

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Saving America’s Polli-
5 nators Act of 2019”.

1 **SEC. 2. FINDINGS.**

2 Congress finds the following:

3 (1) Pollination services are a vital part of agri-
4 cultural production, valued at over
5 \$125,000,000,000 globally. According to a 2014
6 Presidential memorandum, pollinators provide for an
7 annual amount of \$24,000,000,000 to the economy
8 of the United States and honey bees account for
9 \$15,000,000,000 of such amount. Similarly, polli-
10 nation services of native pollinators, such as bumble-
11 bees, squash bees, and mason bees, contribute over
12 \$3,000,000,000 to the United States agricultural
13 economy and are estimated to contribute between
14 \$937,000,000 and \$2,400,000,000 to the economy
15 of California alone.

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

20 (3) Over the past several years, documented in-
21 cidents of colony collapse disorder and other forms
22 of excess bee mortality have been at a record high,
23 with some beekeepers repeatedly losing 100 percent
24 of their operations. The national honey crop re-
25 ported in 2013 was the lowest in many decades.

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

7 (5) According to scientists at the Department
8 of Agriculture, current losses of honey bee colonies
9 are too high to confidently ensure the United States
10 will be able to meet the pollination demands for agri-
11 cultural crops.

12 (6) Native pollinators, such as bumblebees, have
13 also suffered alarming population declines. There are
14 currently more than 40 pollinator species federally
15 listed as threatened or endangered, and most re-
16 cently, the iconic monarch butterfly has declined by
17 90 percent.

18 (7) Scientists have linked the use of a certain
19 class of systemic insecticides, known as neonicotin-
20 oids, to the rapid decline of pollinators and to the
21 deterioration of pollinator health.

22 (8) Neonicotinoids cause sublethal effects, in-
23 cluding impaired foraging and feeding behavior, dis-
24 orientation, weakened immunity, delayed larval de-
25 velopment, and increased susceptibility to viruses,

1 diseases, and parasites. Numerous reports also docu-
2 ment acute, lethal effects from the application of
3 neonicotinoids.

4 (9) Conclusions from a recent global review of
5 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.

12 (10) Science has demonstrated that a single
13 corn kernel coated with a neonicotinoid is toxic
14 enough to kill a songbird. Peer-reviewed research
15 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.

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

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

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

5 (13) In June 2014, a Presidential memo-
6 randum established a Pollinator Health Task Force
7 after identifying pollinator decline as a threat to the
8 sustainability of food production systems, the agri-
9 cultural economy, and the health of the environment
10 in the United States.

11 (14) In July 2014, the United States Fish and
12 Wildlife Service announced plans to phase out
13 neonicotinoid pesticides in all national wildlife ref-
14 uges across the United States by January 2016. The
15 United States Fish and Wildlife Service recognized
16 that the prophylactic use of neonicotinoids for agri-
17 cultural purposes harms a wide range of nontarget
18 species and is therefore inconsistent with the man-
19 agement policy of the United States Fish and Wild-
20 life Service.

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

1 uses, neonicotinoid coatings are unnecessary. The
2 prophylactic overuse of neonicotinoids violates the
3 fundamental principles of integrated pest manage-
4 ment.

5 (16) In November 2014, the Province of On-
6 tario, Canada, announced the province will move to
7 restrict the use of neonicotinoid-coated corn and soy-
8 bean seeds because of the broad harms from their
9 overuse, with a goal of 80 percent reduction by
10 2017.

11 (17) In September 2015, the Circuit Court of
12 the United States for the Ninth Circuit ruled to re-
13 voke the Environmental Protection Agency's ap-
14 proval for sulfoxaflor—a neonicotinoid pesticide.

15 (18) In November 2016, Health Canada, the
16 department of the Government of Canada respon-
17 sible for national public health, proposed a ban on
18 almost all outdoor uses of the neonicotinoid
19 imidacloprid, saying it is seeping into Canadian wa-
20 terways at levels that can harm insects and the eco-
21 system.

22 (19) The President's budget for fiscal year
23 2018 cuts funding for pesticide review programs of
24 the Environmental Protection Agency by 20 percent
25 delaying reviews of new, potentially safer pesticides

1 as well as reviews of older, more dangerous pes-
2 ticides such as neonicotinoids.

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

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

14 (22) Worldwide, insects are experiencing popu-
15 lation declines twice as high as those of vertebrate
16 species, with a rate of local species extinction eight
17 times higher than that of vertebrate species. About
18 one-third of all insect species are threatened with ex-
19 tinction, with 1 percent added every year. Such de-
20 clines result in an annual 2.5 percent loss in bio-
21 mass, which threatens the overall functioning and
22 stability of ecosystems worldwide.

23 (23) Insect biodiversity is essential to the prop-
24 er functioning of ecosystems, and declines are dis-
25 rupting pollination, natural pest control, food re-

1 sources, nutrient recycling, and decomposition serv-
2 ices provided by insects.

3 (24) Major declines in insect populations can be
4 traced to the expansion of intensive, industrial agri-
5 culture, including the systematic and widespread use
6 of insecticides, herbicides, fungicides, and chemical
7 fertilizers.

8 (25) Because insects constitute the world's
9 most abundant and speciose animal group and pro-
10 vide critical services within ecosystems, such event
11 cannot be ignored and should prompt decisive action
12 to avert a catastrophic collapse of nature's eco-
13 systems.

14 **SEC. 3. ESTABLISHMENT OF A POLLINATOR PROTECTION**
15 **BOARD.**

16 (a) IN GENERAL.—The Administrator of the Envi-
17 ronmental Protection Agency shall establish a Pollinator
18 Protection Board in accordance with the Federal Advisory
19 Committee Act (5 U.S.C. App. 2 et seq.) (hereafter re-
20 ferred to in this section as the “Board”) to assist in the
21 development of an independent review process for pes-
22 ticides that pose a threat to pollinators and pollinator
23 habitat, and advise the Administrator on any other aspects
24 of the implementation of this title.

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

4 (1) 4 shall be scientists with expertise in polli-
5 nators, toxicology, and ecosystems, of which at least
6 1 shall have expertise in native bees;

7 (2) 3 shall be beekeepers—

8 (A) 1 shall be a commercial beekeeper;

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

10 and

11 (C) 1 shall be a hobby beekeeper;

12 (3) 2 shall be certified organic farmers;

13 (4) 2 shall be non-organic farmers;

14 (5) 3 shall be representatives of environment,
15 conservation, or resource organizations; and

16 (6) 1 shall be a representative of a commercial
17 enterprise that protect bees.

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

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

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

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

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

12 (1) shall serve without compensation; and

13 (2) may be allowed travel or transportation ex-
14 penses under section 5703 of title 5, United States
15 Code.

16 (g) CONFLICT OF INTEREST.—Except for the rep-
17 resentative mentioned in section 3(b)(6), no member of the
18 Board or any technical advisory panel of such Board may
19 have a conflict of interest with a registrant as defined in
20 the 7 U.S.C. section 136(y) or a trade association or orga-
21 nization that represents the interests of one or more reg-
22 istrants.

23 (h) CHAIRPERSON.—The Board shall select a Chair-
24 person for the Board.

1 (i) QUORUM.—A majority of the members of the
2 Board shall constitute a quorum for the purpose of con-
3 ducting business.

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

7 (k) OTHER TERMS AND CONDITIONS.—The Adminis-
8 trator shall authorize the Board to hire a staff director
9 and shall detail staff of the Environmental Protection
10 Agency or allow for the hiring of staff and may, subject
11 to necessary appropriations, pay necessary expenses in-
12 curred by the Board in carrying out the provisions of this
13 Act, as determined appropriate by the Administrator.

14 (1) IN GENERAL.—The Board shall evaluate
15 pesticides registered and under application for reg-
16 istration for application to plants or plant seeds by
17 the Environmental Protection Agency under sections
18 3 and 4 of the Federal Insecticide, Fungicide, and
19 Rodenticide Act (7 U.S.C. 136a) for their toxicity to
20 pollinators and pollinator habitat, using the fol-
21 lowing evaluation procedures:

22 (A) EVALUATION PROCEDURES.—In evalu-
23 ating pesticides for their toxicity to pollinators
24 and pollinator habit, the Board shall consider
25 the following:

1 (i) Available information from the En-
2 vironmental Protection Agency, United
3 States Department of Agriculture, Na-
4 tional Institute of Environmental Health
5 Studies and such other sources as appro-
6 priate, concerning the potential for adverse
7 effects of a pesticide on pollinator popu-
8 lations or pollinator habitat.

9 (ii) Peer-reviewed scientific literature
10 relating to the impact of a registered pes-
11 ticide on individual pollinators, pollinator
12 populations, overall insect biomass and bio-
13 diversity, and pollinator habitat, includ-
14 ing—

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

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

23 (III) synergistic effects of a pes-
24 ticide on individual pollinators, polli-
25 nator populations, overall insect bio-

1 mass and biodiversity, and pollinator
2 habitat.

3 (iii) Field studies examining the im-
4 pact of a pesticide on honey bees and na-
5 tive bees, including bumblebees and soli-
6 tary bees.

7 (iv) Alternative products and practices
8 that may be adopted in place of the pes-
9 ticide under evaluation.

10 (B) TECHNICAL ADVISORY PANELS.—The
11 Board shall convene technical advisory panels,
12 without conflicts of interest, to provide scientific
13 evaluation of pesticides under paragraph (1).
14 Such panels may include experts in agronomy,
15 entomology, conservation ecology, health
16 sciences, toxicology, and other relevant dis-
17 ciplines.

18 (2) RECOMMENDATIONS.—

19 (A) IN GENERAL.—After conducting eval-
20 uation procedures, the Board shall hold a deci-
21 sive vote regarding whether to affirm the reg-
22 istration of an evaluated pesticide under section
23 3 or 4 of the Federal Insecticide, Fungicide,
24 and Rodenticide Act (7 U.S.C. 136a). The Ad-

1 administrator of the Environmental Protection
2 Agency shall adopt this recommendation.

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

10 (C) CANCELLATION.—Pesticides subject to
11 cancellation procedures as a result of the
12 Board’s recommendation are prohibited from
13 continued sale and use of existing stocks under
14 section 6(a)(1) of the Federal Insecticide, Fun-
15 gicide, and Rodenticide Act (7 U.S.C.
16 136d(a)(1)).

17 (D) DENIAL OF REGISTRATION.—If a pes-
18 ticide not yet registered pursuant to under sec-
19 tion 3 or 4 of the Federal Insecticide, Fun-
20 gicide, and Rodenticide Act (7 U.S.C. 136a) is
21 not affirmed registration by a decisive vote, the
22 Administrator shall deny registration under
23 such sections.

24 (3) PRIORITIZING REVIEWS.—

1 (A) IN GENERAL.—The Board shall estab-
2 lish procedures to evaluate registered pesticides
3 for their harm to pollinators and pollinator
4 habitat, prioritizing those identified by the En-
5 vironmental Protection Agency as posing acute
6 risks to honey bees or native bees.

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

14 (4) REPORT.—Pesticides not affirmed for reg-
15 istration by a decisive vote of the Board shall be
16 transmitted to the Administrator in a formal report.
17 Such a report shall outline in detail the Board’s rea-
18 soning for its recommendation.

19 (l) NO ADDITIONS.—The Administrator may not in-
20 clude exemptions for the use of specific substances or spe-
21 cific uses of substances proposed for cancellation by the
22 Board.

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

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

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

5 (a) IN GENERAL.—Not later than 180 days after the
6 date of the enactment of this Act, the Administrator of
7 the Environmental Protection Agency shall cancel the reg-
8 istrations of any pesticides containing imidacloprid,
9 clothianidin, thiamethoxam, dinotefuran, acetamiprid,
10 sulfoxaflor, flupyradifurone, or fipronil to the extent such
11 pesticide is registered, conditionally or otherwise, under
12 the Federal Insecticide, Fungicide, and Rodenticide Act
13 (7 U.S.C. 136 et seq.) for application to plants or plant
14 seeds until the Pollinator Protection Board (as established
15 under section 3) has made a determination that such in-
16 secticide will not cause unreasonable adverse effects on
17 pollinators based on—

18 (1) an evaluation of the published and peer-re-
19 viewed scientific evidence on whether the use or uses
20 of such neonicotinoids cause unreasonable adverse
21 effects on pollinators, including native bees, honey
22 bees, birds, bats, and other species of beneficial in-
23 sects; and

24 (2) a completed field study that meets the cri-
25 teria determined by the Pollinator Protection Board

1 and evaluates residues, including residue buildup
2 after repeated annual application, chronic low-dose
3 exposure, cumulative effects of multiple chemical ex-
4 posures, and any other protocol determined to be
5 necessary by the Pollinator Protection Board to pro-
6 tect managed and native pollinators.

7 (b) CONDITIONS ON CERTAIN PESTICIDES REG-
8 ISTRATIONS.—Notwithstanding section 3 of the Federal
9 Insecticide, Fungicide, and Rodenticide Act (7 U.S.C.
10 136a), for purposes of the protection of honey bees, other
11 pollinators, and beneficial insects, the Administrator of
12 the Environmental Protection Agency shall not issue any
13 new registrations, conditional or otherwise, for any seed
14 treatment, soil application, and foliar treatment on bee-
15 attractive plants, trees, and cereals under such Act until
16 the Pollinator Protection Board (as established under sec-
17 tion 3) has made the determination described in section
18 3(a), based on an evaluation described in subsection (a)(1)
19 and a completed field study described in subsection (a)(2),
20 with respect to such insecticide.

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

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

3 (1) consult with members of the U.S. Depart-
4 ment of Agriculture Agricultural Research Service’s
5 Pollinating Insects Research Units, the Pollinator
6 Protection Board, taxonomists who survey and iden-
7 tify native bees, and other pollinator scientists on
8 the best methods and data collection;

9 (2) annually monitor the health and population
10 status of native bees, including the status of native
11 bees in agricultural and nonagricultural habitats in-
12 cluding rural, urban, and suburban areas within
13 each of the twelve unified regions as defined by the
14 U.S. Department of the Interior, noted on U.S. Geo-
15 logical Survey map dated July 20, 2018;

16 (3) identify the scope and likely causes of un-
17 usual native bee mortality; and

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

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

1 (1) in an emergency situation to avert signifi-
2 cant risk to threatened or engendered species as de-
3 scribed in clauses (i) and (ii) of section 166.2(a)(2)
4 of title 40 Code of Federal Regulations;

5 (2) to quarantine invasive species as described
6 in section 166.2(b) of title 40, Code of Federal Reg-
7 ulations; or

8 (3) to protect public health as described in sec-
9 tion 166.2(c) of title 40, Code of Federal Regula-
10 tions.

11 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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

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