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■ ONTARIO'S COSMETIC PESTICIDES BAN ACT - AN UPDATE - By K. Jean Cottam

Written by K. Jean Cottam
Dated: August 29, 2008

BILL 64: ONTARIO'S COSMETIC PESTICIDES BAN ACT by K. Jean Cottam

Before the 2008 spring session of the provincial parliament was prorogued for the summer, Ontario MPPs passed Bill 64 intended to update the regulations pertaining to cosmetic use of pesticides throughout Ontario. Meanwhile, the Ministry of Environment had provided a questionnaire on its website welcoming comment on the matter by the general public.

We are told that the Ministry received 6,940 submissions "in response to the January 18th Environmental Registry posting that outlined the government's intent to introduce legislation that would ban the cosmetic use of pesticides." About 90 per cent of comments reviewed were supportive. (Wed 18 Jun 2008, "New Law Bans Cosmetic Pesticides: McGuinty Government To Consult On List Of Banned Products And Ingredients," Canada News-Wire, TORONTO, June 18 /CNW/ - NEWS.)

Apparently, the vast majority of Ontarians were in favour of Bill 64 in principle, the details of which, including a list of lawn chemicals to be banned, were to be worked out during the summer. However, it was very disturbing that virtually all beneficial and sensible amendments proposed by the NDP Opposition were defeated.

Predictably, the chemical lawn application industry fought the new legislation tooth and nail, in an attempt to render it harmless. Yet when the passing of Bill 64 was first made public, the Premier assured Ontarians that Ontario's good municipal bylaws will remain intact. Unfortunately, he was eventually "corrected" by Environment Minister John Gerretsen that this was not the case.

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It would seem that the hard work which led to the success in a number of Ontario's municipalities, such as Toronto, Peterborough and London, among others, will now be in vain, and we understand that Toronto may consider a legal challenge to Bill 64 which has the potential to emasculate all superior Ontario's municipal by-laws.

As reported in the press, based on consultations with the general public and the stakeholders, the Ontario government was to determine the following during the summer:

- The products to be banned from sale
- The ingredients to be banned from use
- The rules around exceptions for agriculture, forestry and golf courses, with conditions.

The province was also to develop rules for other exemptions, including remedies required to fight the West Nile virus, for example, and other health or safety issues.

We were told that the ban was intended to replace all existing municipal pesticide by-laws, "bringing consistency across the province and protecting Ontarians regardless of where they live. The provincial law, unlike municipal by-laws, bans the sale of cosmetic pesticides, not just their use. It also sets out the rules for the transportation, storage and disposal of pesticides, requirements that municipal by-laws cannot control."

The ban, which passed by 56 votes to 17, is scheduled to take effect in the spring of 2009.

But the new law is under attack from municipalities, because--as already stated--its intent is to supersede superior existing urban by-laws and may allow the use of chemicals currently banned by large municipalities, such as the City of Toronto.

As well, the Bill does not prohibit golf courses, farms or managed forests from spraying pesticides. Forest spraying is a very contentious issue in Ontario's north. However, golf courses are instructed to reduce their pesticide use.

Environment Minister John Gerretsen justifies the limitations of the bill in terms of its intent "to ensure consistency of law and give all Ontarians equal protection from the potential exposure to cosmetic pesticides, no matter where they live in the province."

It is noteworthy, however, that the pesticide ban in Quebec does not prevent municipalities from maintaining the full scope of their pesticide by-laws, provided they are not inferior to the province-wide legislation.

In addition, to the above-stated Bill-64 limitations, there was justified apprehension (see below) that certain pesticides, such as Roundup, banned by Ontario municipalities, will be exempted from the province-wide legislation. For example, Markham Councillor Erin Shapero, whose municipality was among the first to ban pesticides in Ontario, was concerned that the new provincial law would "water down" the tougher municipal legislation.

Gideon Forman, of the Canadian Association of Physicians for the Environment, agreed, saying municipalities should be "allowed to go further" in the interest of public health.

In a twelve-page report dated August 28, 2008 and titled "Debugging the Ban: Nine Pesticides Missing from Ontario's Proposed Prohibitions," the David Suzuki Foundation explains why the list of pesticides to be banned by the Province is inadequate.

See <http://www.davidsuzuki.org/Publications/>

These omitted pesticides (includes herbicides, insecticides and fungicides) are: Abamectin, Acetamiprid, Glufosinate Ammonium, Glyphosate Acid, Isopropylamine Salt of Glyphosate, Metam, Napropamide, Spinosad and Thiram. (Glyphosate products are also known as Roundup.)

While the Ontario NDP was supportive of the legislation but felt that it did not go far enough and amounted to a betrayal of public trust on this issue, John Tory denounced it "as an example of government's obsession with more esoteric issues".

Mr. Tory, the unseated leader of the Conservative opposition, appears to be completely in the industry's corner on this issue, calling the legislation motivated by 'political science', rather than real science.

Unfortunately, 'real science' is the kind of science which promotes the self-interest of the chemical industry, whose spokesmen and sympathizers refer to the impeccable data of independent science as 'junk science'--a distasteful terminology now used in reference to the issue of cosmetic pesticides and formerly applied to smoking.

Both opposing politicians and self-interested industry spokesmen are great champions of Health Canada's Pest Management Regulatory Agency (PMRA), whose recent approval of common yet controversial herbicide 2,4-D is questioned by prominent independent scientists as premature.

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Among them is Ottawa biochemist Dr. Meg Sears. (The PMRA employs only one epidemiologist and over 300 toxicologists.)

Dr. Sears' contribution on the matter was published in The Ottawa Citizen on July 14, 2008.

She says, "In 2006, I was among researchers and physicians who concluded in Paediatrics and Child Health that '2,4-D can be persuasively linked to cancers, neurological impairment and reproductive problems.' Subsequent peer-reviewed research strengthens this conclusion. The PMRA decision is premature. Manufacturers have yet to provide important studies.

"Scientific reports of birth defects and neurological harms have not yet [been] factored [made to work as factors] in the PMRA decision... Contaminant analyses are also pending. According to Environment Canada, herbicides like 2,4-D are the largest source of 2,7-DCDD (the unregulated dioxin that comes with 2,4-D) in our environment. PMRA staff say that vastly more 2,7-DCDD than regulated dioxins is in 2,4-D. Importantly, given its high levels, the U.S. Agency for Toxic Substances and Disease Registry found that 2,7-DCDD is 'equipotent' to the most toxic, regulated dioxin, in tests of immune suppression.

"Immune disruption contributes to many chronic illnesses, including cancers. The PMRA quietly let slide the 2005 Advisory Panel recommendation to investigate further child cancer. The immune system cancer non-Hodgkin's lymphoma (nHL) is strongly linked to 2,4-D. The PMRA dismissed these scientific studies, and even misinterpreted one as saying 2,4-D lowered the chance of developing a particular nHL. In fact, compared to farmers non-using pesticides, applicators of 2,4-D were three times as likely to develop the cancer.

"The National Cancer Institute of Canada says that North America is a world leader in nHL. The 2,4-D linked nHL is increasing most rapidly, and is the most intractable to treat.

"When pesticides are used in neighbourhoods, children's largest exposure may be from dust. By-laws and provincial legislation for least-toxic pest control, to eliminate this exposure, are wise public policy."

Commendably, an overwhelming majority of Ottawa's City Council members, with the exception of some rural councillors, voted in support of the provincial Bill 64.

The provincial government is reassuring Ontarians that Bill 64 will be applied this spring (2009) as scheduled. The government has added some pesticides to the lists of banned products, as requested, which can be viewed on the provincial Environment Ministry's website. The deadline for public input was December 22, 2008.

UPDATE

This legislation became law on April 22, 2009, the Earth Day. On that day both sales and application of hundreds of chemicals used for cosmetic purposes in Ontario were banned. The exemptions included use of pesticides in agriculture, control of noxious weeds, use of insecticides in forestry and maintenance of golf courses, the latter required to produce annual evidence of pesticide reductions. A detailed description of the banned chemicals divided into various categories may be found on the Ontario Environment Ministry's website: www.ene.gov.on.ca/en/land/pesticides/factsheet-pesticides.php

New, safer lawn care products are being developed. Corn gluten meal (CGM) is a pre-emergent herbicide (kills seeds in general) and fertilizer combined. It should be applied in the spring, before weeds appear. The overseeding of turf treated with CGM should take place at least six weeks after the application of this biological herbicide. CGM may also be applied in the summer and fall. Sarritor, a more recently developed biological herbicide directed against broadleaf weeds, is a granular application which is built into a program with seasonal fertilization.

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