



Comments on Proposed Legislative Amendments to the Pesticides Act to Ban the Use and Sale of Pesticides for Cosmetic Purposes

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The David Suzuki Foundation congratulates the Government of Ontario for introducing legislation to ban the “cosmetic” use of pesticides. The use of pesticides to improve the appearance of lawns, gardens, parks, and schoolyards poses unnecessary risks to human health and the environment.

We are pleased that Bill 64 prohibits the *sale* of pesticides marketed for cosmetic applications, as well as the use of these products. Restrictions on sales will add value to municipal bylaws already in place, which prohibit the use of pesticides on lawns and gardens. It will facilitate enforcement and promote the necessary shift to non-toxic gardening products and practices.

Bill 64 should be further strengthened in two important areas.

Firstly, the clause that would render municipal pesticide bylaws inoperative should be struck. Interfering with municipal powers to regulate the use of pesticides to protect public health is unnecessary and potentially damaging. A consistent standard across the province can be achieved without disabling municipal powers, if provincial requirements are sufficiently protective. On the other hand, if the scope or particulars of provincial requirements leave room for complementary municipal action, the province should support municipal leadership towards minimizing the health and environmental risks associated with cosmetic pesticides.

As currently proposed, Bill 64 would, in fact, undermine specific pesticide restrictions in certain municipalities. For instance, Glyphosate, the active ingredient in Roundup products, is currently prohibited for use by the Toronto, Peterborough, and Markham bylaws but would not be banned under the provincial legislation, according to the lists published for comment on the Environmental Registry. Bill 64 also includes a permanent exemption for golf courses; whereas the City of Toronto pesticide bylaw extends in principle to golf courses (although this restriction is not currently being enforced).

We note that in Quebec, where provincial regulations prohibiting the use and sale of certain pesticides were adopted in 2003, municipal pesticide bylaws remain operative. Ninety-one Quebec municipalities have adopted pesticide bylaws that complement the provincial regulations. This approach is preferable. Bill 64 has been announced as a measure designed to protect public health and the environment. It must not have the effect of weakening current municipal pesticide policies, or preempting more protective municipal requirements in the future.

Secondly, the bill authorizes exemptions that suggest troubling loopholes. The exemptions for golf courses and “other prescribed uses” should be removed, or at a minimum tightly constrained. While we recognize that golf courses face particular challenges in eliminating pesticides, a permanent, legislated exemption for golf courses is not warranted and is inconsistent with the intent of the bill. Golf

courses are responsible for a significant volume of urban pesticide use and this use is clearly “cosmetic” as defined in the bill - i.e. non-essential. There are at least two pesticide-free golf courses operating in Canada at present: Fiddlers’ Green in Nova Scotia and Blackburn Meadows on Saltspring Island, BC. We see no reason why Ontario operators could not follow in the footsteps of these industry leaders and conform to similar standards to reduce their environmental impact. To the extent that golf courses require special consideration, this should take the form of a “grace period,” with a specified expiry date by which compliance with the ban must be achieved. This would give the industry time to adapt and transition, while being consistent with the intent of the legislation to minimize unnecessary environmental and health risks associated with pesticide use.

Similarly, the open-ended exemption for “other prescribed uses” is unnecessary and, if broadly used, could undermine the effectiveness of the pesticide ban. Exemptions should be allowed only when necessary to protect public health and safety, and this power is separately authorized in the bill. Ideally, the exemption for “other prescribed uses” should be removed. At the very least, this clause should be qualified to require consistency with the intent of the bill (that being to prohibit the cosmetic use of pesticides) and any exemptions authorized under this clause should be time-limited and subject to legislative oversight.

With respect to the proposed lists of products and active ingredients to be banned, we ask that the ministry of the environment specify the basis for inclusion on these lists. We recommend that *only* active ingredients registered as biopesticides by the Pest Management Regulatory Agency (PMRA) be allowed, and that all other cosmetic-use pesticides be banned. This would mean adding all chemical active ingredients registered as “reduced risk” by the PMRA to the proposed ban, if they are contained in products classified for cosmetic (household) use – including, for example, Glyphosate. This approach would allow for maximum consistency with the strongest Ontario bylaws.

We further recommend that the ban be structured in terms of a “white list” of allowed active ingredients and products, with all others prohibited. This would ensure that the ban is robust as new products come to market that meet the criteria for prohibition. It would also facilitate compliance by clearly presenting those products that are acceptable for used.

If the ministry of the environment proceeds with the “black list” approach, it will be important to establish an efficient process for adding new active ingredients and products to the ban.

Finally, it is encouraging that the government intends to move swiftly to implement the cosmetic pesticide ban. Pro-active, province-wide communication initiatives to inform the public about the new policy and about alternatives to pesticides will be important to support effective implementation of the ban by the spring of 2009. Public education must begin as soon as possible and can draw on existing municipal and non-governmental initiatives. It will also be important to plan and budget for comprehensive enforcement of the ban, once it takes effect.

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