unnecessary. The prophylactic overuse of neonicotinoids violates the fundamental principles of integrated pest management.

(16) In November 2014, the Province of Ontario, Canada, announced the province will move to restrict the use of neonicotinoid-coated corn and soybean seeds because of the broad harms from their overuse, with a goal of 80 percent reduction by 2017.

(17) In September 2015, the Circuit Court of the United States for the Ninth Circuit ruled to revoke the Environmental Protection Agency's approval for sulfoxaflor—a neonicotinoid pesticide.

(18) In November 2016, Health Canada, the department of the Government of Canada responsible for national public health, proposed a ban on almost all outdoor uses of the neonicotinoid imidacloprid, saying it is seeping into Canadian waterways at levels that can harm insects and the ecosystem.

(19) The President's budget for fiscal year 2018 cuts funding for pesticide review programs of the Environmental Protection Agency by 20 percent delaying reviews of new, potentially safer pesticides

as well as reviews of older, more dangerous pesticides such as neonicotinoids.

(20) In 2018, the European Union permanently banned outdoor uses of the neonicotinoids imidacloprid, clothianidin, and thiamethoxam after the European Food Safety Authority confirmed their risks to honey bees and wild bees.

(21) In August 2018, Health Canada, proposed a ban on almost all outdoor uses of clothianidin and thiamethoxam similar to the proposed ban on imidacloprid, citing concerns that the chemicals are seeping into Canadian waterways at levels that can harm insects and the ecosystem.

(22) Worldwide, insects are experiencing population declines twice as high as those of vertebrate species, with a rate of local species extinction eight times higher than that of vertebrate species. About one-third of all insect species are threatened with extinction, with 1 percent added every year. Such declines result in an annual 2.5 percent loss in biomass, which threatens the overall functioning and stability of ecosystems worldwide.

(23) Insect biodiversity is essential to the proper functioning of ecosystems, and declines are disrupting pollination, natural pest control, food re-

sources, nutrient recycling, and decomposition services provided by insects.

(24) Major declines in insect populations can be traced to the expansion of intensive, industrial agriculture, including the systematic and widespread use of insecticides, herbicides, fungicides, and chemical fertilizers.

(25) Because insects constitute the world's most abundant and speciose animal group and provide critical services within ecosystems, such event cannot be ignored and should prompt decisive action to avert a catastrophic collapse of nature's ecosystems.

SEC. 3. ESTABLISHMENT OF A POLLINATOR PROTECTION BOARD.

(a) IN GENERAL.—The Administrator of the Environmental Protection Agency shall establish a Pollinator Protection Board in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.) (hereafter referred to in this section as the ''Board'') to assist in the development of an independent review process for pesticides that pose a threat to pollinators and pollinator habitat, and advise the Administrator on any other aspects of the implementation of this title.

(b) COMPOSITION OF THE BOARD.—The Board shall be composed of 15 members without conflicts of interests (as defined in subsection (g) of this Act) of which—

(1) 4 shall be scientists with expertise in pollinators, toxicology, and ecosystems, of which at least 1 shall have expertise in native bees;

(2) 3 shall be beekeepers—

(A) 1 shall be a commercial beekeeper;

(B) 1 shall be a chemical-free beekeeper; and

(C) 1 shall be a hobby beekeeper;

(3) 2 shall be certified organic farmers;

(4) 2 shall be non-organic farmers;

(5) 3 shall be representatives of environment, conservation, or resource organizations; and

(6) 1 shall be a representative of a commercial enterprise that protect bees.

(c) APPOINTMENT.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall appoint members of the Board under subsection (b) from nominations received from States, State beekeeping organizations, and other interested persons and organizations.

(d) TERM.—A member of the Board shall serve for a term of 5 years except that with respect to initial ap-

pointments of the Board, 7 members shall serve for a 4-year term. A member may not serve consecutive terms unless such member served an original term that was less than 5 years.

(e) MEETINGS.—The Administrator shall convene a first meeting of the Board not later than 60 days after the appointment of the members under subsection (c) and shall convene subsequent meetings at least once a year thereafter.

(f) COMPENSATION AND EXPENSES.—A member of the Board—

(1) shall serve without compensation; and

(2) may be allowed travel or transportation expenses under section 5703 of title 5, United States Code.

(g) CONFLICT OF INTEREST.—Except for the representative mentioned in section 3(b)(6), no member of the Board or any technical advisory panel of such Board may have a conflict of interest with a registrant as defined in the 7 U.S.C. section 136(y) or a trade association or organization that represents the interests of one or more registrants.

(h) CHAIRPERSON.—The Board shall select a Chairperson for the Board.

(i) QUORUM.—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(j) DECISIVE VOTES.—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(k) OTHER TERMS AND CONDITIONS.—The Administrator shall authorize the Board to hire a staff director and shall detail staff of the Environmental Protection Agency or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by the Board in carrying out the provisions of this Act, as determined appropriate by the Administrator.

(l) IN GENERAL.—The Board shall evaluate pesticides registered and under application for registration for application to plants or plant seeds by the Environmental Protection Agency under sections 3 and 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) for their toxicity to pollinators and pollinator habitat, using the following evaluation procedures:

(A) EVALUATION PROCEDURES.—In evaluating pesticides for their toxicity to pollinators and pollinator habit, the Board shall consider the following:

(i) Available information from the Environmental Protection Agency, United States Department of Agriculture, National Institute of Environmental Health Studies and such other sources as appropriate, concerning the potential for adverse effects of a pesticide on pollinator populations or pollinator habitat.

(ii) Peer-reviewed scientific literature relating to the impact of a registered pesticide on individual pollinators, pollinator populations, overall insect biomass and biodiversity, and pollinator habitat, including—

(I) chronic and acute toxicity of a registered pesticide on individual pollinators, pollinator populations, and pollinator habitat;

(II) ecosystem-wide impacts of a pesticide, including but not limited to secondary non-target impacts and impacts to the trophic food web; and

(III) synergistic effects of a pesticide on individual pollinators, pollinator populations, overall insect bio-

mass and biodiversity, and pollinator habitat.

(iii) Field studies examining the impact of a pesticide on honey bees and native bees, including bumblebees and solitary bees.

(iv) Alternative products and practices that may be adopted in place of the pesticide under evaluation.

(B) TECHNICAL ADVISORY PANELS.—The Board shall convene technical advisory panels, without conflicts of interest, to provide scientific evaluation of pesticides under paragraph (1). Such panels may include experts in agronomy, entomology, conservation ecology, health sciences, toxicology, and other relevant disciplines.

(2) RECOMMENDATIONS.—

(A) IN GENERAL.—After conducting evaluation procedures, the Board shall hold a decisive vote regarding whether to affirm the registration of an evaluated pesticide under section 3 or 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a). The Ad-

ministrator of the Environmental Protection Agency shall adopt this recommendation.

(B) NO VOTE.—If an evaluated pesticide's registration is not affirmed by a decisive vote of the Board, the Administrator shall within 30 days issue a notice of intent to cancel the registration of a pesticide pursuant to section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d).

(C) CANCELLATION.—Pesticides subject to cancellation procedures as a result of the Board's recommendation are prohibited from continued sale and use of existing stocks under section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d(a)(1)).

(D) DENIAL OF REGISTRATION.—If a pesticide not yet registered pursuant to under section 3 or 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) is not affirmed registration by a decisive vote, the Administrator shall deny registration under such sections.

(3) PRIORITIZING REVIEWS.—

(A) IN GENERAL.—The Board shall establish procedures to evaluate registered pesticides for their harm to pollinators and pollinator habitat, prioritizing those identified by the Environmental Protection Agency as posing acute risks to honey bees or native bees.

(B) PRIORITY.—The Board shall review pesticides prior to registration under sections 3 and 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) if preliminary data indicates acute or chronic risks to honey bees or other pollinators. Such pesticides shall be prioritized by the Board.

(4) REPORT.—Pesticides not affirmed for registration by a decisive vote of the Board shall be transmitted to the Administrator in a formal report. Such a report shall outline in detail the Board's reasoning for its recommendation.

(l) NO ADDITIONS.—The Administrator may not include exemptions for the use of specific substances or specific uses of substances proposed for cancellation by the Board.

(m) NOTICE AND COMMENT.—Before issuing the cancellation, the Administrator shall seek public comment

on such proposals, and may adopt standards that are only more restrictive than the Board's recommendation.

SEC. 4. URGENT REGULATORY RESPONSE FOR HONEY BEE AND POLLINATOR PROTECTION.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency shall cancel the registrations of any pesticides containing imidacloprid, clothianidin, thiamethoxam, dinotefuran, acetamiprid, sulfoxaflor, flupyradifurone, or fipronil to the extent such pesticide is registered, conditionally or otherwise, under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) for application to plants or plant seeds until the Pollinator Protection Board (as established under section 3) has made a determination that such insecticide will not cause unreasonable adverse effects on pollinators based on—

(1) an evaluation of the published and peer-reviewed scientific evidence on whether the use or uses of such neonicotinoids cause unreasonable adverse effects on pollinators, including native bees, honey bees, birds, bats, and other species of beneficial insects; and

(2) a completed field study that meets the criteria determined by the Pollinator Protection Board

and evaluates residues, including residue buildup after repeated annual application, chronic low-dose exposure, cumulative effects of multiple chemical exposures, and any other protocol determined to be necessary by the Pollinator Protection Board to protect managed and native pollinators.

(b) CONDITIONS ON CERTAIN PESTICIDES REGISTRATIONS.—Notwithstanding section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a), for purposes of the protection of honey bees, other pollinators, and beneficial insects, the Administrator of the Environmental Protection Agency shall not issue any new registrations, conditional or otherwise, for any seed treatment, soil application, and foliar treatment on bee-attractive plants, trees, and cereals under such Act until the Pollinator Protection Board (as established under section 3) has made the determination described in section 3(a), based on an evaluation described in subsection (a)(1) and a completed field study described in subsection (a)(2), with respect to such insecticide.

(c) MONITORING OF NATIVE BEES.—The Secretary of the Interior, in coordination with the Administrator of the Environmental Protection Agency and the Secretary of Agriculture, shall, for purposes of protecting and ensuring the long-term viability of native bees and other polli-

nators of agricultural crops, horticultural plants, wild plants, and other plants—

(1) consult with members of the U.S. Department of Agriculture Agricultural Research Service's Pollinating Insects Research Units, the Pollinator Protection Board, taxonomists who survey and identify native bees, and other pollinator scientists on the best methods and data collection;

(2) annually monitor the health and population status of native bees, including the status of native bees in agricultural and nonagricultural habitats including rural, urban, and suburban areas within each of the twelve unified regions as defined by the U.S. Department of the Interior, noted on U.S. Geological Survey map dated July 20, 2018;

(3) identify the scope and likely causes of unusual native bee mortality; and

(4) beginning not later than 180 days after the date of the enactment of this Act and each year thereafter, submit to Congress, and make available to the public, a report on such health and population status.

(d) EXEMPTIONS.—Section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136p) shall not apply to this Act, except—

(1) in an emergency situation to avert significant risk to threatened or engendered species as described in clauses (i) and (ii) of section 166.2(a)(2) of title 40 Code of Federal Regulations;

(2) to quarantine invasive species as described in section 166.2(b) of title 40, Code of Federal Regulations; or

(3) to protect public health as described in section 166.2(c) of title 40, Code of Federal Regulations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

○