

The Benefits for Municipalities of [SB22-131](#): Concerning Healthy Pollinator Habitat that Protects Human Health

This bill provides protections for pollinators and for children's health by:

- Strengthening statewide protections for pollinators and children
- Strengthening local communities by restoring some aspects of local control of pesticide regulation allowing municipalities to provide additional protections for children, pollinators, water quality and other local issues as each community sees fit.

Why is this bill important for Colorado municipalities?

The health and wellbeing of residents and the quality of natural resources are critical for the economies of Colorado communities. Toxic chemicals can lead to risks to Colorado communities.

The cognitive function of children not only impacts individual families and the child's future but can have societal wide impacts. Physicians and researchers are calling for action to protect children in the face of concerning increases of ADHD, autism, learning disabilities, and other health issues.

Our system for evaluating scientific evidence and making decisions about environmental chemicals is broken. We cannot continue to gamble with our children's health. We call for action now to prevent exposures to chemicals and pollutants that can contribute to the prevalence of neurodevelopmental disabilities in America's children. [Consensus Statement Project TENDR](#)

Biodiversity is in steep decline, impacting the ecosystem services that fuel our economies.

*Under the current trends in environmental degradation, the risk of ecosystem collapse is ever present and growing, representing **systemic risks for economies**.*

*This analysis demonstrates that the collapse of even a limited range of services—wild pollinators, marine fisheries, and timber provision from tropical forests—would have **far-reaching effects on the global economy**. [World Bank Report](#)*

Neonicotinoid insecticides pose a significant threat to ecosystems worldwide (see [Worldwide Integrated Assessment of the Effects of Systemic Pesticides on Biodiversity and Ecosystems](#)).

This bill does not address every issue contributing to children's health and biodiversity loss, but it takes immediate steps to begin addressing these issues, and it provides local governments with the legal authority to mitigate these risks within their own communities.

How does SB22-131 address these issues?

1. Helping Pollinators

Immediate steps:

- Statewide neonicotinoid restrictions for turf and landscape applications in non-agricultural areas
- Ability of local governments to restrict pesticides that harm pollinators or other wildlife
- Provides farmers with seed that is not coated with neonicotinoids to encourage adoption of less harmful practices.

Longer-term strategic help:

The bill funds a study to gather data about the current state of Colorado's diverse pollinator species and provide recommendations for a statewide strategy to provide safe, connected habitat and protect and stabilize pollinator populations. Although we [know enough to act](#), an analysis of pollinator health will assist land managers across the state to target resources and implement practices to most efficiently and effectively protect Colorado's critical pollinators.

2. Safeguarding Human Health – Particularly Our Children

Immediate steps:

- This bill bans the use of all pesticides on the grounds of K-12 schools (public and private), daycares, pre-schools and residential camps.
- Restoration of local control allows communities to provide additional protections for the most vulnerable populations to pesticide exposure, including children, elderly, disadvantaged communities, landscape workers and others.

Local governments can focus on their own needs and choose whether to exercise their authority to adopt ordinances to address specific issues and needs. **The reversal of pesticide preemption is one of the most important aspects of this bill for local governments.**

Restoring Local Control of Pesticide Use

This bill amends (at CRS §§ 35-10-112 and 35-10-112.5) to allow local governments to adopt any ordinance, rule, resolution, charter provision, or statute, concerning the use and application of pesticides within the jurisdictional boundaries of such local government in exercising its local police powers to protect public health, safety, and the environment.

The history of preemption of the erosion of local control over pesticides in Colorado

Prior to 1996, the Colorado Pesticide Applicators' Act (PAA) allowed local governments to regulate the use and application of pesticides on agricultural, private or public property. This authority was first eliminated with respect to commercial pesticide applicators by the passage of SB96-086 and then entirely eliminated in 2006 by HB06-1274. As a result, the Colorado Department of Agriculture (CDA) now has the exclusive authority to implement Colorado's pesticide regulations with minor exceptions. The state legally has and should have exclusive authority for certain matters, such as the registration and labeling of pesticides. However, it does not make sense to deny local decision makers the *option* to adopt more stringent pesticide use and application standards that reflect their community's unique vulnerabilities and risk tolerance.

Why is pesticide preemption a problem?

Our food system, urban landscaping practices and pest management approaches are all heavily pesticide reliant. While pesticides can be effective in killing insects, weeds or other pests, there is substantial evidence that pesticides pose a significant risk to people, particularly children, as well as to non-target organisms, such as pollinators, birds and other wildlife. In fact, pesticides are registered by the U.S. Environmental Protection Agency (EPA) under a one-size-fits-all standard setting process. The state of Colorado accepts these standards, for the most part, when it registers pesticides even in cases when independent studies show significant risks that are not addressed by federal standards. Pesticides can pollute water, disrupt ecosystems, contribute to biodiversity loss, degrade soil health, reduce soil's capacity to store carbon, and destroy habitat. Pesticides also contribute to the underlying causes for some aspects of climate change. A report from the Intergovernmental Panel on Climate Change found that about a quarter of global emissions leading to climate change are attributable to

agriculture, forestry and related land use, including pesticide use¹. Moreover, healthy soil ecosystems play a unique role in sequestering carbon, retaining soil water and supporting biodiversity both below and above ground, all essential to helping to build resilience in the face of unpredictable and extreme weather events.

Colorado's communities are all different, and the U.S. Supreme Court acknowledged that these differences can impact decisions about how pesticides could be used. When [upholding the right of local governments to regulate the use of pesticides](#), the Court found that federal pesticide law (FIFRA) "certainly does not equate registration and labeling requirements with a general approval to apply pesticides throughout the Nation without regard to regional and local factors like climate, population, geography, and water supply." It is at the local level where these differences can best be understood relying on information from county health departments, volunteer naturalists, hunters, fishermen, sportsmen and local experts. In this context, federal and state laws serve as a floor or baseline of protection, and it is prudent to ensure local political subdivisions the freedom to adopt more stringent standards of protection as they see fit.

The federal government adopts pesticide registration and application standards based on determinations of acceptable levels of risk and exposure as well as benefits, including economic benefits. While these assessments should be revisited often to reflect the newest studies, it may take decades before they are revised. State governments, in turn, have limited resources and typically defer to the federal standards. Preemption prevents local governments from using their unique knowledge and risk tolerance to respond more quickly and effectively to protect their residents from harm.² This not only denies them their traditional exercise of local police powers, but it instead can require unplanned expenditures and damages when addressing chemical contamination, loss of ecosystem services, and additional educational needs for children impacted by neurotoxic exposures that could have been avoided in the first place. This disconnect between federal, state and local policy can only be resolved by giving local governments clear authority to act.

Role of local, state and federal governments

Federal law (Federal Insecticide, Fungicide and Rodenticide Act or FIFRA) establishes national standards for pesticide labeling and registration. Colorado's PAA and Pesticide Act comply with FIFRA and establish a detailed framework under which pesticide registration, labeling, storage, distribution, and applicator licensing are conducted. SB22-131 does not grant unlimited authority of pesticide regulation to local governments. The bill language clearly states that the State retains FIFRA enforcement authority, and the regulation of pesticides in agricultural and marijuana production. The bill restores local government and voter control over specific aspects of the regulation of pesticide use and application that are most pertinent to the majority of Colorado's municipalities. Much like current law that allows municipalities to choose how pesticides are used on their own publicly-owned properties, expanded local control would offer communities the option to have some say in how pesticides are used. This would not infringe on either federal or state authority. The U.S. Supreme Court in the 1991 case of [Wisconsin Public Intervenor v. Mortier](#) not only upheld local control, but finds no conflict between regulation by different levels of government, "As is evidenced by § 136t(b), FIFRA implies a regulatory partnership between federal, state, *and* local governments."

¹ IPCC, 2019: Summary for Policymakers. In: IPCC Special Report on the Climate and Land. https://www.ipcc.ch/site/assets/uploads/2019/08/Edited-SPM_Approved_Microsite_FINAL.pdf

² Centner, T. J., & Heric, D. C. (2019). Anti-community state pesticide preemption laws prevent local governments from protecting people from harm. *International Journal of Agricultural Sustainability*, 17(2), 118–126. <https://doi.org/10.1080/14735903.2019.1568814>

Across the U.S 14 states either expressly allow local government regulation over some aspects of pesticide use and application, or do not preempt regulation. Below are some examples of localities that have chosen to use this authority include:

- Kern County and other California counties adopted protective pesticide buffer zones around homes and schools;
- The Minnesota cities of Shorewood and Stillwater protected bees from pesticides by adopting rules restricting pesticide use and pledging to become “Honey Bee Havens;”
- Montgomery County, Maryland banned cosmetic pesticides (pesticides that improve the appearance of non-agricultural green spaces such as lawns) on turf grass to protect children’s health; and
- South Portland, Maine banned cosmetic pesticide use to protect the sustainability and economic value of Casco Bay to their community. Pesticide and fertilizer use on properties adjacent to the bay had been contributing to a green slime algal bloom.