
SENATE COMMITTEE ON ENVIRONMENTAL QUALITY

Senator Allen, Chair

2021 - 2022 Regular

Bill No: AB 1298
Author: Bloom
Version: 3/25/2021
Urgency: No
Consultant: Gabrielle Meindl

Hearing Date: 6/14/2021
Fiscal: Yes

SUBJECT: Pesticides: use of 2nd generation anticoagulant rodenticides

DIGEST: Corrects a drafting error in Assembly Bill (AB) 1788 (Bloom, Chapter 250, Statutes of 2020) related to the prohibition of the use of second generation anticoagulant rodenticides (SGARs).

ANALYSIS:

Existing law:

- 1) Authorizes the state's pesticide regulatory program and mandates the Department of Pesticide Regulation (DPR) to, among other things, provide for the proper, safe, and efficient use of pesticides essential for the production of food and fiber, for the protection of public health and safety, and for the protection of the environment from environmentally harmful pesticides by prohibiting, regulating, or ensuring proper stewardship of those pesticides. (FAC § 11401 et seq.)
- 2) Defines "second generation anticoagulant rodenticide" as any pesticide product containing any of the following active ingredients: brodifacoum, bromadiolone, difenacoum or difethialone. (FAC § 12978.7(a))
- 3) Prohibits, except as specified, the use of a SGAR in a wildlife habitat area, as defined. (FAC § 12978.7 (b))
- 4) Prohibits, except as specified, the use of a SGAR in the state until the director of DPR makes a certification that DPR has completed a reevaluation of SGARs. (FAC § 12978.7 (c))
- 5) Lists exemptions to the prohibition of the use of SGARs, including for public health activities; to protect water supply infrastructure; for mosquito and vector control; to eradicate nonnative invasive species; for research purposes, as specified, related to the reevaluation of SGARs; for medical waste generators; and, for agricultural activities. (FAC § 12978.7 (e - f))

- 6) Provides that after the director of DPR determines that all of the following conditions have occurred, the director shall certify to the Secretary of State of that determination:
 - a) DPR has completed the reevaluation of SGARs, as commenced by DPR on March 12, 2019;
 - b) DPR has adopted any additional restrictions, in consultation with the Department of Fish and Wildlife (DFW), necessary to ensure that continued use of SGARs is not reasonably expected to result in significant adverse effects to nontarget wildlife and those restrictions are operative; and,
 - c) DFW determines that control or eradication of invasive rodent populations is necessary for the protection of threatened or endangered species or their habitats and requires the use of a second generation anticoagulant rodenticide. (FAC § 12978.7 (g))
- 7) Designates as restricted materials pesticides containing brodifacoum, bromadiolone, difenacoum, and difethialone. (Title 3 California Code of Regulations (CCR), § 6400 (2014))
- 8) Prohibits the use of brodifacoum, bromadiolone, difenacoum, and difethialone in any above ground bait more than 50 feet from a man-made structure unless there is a feature associated with the site that is harboring or attracting the pests targeted on the label between the 50-foot limit and the placement limit specified on the label. (Title 3 CCR § 6471 (2014))

This bill:

- 1) Deletes the requirement for the director of DPR to certify DFW made a determination that SGARs are required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.
- 2) Allows the use any SGAR that DFW determines is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.
- 3) Makes other technical, non-substantive changes.

Background

- 1) *Rodent control.* Rodents native to California play an important ecological role, and are a major food source for predators and scavengers; however, rodents are pests when they infest houses, threaten public health, and destroy property. Rodent infestations can also damage or destroy critical habitats, native plants and animals, crops, and food supplies.

The most important steps in eliminating and preventing rodent infestations are keeping living spaces clean; preventing rodent access; and, eliminating potential nesting areas. Other options to control rodent infestations include lethal traps, live traps, and chemical controls (rodenticides).

- 2) *Rodenticides.* While rodenticides are pesticides designed to kill rodents, the ingestion of, or sometimes contact with, rodenticides can have the same type of effect on other animals. Predatory and scavenging birds and mammals that eat dead or dying rodents that have consumed these baits will also be poisoned. DFW contends that the use of poison baits to control rodents has injured and killed hundreds or thousands of pets and wild animals throughout California, including the golden eagle, great-horned owl, black bear, fisher, San Joaquin kit fox (federally endangered), coyote, mountain lion, bobcat, and badger.

Most of the rodenticides used today are anticoagulant compounds, either first or second generation, that interfere with blood clotting and cause death from excessive bleeding. While both compounds can impact nontarget species, SGARs are more likely than first generation anticoagulants to kill after a single night's feeding, and tend to remain in animal tissues longer than do first-generation compounds. Because of this, SGARs pose greater risks to non-target species that might feed on bait only once or that might feed upon animals that have eaten the bait.

- 3) *State regulatory action on SGARs.* While certain mitigation efforts had previously been in effect for some SGARS, due to the impacts of SGARs on wildlife throughout the state, on March 18, 2014, DPR designated all SGAR products as restricted materials, thus restricting their purchase and use by, or under the supervision of, a certified commercial or private applicator under a permit issued by the County Agricultural Commissioner.
- 4) *Reevaluation of SGARs.* In November 2018, DPR released an investigation that found that while the 2014 regulations changed SGAR use patterns by restricting their purchase, sale, and use, reported rates of non-target wildlife exposure to SGARs have not decreased. Additionally, the investigation found evidence of possible population-level impacts among non-target wildlife in

California due to statistically significant associations with SGAR exposure and sublethal impacts. In response to these findings and public comment, on March 12, 2019, the director of DPR noticed the final decision to begin the reevaluation of SGARs.

According to DPR, reevaluations end in several ways. If the data show that use of the pesticide presents no significant adverse effects, DPR closes the reevaluation without added mitigation measures. If new restrictions are necessary, DPR places controls on the use of the pesticide to mitigate the potential adverse effect. DPR may also revise labels to mitigate hazards. If the adverse effect cannot be mitigated, DPR suspends or cancels the product registration.

For the SGAR reevaluation, DPR required registrants to submit existing data related to nontarget wildlife exposure. The information received is currently under review, and DPR will use the information to develop additional data requirements for SGAR products subject to reevaluation. There is no set time frame for completion of the reevaluation. Of note, however, is that, in response to the reevaluation, registrants submitted voluntary cancellations for all three previously registered difenacoum products. As of May 2019, DPR no longer had any difenacoum products, which are a SGAR, registered for use in California.

- 5) *AB 1788*. As noted by DPR, on September 29, 2020, Governor Gavin Newsom signed AB 1788 (Bloom, Chapter 250, Statutes of 2020) to prohibit uses of SGARs due to their threat to mountain lions and other wildlife. AB 1788, which became effective January 1, 2021, prohibits the use of SGARs statewide until the DPR director certifies DPR's completion of its reevaluation of SGARs and DPR develops, in consultation with DFW, and implements, use restrictions necessary to protect wildlife.

Since initiating the reevaluation in March 2019, DPR has reviewed scientific studies on links between SGAR use and non-target wildlife exposure, and will evaluate options for mitigating associated risks. According to DPR, the passage of AB 1788 emphasizes the importance of this work, and DPR is committed to a timely completion of the reevaluation.

- 6) *This bill*. AB 1298 corrects a drafting error enacted by AB 1788 related to DFW's determination that the use of SGARs is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats. The bill moves the described provision from the FAC section related to the certification of a reevaluation of SGARs to the FAC

section related to exemptions from the prohibition on SGARs. This change ultimately exempts from the statutory prohibition the use of SGARs that DFW determines is required to control or eradicate an invasive rodent population for the protection of threatened or endangered species or their habitats.

DOUBLE REFERRAL:

If this measure is approved by the Senate Environmental Quality Committee, the do pass motion must include the action to re-refer the bill to the Senate Natural Resources and Water Committee.

Comments

- 1) *Purpose of Bill.* According to the author, "AB 1298, makes clarifications to AB 1788, specifically section [FAC] (g)(3) within AB 1788 can be misinterpreted to mean that in order for the reevaluation to take effect, CDFW must determine the use of SGARs is necessary to protect endangered species or their habitats. The clarifications made in AB 1298 will aid to provide necessary clarification on a provision related to the Department's reevaluation, and will restore the statutory intent to allow for the use of SGAR's to control invasive species and address the protection of endangered species or their habitats."

Related/Prior Legislation

AB 1788 (Bloom, Chapter 250, Statutes of 2020). Prohibits the use SGARs until the director of DPR certifies a completed reevaluation of SGARs.

AB 2422 (Bloom, 2018). Would have prohibited the use, except as specified, of any pesticide that contains an anticoagulant. The Assembly Water, Parks, and Wildlife Committee hearing on this bill was cancelled at the request of the author and the bill subsequently died on file.

AB 1687 (Bloom, 2017). Would have prohibited the use of any pesticide that contains one or more of nine specified active ingredients (including all first and second generation anticoagulant rodenticides and some acute toxicants). The Assembly Committee on Environmental Safety and Toxic Materials hearing on this bill was cancelled at the request of the author and the bill subsequently died on file.

AB 2596 (Bloom, 2016). Would have prohibited the use of second generation anticoagulant rodenticides. The Assembly Committee on Environmental Safety

and Toxic Materials hearing on this bill was cancelled at the request of the author and the bill subsequently died on file.

AB 2657 (Bloom, Chapter 475, Statutes of 2014). Prohibits the use of second generation anticoagulant rodenticides in wildlife habitat areas, as defined.

SOURCE: Author

SUPPORT:

American College of Obstetricians and Gynecologists District Ix

OPPOSITION:

None received

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