

**[DISCUSSION DRAFT]**117TH CONGRESS
1ST SESSION**H. R.** _____

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

Mr. BLUMENAUER introduced the following bill; which was referred to the Committee on _____

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 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

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

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

18 (3) Over the past several years, documented in-
19 cidents of colony collapse disorder and other forms
20 of excess bee mortality have been at a record high,
21 with some beekeepers repeatedly losing 100 percent
22 of their operations. The national honey crop re-
23 ported in 2017 was the lowest in many decades.

24 (4) National surveys sponsored by the Federal
25 Government indicates that United States beekeepers

1 lost between 35 and 46 percent of their hives annu-
2 ally between 2012 and 2018. On average, two-thirds
3 of beekeepers experienced loss rates greater than the
4 established acceptable winter mortality rates.

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

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

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

20 (8) Neonicotinoids cause sublethal effects, in-
21 cluding impaired foraging and feeding behavior, dis-
22 orientation, weakened immunity, delayed larval de-
23 velopment, and increased susceptibility to viruses,
24 diseases, and parasites. Numerous reports also docu-

1 ment acute, lethal effects from the application of
2 neonicotinoids.

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

11 (10) Science has demonstrated that a single
12 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.

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

22 (12) In February 2014, Eugene, Oregon, voted
23 to ban the use of neonicotinoid pesticides on city property. Similar bans and restrictions have been enacted in Thurston County, Spokane, and Seattle,

1 Washington, Portland, Oregon, Skagway, Alaska,
2 and several other communities across the United
3 States. The States of Connecticut, Maryland, and
4 Vermont have all passed laws restricting consumer
5 use of neonicotinoids in favor of less toxic alternative
6 products and practices.

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

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

23 (15) In October 2014, an assessment by the
24 Environmental Protection Agency found that neonic-
25 otinoid seed coatings provide little benefit to overall

1 soybean crop yield. Additional studies determined
2 that in approximately 80 to 90 percent of row crop
3 uses, neonicotinoid coatings are unnecessary. The
4 prophylactic overuse of neonicotinoids violates the
5 fundamental principles of integrated pest manage-
6 ment.

7 (16) In November 2014, the Province of On-
8 tario, Canada, announced the province will move to
9 restrict the use of neonicotinoid-coated corn and soy-
10 bean seeds because of the broad harms from their
11 overuse, with a goal of 80 percent reduction by
12 2017.

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

17 (18) In November 2016, Health Canada, the
18 department of the Government of Canada respon-
19 sible for national public health, proposed a ban on
20 almost all outdoor uses of the neonicotinoid
21 imidacloprid, saying it is contaminating Canadian
22 waterways at levels that can harm insects and the
23 ecosystem.

24 (19) The President's budget for fiscal year
25 2018 cuts funding for pesticide review programs of

1 the Environmental Protection Agency by 20 percent
2 delaying reviews of new, potentially safer pesticides
3 as well as reviews of older, more dangerous pes-
4 ticides such as neonicotinoids.

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

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

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

1 (23) Insect biodiversity is essential to the prop-
2 er functioning of ecosystems, and declines are dis-
3 rupting pollination, natural pest control, food re-
4 sources, nutrient recycling, and decomposition serv-
5 ices provided by insects.

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

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

17 **SEC. 3. ESTABLISHMENT OF A POLLINATOR PROTECTION**
18 **BOARD.**

19 (a) IN GENERAL.—The Administrator of the Envi-
20 ronmental Protection Agency (in this section referred to
21 as the “Administrator”) shall establish a Pollinator Pro-
22 tection Board in accordance with the Federal Advisory
23 Committee Act (5 U.S.C. App. 2 et seq.) (hereafter re-
24 ferred to in this section as the “Board”) to assist in the
25 development of an independent review process for pes-

1 ticides that pose a threat to pollinators and pollinator
2 habitat, and advise the Administrator on any other aspects
3 of the implementation of this title.

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

7 (1) 4 shall be scientists with expertise in polli-
8 nators, toxicology, and ecosystems, of which at least
9 1 shall have expertise in native bees;

10 (2) 3 shall be beekeepers—

11 (A) 1 shall be a commercial beekeeper;

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

13 and

14 (C) 1 shall be a hobby beekeeper;

15 (3) 2 shall be certified organic farmers;

16 (4) 2 shall be non-organic farmers;

17 (5) 3 shall be representatives of environment,
18 conservation, or resource organizations; and

19 (6) 1 shall be a representative of a commercial
20 enterprise that protects bees.

21 (c) APPOINTMENT.—Not later than 180 days after
22 the date of the enactment of this Act, the Administrator
23 shall appoint members of the Board under subsection (b)
24 from nominations received from States, State beekeeping

1 organizations, and other interested persons and organiza-
2 tions.

3 (d) TERM.—A member of the Board shall serve for
4 a term of 5 years except that with respect to initial ap-
5 pointments of the Board, 7 members shall serve for a 4-
6 year term. A member may not serve consecutive terms un-
7 less such member served an original term that was less
8 than 5 years.

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

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

16 (1) shall serve without compensation; and

17 (2) may be allowed travel or transportation ex-
18 penses under section 5703 of title 5, United States
19 Code.

20 (g) CONFLICT OF INTEREST.—Except for the rep-
21 resentative specified in subsection (b)(6), no member of
22 the Board or any technical advisory panel of such Board
23 may have a financial or other interest that can reasonably
24 be anticipated to interfere with the impartial and scientific
25 assessment of the information to be considered under sub-

1 section (k)(1)(A), such as the acceptance of contributions,
2 donations, remunerations, or grants by the pesticide or
3 agrochemical industry, or related groups.

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

6 (i) QUORUM.—A majority of the members of the
7 Board shall constitute a quorum for the purpose of con-
8 ducting business.

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

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

19 (1) IN GENERAL.—The Board shall evaluate
20 pesticides registered and under application for reg-
21 istration for application to plants or plant seeds by
22 the Environmental Protection Agency under sections
23 3 and 4 of the Federal Insecticide, Fungicide, and
24 Rodenticide Act (7 U.S.C. 136a) for their toxicity to

1 pollinators and pollinator habitat, using the fol-
2 lowing evaluation procedures:

3 (A) EVALUATION PROCEDURES.—In evalu-
4 ating pesticides for their toxicity to pollinators
5 and pollinator habitat and making determina-
6 tions under paragraph (2), the Board shall con-
7 sider the following:

8 (i) Available information from the En-
9 vironmental Protection Agency, United
10 States Department of Agriculture, Na-
11 tional Institute of Environmental Health
12 Studies and such other sources as appro-
13 priate, concerning the potential for adverse
14 effects of a pesticide on pollinator popu-
15 lations or pollinator habitat.

16 (ii) Peer-reviewed scientific literature
17 relating to the impact of a registered pes-
18 ticide on individual pollinators, pollinator
19 populations, overall insect biomass and bio-
20 diversity, and pollinator habitat, includ-
21 ing—

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

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

5 (III) synergistic effects of a pes-
6 ticide on individual pollinators, polli-
7 nator populations, overall insect bio-
8 mass and biodiversity, and pollinator
9 habitat.

10 (iii) Field studies examining the im-
11 pact of a pesticide on honey bees and na-
12 tive bees, including bumblebees and soli-
13 tary bees.

14 (iv) Alternative products and practices
15 that may be adopted in place of the pes-
16 ticide under evaluation.

17 (B) TECHNICAL ADVISORY PANELS.—The
18 Board shall convene technical advisory panels,
19 without conflicts of interest, to provide scientific
20 evaluation of pesticides under paragraph (1).
21 Such panels may include experts in agronomy,
22 entomology, conservation ecology, health
23 sciences, toxicology, and other relevant dis-
24 ciplines.

25 (2) DETERMINATIONS.—

1 (A) IN GENERAL.—After conducting eval-
2 uation procedures, the Board shall hold a vote
3 regarding whether registration of the evaluated
4 pesticide under section 3 or 4 of the Federal In-
5 secticide, Fungicide, and Rodenticide Act (7
6 U.S.C. 136a) presents an unacceptable hazard,
7 based upon the potential to cause harm, includ-
8 ing injury, illness, or damage to honey bees,
9 and other pollinators, or pollinator habitat.
10 Such determination shall be made on the basis
11 of the factors specified in paragraph (1)(A).
12 The registration of an evaluated pesticide shall
13 only be affirmed by a decisive vote of the Board
14 finding the pesticide does not present an unac-
15 ceptable hazard-based upon the potential to
16 cause harm, including injury, illness, or damage
17 to honey bees, and other pollinators, or polli-
18 nator habitat.

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

1 (C) CANCELLATION.—Pesticides subject to
2 cancellation procedures as a result of the
3 Board’s determination are prohibited from con-
4 tinued sale and use of existing stocks.

5 (D) DENIAL OF REGISTRATION.—If a pes-
6 ticide not yet registered under section 3 or 4 of
7 the Federal Insecticide, Fungicide, and
8 Rodenticide Act (7 U.S.C. 136a) is not affirmed
9 registration by a decisive vote, the Adminis-
10 trator shall deny registration under such sec-
11 tions.

12 (3) PRIORITIZING REVIEWS.—

13 (A) IN GENERAL.—The Board shall estab-
14 lish procedures to evaluate registered pesticides
15 for their harm to pollinators and pollinator
16 habitat, prioritizing those identified by the En-
17 vironmental Protection Agency or peer-reviewed
18 scientific literature as posing acute or chronic
19 risks to honey bees or other pollinators. The
20 Board may collectively evaluate and vote upon
21 pesticides associated with one or more related
22 active ingredients to enhance the efficiency of
23 its review.

24 (B) PRIORITY.—The Board shall review
25 pesticides prior to registration under sections 3

1 and 4 of the Federal Insecticide, Fungicide, and
2 Rodenticide Act (7 U.S.C. 136a) if preliminary
3 data indicates acute or chronic risks to honey
4 bees or other pollinators. Such pesticides shall
5 be prioritized by the Board.

6 (C) PETITION.—Any person may petition
7 the Board to prioritize review of one or more
8 pesticides.

9 (4) REPORT.—Pesticides not affirmed for reg-
10 istration by a decisive vote of the Board shall be
11 transmitted to the Administrator in a formal report.
12 Such a report shall outline in detail the Board’s rea-
13 soning for its determination.

14 (l) NO ADDITIONS.—The Administrator may not in-
15 clude exemptions for the use of specific substances or spe-
16 cific uses of substances proposed for cancellation by the
17 Board.

18 (m) NOTICE AND COMMENT.—Before issuing the
19 cancellation, the Administrator shall seek public comment
20 on such proposals, and may adopt standards that are only
21 more restrictive than the Board’s determination.

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

24 (a) IN GENERAL.—

1 (1) CANCELLATION.—Effective on the date of
2 enactment of this subsection—

3 (A) all active ingredients and pesticide
4 products containing one or more of the active
5 ingredients imidacloprid, clothianidin,
6 thiamethoxam, dinotefuran, acetamiprid,
7 sulfoxaflor, flupyradifurone, chlorantraniliprole,
8 or fipronil (referred to in this subsection as
9 “neonicotinoid pesticides”) shall be deemed to
10 generally cause unreasonable adverse effects to
11 the environment; and

12 (B) notwithstanding any other provision of
13 law, including section 6(b) of the Federal Insec-
14 ticide, Fungicide and Rodenticide Act, the reg-
15 istration of all uses of neonicotinoid pesticides
16 shall be immediately and permanently canceled
17 by operation of law and without further pro-
18 ceedings.

19 (2) REVOCATION OF TOLERANCES AND EXEMP-
20 TIONS.—Not later than 6 months after the date of
21 enactment of this subsection, the Administrator of
22 the Environmental Protection Agency (in this sec-
23 tion referred to as the “Administrator”) shall, in ac-
24 cordance with section 408(b)(1)(B) of the Federal
25 Food, Drug, and Cosmetic Act (21 U.S.C.

1 346a(b)(1)(B)), revoke any tolerance or exemption
2 that allows the presence of a neonicotinoid pesticide,
3 or any pesticide chemical residue that results from
4 neonicotinoid pesticide use, in or on food.

5 (b) SALE OF EXISTING STOCKS PROHIBITED.—Ef-
6 fective on the date of enactment of this subsection, the
7 continued sale or use of existing stocks of neonicotinoid
8 pesticides shall be prohibited.

9 (c) NO FUTURE NEONICOTINOID REGISTRATIONS.—
10 Effective on the date of enactment of this subsection, the
11 Administrator may not register any neonicotinoid pesticide
12 under section 4 of the Federal Insecticide, Fungicide and
13 Rodenticide Act.

14 (d) MONITORING OF NATIVE BEES.—The Secretary
15 of the Interior, in coordination with the Administrator and
16 the Secretary of Agriculture, shall, for purposes of pro-
17 tecting and ensuring the long-term viability of native bees
18 and other pollinators of agricultural crops, horticultural
19 plants, wild plants, and other plants—

20 (1) consult with members of the Pollinating In-
21 sects Research Units of the Agricultural Research
22 Service of the Department of Agriculture, the Polli-
23 nator Protection Board, taxonomists who survey and
24 identify native bees, and other pollinator scientists
25 on the best methods and data collection;

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

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

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

15 (e) EXEMPTIONS.—

16 (1) IN GENERAL.—An exemption under section
17 18 of the Federal Insecticide, Fungicide, and
18 Rodenticide Act (7 U.S.C. 136p) may not be made
19 with respect to the use by a Federal or State agency
20 of a neonicotinoid pesticide unless the Board estab-
21 lished by section 3 of this Act determines by a deci-
22 sive vote that use of the pesticide is warranted for
23 one of the following reasons—

24 (A) in an emergency situation to avert sig-
25 nificant risk to threatened or engendered spe-

1 cies as described in clauses (i) and (ii) of sec-
2 tion 166.2(a)(2) of title 40, Code of Federal
3 Regulations (or successor regulations);

4 (B) to quarantine invasive species as de-
5 scribed in section 166.2(b) of title 40, Code of
6 Federal Regulations (or successor regulations);

7 or

8 (C) to protect public health as described in
9 section 166.2(c) of title 40, Code of Federal
10 Regulations (or successor regulations).

11 (2) LIMITATIONS.—If the Board makes a deter-
12 mination under paragraph (1) with respect to an ex-
13 emption under section 18 of the Federal Insecticide,
14 Fungicide, and Rodenticide Act (7 U.S.C. 136p), the
15 Board shall conduct an evaluation of the use of the
16 pesticide pursuant to section 3(k)(1)(A) of this Act
17 not less than once per year.

18 (3) RENEWAL.—The Board shall evaluate all
19 applications for exemptions under section 18 of the
20 Federal Insecticide, Fungicide, and Rodenticide Act
21 (7 U.S.C. 136p) regardless of past Board approvals
22 for exemptions for that pesticide.

1 **SEC. 5. AUTHORIZATION OF APPROPRIATIONS.**

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