



Empire State Forest Products Association

The people behind New York's healthy forests and quality wood products
www.esfpa.org

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Memorandum of Opposition **A 9079/S 8378**

Honorable Chris Burdick
Member of Assembly
326 LOB
Albany, NY 12248

Via email burdickc@nyassembly.gov

Honorable Pete Harckham
Senator
812 LOB
Albany, NY 12247

Via email harckham@nysenate.gov

March 21, 2022

Dear Assembly Member Burdick and Senator Harckham:

The Empire State Forest Products Association (ESFPA) has concerns with A. 9079/S. 8378 which enable local governments to prohibit the application of pesticides to certain local freshwater wetlands where local governments have implemented a freshwater protections law.

The Empire State Forest Products Association (ESFPA) represents over 350 member businesses, industries and landowners engaged in forest resource production and stewardship of New York's 19 million acres of forest. In total, \$22.9 billion dollars in annual industry production and nearly 100,000 jobs are attributable to operations of various industries within the forest related sectors. Over 200,000 private forest landowners depend on wood product markets to provide a return of investment on their forests lands which in turn enable them to keep their forests forest and steward their lands in ways that benefit all New Yorkers.

Article 24 of the Environmental Conservation Law (ECL), the Freshwater Wetlands Act, provides for a delegatory scheme to allow local governments to enact local freshwater wetlands regulations and seek delegation of permitting authority from the Department of Environmental Conservation. This delegatory scheme is for the regulation of freshwater wetlands and not for the regulation of pesticides. Article 33 of the ECL, Pesticides, provides for the registration, commercial use, purchase, and custom application of pesticides (insecticides, fungicides, and herbicides). Article 33 is pre-emptive of delegation and does not contemplate local regulation. With over 1,500 cities (61), towns (933), villages (534) and counties (57) in New York such a scheme could result in a patchwork of regulation of pesticides and a regulatory nightmare for responsible use, application, and sale of pesticides throughout the State.

This legislation, as well as several other bills before the New York Legislature relating to the control or prohibition of certain herbicides and pesticides, circumvents the rigorous technical and scientific review process that exists in New York. It also sets a precedent to make such decisions regarding the labeling, packaging, storage, use and application of pesticides and herbicides in the political realm as opposed to by the experts in the scientific and technical fields.

ESFPA supports efforts to address environmental and public health issues posed by an ever-increasing number of products that may harm the environment or the public. No professional forester or forest landowner takes the use of pesticides or herbicides lightly. They are expensive and we have an ethical responsibility to use these products prudently and responsibly. What we cannot have is a labyrinth of regulatory structures to go through and manage.

Finally, the bill does not even contain a provision allowing the State to override a local prohibition of the application of certain aquatic pesticides, in the event such application is necessary to control a public health outbreak of West Nile virus, Zika virus, malaria, Eastern equine encephalitis, or other dread disease, all of which are spread by infected mosquitoes.

For the above stated reasons, we cannot support this legislation as drafted. We would be happy to discuss amendments that could make this legislation supportable.

cc: Assembly Environmental Conservation Committee Members
Senate Environmental Conservation Committee Members

For More Information Contact:

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