[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.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the “Saving America’s Polli-
nators Act of 2021”.

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 2017 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 docu-
ment 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. The States of Connecticut, Maryland, and Vermont have all passed laws restricting consumer use of neonicotinoids in favor of less toxic alternative products and practices.

(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 imidaclorpid, saying it is contaminating 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 contaminating 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 resources, 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 (in this section referred to as the “Administrator”) 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 pes-
ticides 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 polli-
nators, 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 protects 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 appointments 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 specified in subsection (b)(6), no member of the Board or any technical advisory panel of such Board may have a financial or other interest that can reasonably be anticipated to interfere with the impartial and scientific assessment of the information to be considered under sub-
section (k)(1)(A), such as the acceptance of contributions,
donations, remunerations, or grants by the pesticide or
agrochemical industry, or related groups.

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

(i) QUORUM.—A majority of the members of the
Board shall constitute a quorum for the purpose of con-
ducting 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 Adminis-
trator 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 in-
curred by the Board in carrying out the provisions of this
Act, as determined appropriate by the Administrator.

(1) IN GENERAL.—The Board shall evaluate
pesticides registered and under application for reg-
istration 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 habitat and making determinations under paragraph (2), 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 biomass 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) DETERMINATIONS.—
(A) IN GENERAL.—After conducting evaluation procedures, the Board shall hold a vote regarding whether registration of the evaluated pesticide under section 3 or 4 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) presents an unacceptable hazard, based upon the potential to cause harm, including injury, illness, or damage to honey bees, and other pollinators, or pollinator habitat. Such determination shall be made on the basis of the factors specified in paragraph (1)(A). The registration of an evaluated pesticide shall only be affirmed by a decisive vote of the Board finding the pesticide does not present an unacceptable hazard-based upon the potential to cause harm, including injury, illness, or damage to honey bees, and other pollinators, or pollinator habitat.

(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 determination are prohibited from continued sale and use of existing stocks.

(D) DENIAL OF REGISTRATION.—If a pesticide not yet registered 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 or peer-reviewed scientific literature as posing acute or chronic risks to honey bees or other pollinators. The Board may collectively evaluate and vote upon pesticides associated with one or more related active ingredients to enhance the efficiency of its review.

(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.

(C) Petition.—Any person may petition
the Board to prioritize review of one or more
pesticides.

(4) Report.—Pesticides not affirmed for reg-
istration 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 rea-
soning for its determination.

(l) No Additions.—The Administrator may not in-
clude exemptions for the use of specific substances or spe-
cific 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 determination.

Sec. 4. Urgent Regulatory Response for Honey Bee
And Pollinator Protection.

(a) In General.—
(1) CANCELLATION.—Effective on the date of enactment of this subsection—

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

   (B) notwithstanding any other provision of law, including section 6(b) of the Federal Insecticide, Fungicide and Rodenticide Act, the registration of all uses of neonicotinoid pesticides shall be immediately and permanently canceled by operation of law and without further proceedings.

(2) REVOCATION OF TOLERANCES AND EXEMPTIONS.—Not later than 6 months after the date of enactment of this subsection, the Administrator of the Environmental Protection Agency (in this section referred to as the “Administrator”) shall, in accordance with section 408(b)(1)(B) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C.
346a(b)(1)(B)), revoke any tolerance or exemption that allows the presence of a neonicotinoid pesticide, or any pesticide chemical residue that results from neonicotinoid pesticide use, in or on food.

(b) Sale of Existing Stocks Prohibited.—Effective on the date of enactment of this subsection, the continued sale or use of existing stocks of neonicotinoid pesticides shall be prohibited.

(c) No Future Neonicotinoid Registrations.—Effective on the date of enactment of this subsection, the Administrator may not register any neonicotinoid pesticide under section 4 of the Federal Insecticide, Fungicide and Rodenticide Act.

(d) Monitoring of Native Bees.—The Secretary of the Interior, in coordination with the Administrator and the Secretary of Agriculture, shall, for purposes of protecting and ensuring the long-term viability of native bees and other pollinators of agricultural crops, horticultural plants, wild plants, and other plants—

(1) consult with members of the Pollinating Insects Research Units of the Agricultural Research Service of the Department of Agriculture, 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 Secretary 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.

(e) EXEMPTIONS.—

(1) IN GENERAL.—An exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136p) may not be made with respect to the use by a Federal or State agency of a neonicotinoid pesticide unless the Board established by section 3 of this Act determines by a decisive vote that use of the pesticide is warranted for one of the following reasons—

(A) in an emergency situation to avert significant risk to threatened or engendered spe-
cies as described in clauses (i) and (ii) of section 166.2(a)(2) of title 40, Code of Federal Regulations (or successor regulations);

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

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

(2) LIMITATIONS.—If the Board makes a determination under paragraph (1) with respect to an exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136p), the Board shall conduct an evaluation of the use of the pesticide pursuant to section 3(k)(1)(A) of this Act not less than once per year.

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