



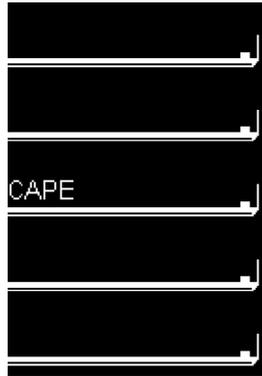
Pesticide Reform Ontario



Comments on Bill 64 from coalition members

Pesticide Free Ontario is pleased to stand beside the doctors and nurses of Ontario in support of province-wide legislation that bans the sale and use of lawn and garden pesticides. Along with the other thirteen members of our coalition of prominent health and environmental organizations, PFO is looking forward to seeing the regulations that will support Bill 64, the Cosmetic Pesticides Ban Act.

We will continue to work towards a Pesticide Free Ontario.



Page under review more comments will be posted soon

Bill 64 - Clause by Clause Review (June 16th)

STANDING COMMITTEE ON
SOCIAL POLICY

<http://tinyurl.com/6xq7w5>

COMITÉ PERMANENT DE
LA POLITIQUE SOCIALE

Monday 16 June 2008 Lundi 16 juin 2008

COSMETIC PESTICIDES BAN ACT, 2008
LOI DE 2008 SUR L'INTERDICTION
DES PESTICIDES UTILISÉS
À DES FINS ESTHÉTIQUES

The committee met at 1431 in committee room 1.

COSMETIC PESTICIDES BAN ACT, 2008
LOI DE 2008 SUR L'INTERDICTION
DES PESTICIDES UTILISÉS
À DES FINS ESTHÉTIQUES

Consideration of Bill 64, An Act to amend the Pesticides Act to prohibit the use and sale of pesticides that may be used for cosmetic purposes / Projet de loi 64, Loi modifiant la Loi sur les pesticides en vue d'interdire l'usage et la vente de pesticides pouvant être utilisés à des fins esthétiques.

The Chair (Mr. Shafiq Qaadri): Colleagues, ladies and gentlemen, I call this meeting of the Standing Committee on Social Policy to order, as you'll know, to consider clause-by-clause for Bill 64, the Cosmetic Pesticides Ban Act.

I will call the meeting to order. As you know, amendments have been received by the clerk's office by 5 p.m. I welcome legislative counsel, who's here in spirit, and proceed to—

Interjection.

The Chair (Mr. Shafiq Qaadri): There he is. You're confusing me, Doug. Welcome, Mr. Beecroft.

We have a number of amendments put forward and we'll begin their consideration. The floor is now open for general questions or comments, not specifically to any one amendment. If there be any comments, I will invite them now.

Mr. Peter Shurman: I just want to get the details on the specifics of the two amendments that were tabled by the Liberal Party.

The Chair (Mr. Shafiq Qaadri): It seems like an entirely legitimate request.

Mr. Peter Shurman: Sometimes I am.

The Chair (Mr. Shafiq Qaadri): Apparently it is in the handout here. So you're welcome to have that, and then of course when we get to those, you're free to ask any member of the party to explain them.

Mr. Peter Shurman: I have them as well. It's just that we need explanation.

The Chair (Mr. Shafiq Qaadri): Yes, of course, when we get to the individual consideration. Any other considerations of a general nature? No, fine.

So we'll now move to consideration of amendment number 1, brought forward by the NDP, labelled amendment NDP motion 1. Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 1(1) of the bill be struck out.

We're simply arguing that we should be talking about pesticides that we are going to permit in particular circumstances. Those circumstances have been defined in the legislation. "Cosmetic" is redundant, and I would move that it simply be taken out.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns. Any further comments?

Mr. Kevin Daniel Flynn: The government side won't be supporting that amendment. From the start, what we've been trying to do is address the use and sale of pesticides that clearly have no countervailing benefit, things like dandelions on lawns. That's the intent of including the word "cosmetic." The intent is actually to prohibit the use and sale of those pesticides which could cause an unnecessary risk to human health and the environment. I think we need a clear definition in there.

The Chair (Mr. Shafiq Qaadri): Thank you. Any further questions or comments? Seeing none, we'll proceed to the vote. Those in favour of NDP motion 1? Those opposed? I declare it defeated.

We'll now consider section 1. Shall section 1 carry? Carried.

Section 2: I invite Mr. Tabuns to present NDP motion 2.

Mr. Peter Tabuns: I move that subsection 7.1(1) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Use of pesticides

"(1) A person shall not use or cause or permit the use in, on or over land of a pesticide unless the pesticide has been prescribed for the purpose of this subsection."

Again, the focus here is that what you should be providing is a list of materials that can be used in situations prescribed in the legislation. You are prescribing through this legislation a list that can't be used. Because chemicals can be tweaked, they can have their formulation changed in a way that allows you to rename them without substantially changing the way they operate. It's far more effective to have a list of permitted substances or chemicals, and this amendment brings in that far more stringent, far more restrictive definition.

Mr. Kevin Daniel Flynn: We will not be supporting this amendment either. Clearly, the focus of the efforts of this whole exercise is on education and outreach. The bill has been carefully drafted this way. This isn't any accident that it appears that way. It's to ensure that the cosmetic pesticides ban can be integrated into what we have now, which is the existing comprehensive pesticides management regime. So that we can further our efforts here on compliance and enforcement, the bill should remain this way.

Municipal bylaws are able to use what they refer to as a "white list," because they're dealing simply, and can only deal simply, with the use of pesticides. This legislation is far more comprehensive and deals with the sale, transportation, storage, disposal and other elements of pesticide use.

The Chair (Mr. Shafiq Qaadri): Any further comments, queries, questions?

Mr. Peter Tabuns: Could the government speak to how they're actually going to be maintaining that list in future? Chemicals come out on a regular basis. If you're going to actually protect the public, you're going to have to be evaluating them, monitoring them, checking out epidemiological studies. If you have a list of those that are permitted, then off the bat you know that what you've brought forward are ones that you consider safe, and all others have to prove themselves safe before they go on the market or before they're allowed. This gives far more public health protection.

Mr. Kevin Daniel Flynn: We beg to differ on that. We think that the prohibition on the sale is much more clearly advanced by identifying these products in regulation under Bill 64. I think we have a difference of opinion. I respect Mr. Tabuns's opinions in this regard. It's just simply that we believe this is the better way.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. I'd also note for the benefit of committee members that we welcome the fact that these proceedings are being recorded for one of our presenters, but I just alert the committee

that you are being recorded and videoed.

We'll now proceed to consideration of NDP motion number 2. If there's no further—

Mr. Peter Tabuns: We didn't have a vote on that.

The Chair (Mr. Shafiq Qaadri): We're about to.

Interjection.

The Chair (Mr. Shafiq Qaadri): Perhaps you may be practising for downstream changes around here. That's fine.

We'll now consider NDP motion 2. Those in favour?

Mr. Peter Tabuns: A recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): I declare NDP motion 2 defeated.

We'll now consideration NDP motion 3. Mr. Tabuns, the floor is yours.

Mr. Peter Tabuns: I move that paragraph 1 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"1. Uses related to golf courses, if the requirements in subsection (3.1) have been met."

The question of golf courses is one that actually led to some interesting debate in the Legislature. Mr. Flynn can speak to that. I'm suggesting that, rather than giving golf courses a pass, as this bill does, as a minimum they be required to put in place a system of pest management or insecticide management control that increases the protection for their workers and the public. This amendment is in line with the work that's being done in Markham, Ontario. It seems to be acceptable there, and I think it could be applied across the province. That's the basis for making this amendment.

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Mr. Kevin Daniel Flynn: It appears we have a difference of opinion again, and that's whether this should be enshrined in regulation or in legislation. It's our feeling on this side that if the legislation is passed, the ministry will then begin to work with experts in the field to design a comprehensive set of conditions and regulatory requirements that can best meet the overall goals of this legislation, which obviously is the reduced use of cosmetic pesticides in our environment. We believe that by using the regulatory process, as opposed to the legislative process, we achieve that goal.

The Chair (Mr. Shafiq Qaadri): Any replies, rebuttals, questions, comments?

Mr. Peter Tabuns: A recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 3 is defeated.

We'll now proceed to consideration of NDP motion 4. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 5 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out.

For those who are in the audience and can't see it, it's a line that says simply "Other prescribed uses." I have to say to the Chair and the committee that this is far too open-ended. It really means that the government will be open to extraordinary and broad-ranging pressure to provide more and more exemptions to the act as presented.

You have the exemptions that you need here for health and safety. You have the exemptions you need for agriculture and forestry. If those exemptions are met, you don't need further exemptions. If you're talking health and safety, that is a low enough bar to let you deal with a broad range of issues that come before any government and any community.

I would suggest to the government that it would be in your interest to have a bill that dispensed with this exemption, not only because you will provide better protection for the public, but it also gives you greater credibility. On that basis, I would urge government members to support this amendment.

Mr. Kevin Daniel Flynn: We won't be supporting this amendment, but we do have an amendment coming up that I think speaks to much of what Mr. Tabuns has been speaking to.

We believe that some exceptions in the front could be things like invasive species control, preservation of trees, the urban canopy. There's much more of an interest in and a knowledge of the impact that trees have on the ecosystem than there was before. People and companies are, I hope, going to start to develop what we hope will be a new regime of low-cost alternative products, low-risk alternative products.

In the future, we're going to have to be dealing with such issues as climate change, introduction of new pests into our environment, innovative approaches to controlling pests that don't use pesticides. We believe that we need to craft these solutions in a regulatory manner.

Should this amendment not be successful, we have an amendment that will be dealt with after this.

The Chair (Mr. Shafiq Qaadri): Are there any further questions, comments?

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 4 is defeated.

Consideration of government motion 5. Mr. Flynn.

Mr. Kevin Daniel Flynn: I move that paragraph 5 of subsection 7.1(2) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"5. Other prescribed uses, if any prescribed conditions have been met."

The intention of this is to strengthen this section that allows for other prescribed uses to be exempted from the use prohibition. It actually ensures that other exceptions to the use prohibition that are prescribed in the regulation are conditional exceptions only. The effect is that in order to be able to use pesticides which have been prohibited under the use ban, these other prescribed uses would have to meet all of the conditions placed on them as specified in the regulations to be drafted. Failure to meet the regulatory conditions doesn't mean that these people will just be fined

or there'll be a slap on the wrist; it will actually be the loss of that exception.

Mr. Peter Shurman: Can I get an example of anything that might fall under this particular clause?

Mr. Kevin Daniel Flynn: If you came forward with a use that you thought we should use pesticides for which isn't covered under the regulations, you would be given a prescribed set of conditions that you would have to meet before you could use that pesticide. If you did not meet those conditions, that exception would be taken away from you and you would be prohibited from that exception again in the future.

Mr. Peter Shurman: That, Mr. Flynn, could be a temporary or a permanent situation, depending—

Mr. Kevin Daniel Flynn: Depending on the pests or if it's some sort of invasive species, or if it's something even related to public health.

The Chair (Mr. Shafiq Qaadri): Any further questions or comments? Seeing none, we'll consider now government motion 5. Those in favour? Those opposed? I declare government motion 5 carried.

We'll proceed now to NDP motion 6.

Mr. Peter Tabuns: This relates to golf courses. Given that the previous amendment failed, I withdraw this.

The Chair (Mr. Shafiq Qaadri): NDP motion 6 is withdrawn. Are there any comments, nevertheless? We'll consider, then, NDP motion 7.

Mr. Peter Tabuns: I move that subsection 7.1(5) of the Pesticides Act, as set out in section 2 of the bill, be struck out.

Whether or not municipalities can actually take action is a central issue here. If municipalities had not been in a position to move on second-hand smoke, we would not have had the momentum in this province to actually take on the issue. It's very simple and very straightforward. It was the action of municipalities in Ontario, and frankly it was the action of municipalities in the United States that caused state governments to act. Taking away that power in a very key environmental and health area is a very dangerous precedent. We would not be debating pesticide bans or restrictions in this Legislature if the cities of Toronto, Oakville, Peterborough and others had not taken the action that they did. In restricting their powers in this legislation, you are setting up a situation that will make it very difficult for municipalities to take action in the future, to show any leadership—and if municipalities don't show it, you can be very certain that the chances of provincial governments acting are going to be dramatically reduced.

I have some sense of the political reason for the government moving this, but in terms of the long-run health and safety of people in this province and in terms of the long-run relationship between the provincial government and the municipal governments, your initiative is a mistake. I think that you should support my amendment. Frankly, you should support voting against this section of the bill so that the power of municipalities is not constrained.

Mr. Dave Levac: Just a quick question on Mr. Tabuns's rationale: Are you suggesting—and I listened carefully—that the inclusion of this will stop any other action from municipalities from their own bylaws, other than the one that we're specifically talking about?

Mr. Peter Tabuns: My read from talking to people is that they will look at your initiative on this and conclude that their actions on toxic chemicals will be subject to end runs in the future. It will minimize and undermine the momentum to actually pioneer environmental and health-protective action at the municipal level.

Mr. Dave Levac: Thanks for the clarity.

Mr. Kevin Daniel Flynn: This is probably the most debated part of the proposal so far. I spent 18 years on a local council myself, and I think that if Mr. Tabuns and I had met during those years, we probably would have shared a similar view as to what we should be doing with pesticides.

The reason that my council became involved in this is because the provincial government refused to act in this regard. What you had was municipalities acting in default, basically, because once they had the Hudson decision and the authority from the courts to act, and after they had worked their way through that, they implemented bylaws restricting the use of pesticides.

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My analysis is that the provincial proposal is stronger by far in that it bans the sale, something municipalities couldn't do—would have liked to have done, but simply couldn't do. I think, by default, what we have before us is a much stronger piece of legislation than any municipality has been able to implement in the past, simply because their authority is limited.

If the debate is about municipal autonomy, then the argument could be made—and I don't want to see the argument made that a municipality would not have to meet the threshold of the provincial government. If municipalities have the right to act in an autonomous way when it comes to the issue of pesticides, then surely they would have the right to do even less than the provincial regulation brings into effect. So I think that would be a step backwards. I understand the argument. Certainly, my 18 years as a regional and as a local councillor are something that I haven't left behind by any means, but I don't think Ontarians want a patchwork of regulations.

At some point in the future, could the legislation be improved, could the regulations be strengthened? Certainly, there's a process for doing that, but I don't think Ontarians want one rule for the use of pesticides where they live, another for where they work, another for when they're at the cottage and another one when they're at somebody else's cottage. What Ontarians want is for their government to act in a way that implements a restriction on the use of pesticides that's agreed to by the vast majority of the citizens in the province. You'd get that information from the Environmental Bill of Rights; there's a lot of support for this proposal.

In my opinion, the largest impact of this entire exercise will be the ban on the sale. If you can't get your hands on the pesticides, you aren't going to use them. It's that simple, whether you're tempted to use them or not, if you can ban the sale. So I think we all agree that that has got a lot out of the way. This is almost getting into that "How many angels can you get on the head of a pin?" thing now—we're starting to get into the details. I really think this is more of a theoretical argument than it is one of substance. The real substance is going to be the ban on the sale of pesticides.

The Chair (Mr. Shafiq Qaadri): Thank you. Mr. Tabuns.

Mr. Peter Tabuns: You covered a lot of ground in that. First of all, I'll just say that in terms of municipalities and the whole question of floor or ceiling, no one would argue that we shouldn't be protecting human health and the environment. For the province to step in and set a floor below which municipalities can't go—no one would argue with it. You don't set standards for water quality and say that we have any objection to people having a higher level of protection of their water. We don't have any objection to people intervening to make sure that their environment is safer and healthier. So I don't think your argument about simply making it a question of municipal autonomy holds up. No one's arguing that municipalities should be able to provide a lower level of protection.

The question is, will municipalities be able to continue as they have in the past under the Smoke-Free Ontario Act and set a higher standard for protection of health and safety in their community? What you've done here is roll that back and set a precedent that I think is dangerous and, beyond that, betrays a lack of respect for municipalities that actually have been the pioneers in protecting human health and safety.

When I talk to colleagues in the United States on the climate change issue, it's at the state and city levels where people are taking action on climate change and, frankly, ignoring the federal government because, as we all know, it's a dead letter for them on climate change.

What you've done, I think, is set in motion a precedent that will be highly problematic for cities and for this province in years to come. The question of patchwork was an issue that I had to deal with when I fought for smoke-free restaurants and bars in the 1990s. The simple reality is that as science moves on, as public consciousness moves on, you're going to have an understanding that some chemicals have to go. There may be cities in this province that are willing to go further than the provincial government is willing to go. There will be a patchwork. I think that if you were setting the bar high enough, no city would want to go further: that would be one thing, but you're not. You're actually rolling things back, in particular with reference to the city of Toronto.

Lastly, in terms of the sale, I think your argument has a lot of merit when you say that the strength of this bill is that it bans the sale of particular pesticides and herbicides. But, as I said earlier—and this happens in the pharmaceutical industry and in the pesticide and herbicide industry—you can tweak a chemical in a very minor way, retaining its impact but setting it up so that it is patentable and saleable. Frankly, I think a lot of companies will do that to get around your ban. Unless you show a very different approach to that of the past, unless the federal government shows a very different approach, we'll be fairly slow to keep up with changes in chemistry. I think your sale list will be

outmoded, probably within five to 10 years. I think that there will then be a substantial political battle to have that list keep up with what's really on the market.

In the end, retaining the powers in the hands of the municipalities is a safety net for the protection of human health and safety. I think you are very wrong to roll back the power of municipalities in this situation.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns.

Interruption.

The Chair (Mr. Shafiq Qaadri): And thank you for that spontaneous outburst.

Mr. Kevin Daniel Flynn: Just in answer to that, I think we are performing a public good here. I think what we're doing is banning—and I don't think we should lose sight of that—the use and the sale of cosmetic pesticides in the province of Ontario. It's something that I wasn't sure, as a politician, I'd ever live to see. So I don't want to lose sight of that. I think if you look at the patent process for new drugs, or for drugs that are emerging on the market, and you look at the pesticide approval regime, they're two completely different things.

I have some sympathy for the point being put forward by Mr. Tabuns, but I also have my feet grounded in reality. This is a proposed bill that I think could be put into place in a schedule that would lead to a ban on the use and sale of cosmetic pesticides by spring of 2009. I think it's time to move forward on it.

The Chair (Mr. Shafiq Qaadri): I would just advise our observers that they would feel free to applaud on an individual basis, but not during committee hearings. Thank you.

We'll now proceed to consideration of NDP motion 7.

Mr. Peter Tabuns: Recorded vote.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 7 is defeated.

Now consideration of NDP motion 8; Mr. Tabuns.

Mr. Peter Tabuns: I move that subsection 7.1(5) of the Pesticides Act, as set out in section 2 of the bill, be struck out and the following substituted:

"Municipal bylaws

"(5) Despite section 14 of the Municipal Act, 2001 and section 11 of the City of Toronto Act, 2006, if there is a conflict between a provision of this section and a provision of a bylaw passed by a municipality, the provision that most restricts the use, sale, offer for sale or transfer of a pesticide prevails."

The Chair (Mr. Shafiq Qaadri): Any further comments?

Mr. Kevin Daniel Flynn: Just briefly, Mr. Chair, I think the same debate would apply as we had on the previous question. But when I look at what has happened since municipalities have been placed in a position where they were forced, really, to implement their own bans, somewhere between 33 and 36 have implemented them. The proposed legislation is clearly stronger than any one of them, because it bans the sale. Even if you went down into exceptions and into other uses, whether it allowed for use in exceptional circumstances or infestations, I would make the argument that the proposed legislation is clearly stronger than, or at least as strong as, the route that has already been taken by about 33 out of those 36 municipalities. So I think it meets the test of municipal approval just in that regard.

The Chair (Mr. Shafiq Qaadri): Mr. Tabuns.

Mr. Peter Tabuns: Yes, I should just note that in consideration of this matter by the city of Toronto board of health, they have asked the city solicitor to look for legal avenues to ensure that the city of Toronto can enforce its own bylaws should the act that you put in place be less protective of health and the environment than what they have in place. So you may well be opening the door to an ongoing series of legal challenges by failing to adopt the resolution that I have before you.

The Chair (Mr. Shafiq Qaadri): Any further questions, comments or queries? Seeing none, we'll consider the vote.

Mr. Peter Tabuns: Recorded, please.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

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The Chair (Mr. Shafiq Qaadri): NPD motion 8 is defeated.

That brings to conclusion consideration of amendments for that particular section, so we'll now consider the section as amended. Shall that section 2, as amended, carry? Those opposed?

Section 2, as amended, is carried.

Having to date received no further amendments for sections 3 and 4 inclusive, I'll now ask if the committee will agree to consider both sections simultaneously. Seeing no objections, shall sections 3 and 4 carry? Carried.

We'll now consider section 5, NDP motion 9. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 43 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be struck out.

Again, this is related to our proposal that the government's ability to arbitrarily prescribe exemptions be removed, and I've previously made my argument on that.

The Chair (Mr. Shafiq Qaadri): Any comments?

Mr. Kevin Daniel Flynn: Chair, I previously had a response to that argument.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. If there are no further comments, the floor is now closed for motion 9 commentary. We'll now consider the vote recorded.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 9 is defeated.

Government motion 10 is now being considered.

Mr. Kevin Daniel Flynn: I move that paragraph 44 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be amended by adding, "or five" after "paragraph 1".

This motion is required to support the amendment to section 2 of the bill, paragraph 5 of subsection 7(1.2) of the Pesticides Act previously discussed, by providing the Lieutenant Governor in Council with the authority to prescribe conditions and regulations that must be complied with in order for the prescribed use to be excepted from the use prohibition.

Again, the intent of this simply is to strengthen the section that I think all members of the committee supported.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Flynn. Any commentary? Questions? Queries? Going once.

Seeing none, we'll now consider government motion 10.

Those in favour of government motion 10? Those opposed? Government motion 10 is carried.

NDP motion 11. Mr. Tabuns.

Mr. Peter Tabuns: I move that paragraph 48 of subsection 35(1) of the Pesticides Act, as set out in subsection 5(1) of the bill, be struck out.

Again, this speaks to allowing municipalities to pass stricter pesticide bans. Previous arguments have been made.

The Chair (Mr. Shafiq Qaadri): Thank you. Consider now—a recorded vote—NDP motion 11.

Ayes

Tabuns.

Nays

Brotten, Dhillon, Flynn, Levac, Ramal.

The Chair (Mr. Shafiq Qaadri): Motion 11 is defeated.

NDP motion 12.

Mr. Peter Tabuns: I move subsection 5(2) of the bill be struck out.

Again, this is related to the approach that would have the government list the pesticides that can be used rather than those that are banned. I think it's far more protective of human health and the environment and one that should be adopted by the government.

The Chair (Mr. Shafiq Qaadri): Comments?

Mr. Kevin Daniel Flynn: Only to say, Chair, that we would not agree. We understand the sentiment being expressed by Mr. Tabuns and feel that we're proceeding in the right way on this matter.

The Chair (Mr. Shafiq Qaadri): Thank you. Recorded vote on NDP motion 12.

Ayes

Tabuns.

Nays

Brotten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 12 is defeated.

NDP motion 13.

Mr. Peter Tabuns: I move that subsection 35(3) of the Pesticides Act, as set out in subsection 5(2) of the bill, be struck out.

This again relates to protecting the ability of municipalities to pass stricter pesticide bans.

The Chair (Mr. Shafiq Qaadri): Thank you. Further comments? Seeing none, a recorded vote on NDP motion 13.

Ayes

Tabuns.

Nays

Broten, Dhillon, Flynn, Levac, Ramal, Scott, Shurman.

The Chair (Mr. Shafiq Qaadri): NDP motion 13 is defeated.

This now brings to an end consideration of individual amendments to section 5.

We'll now consider the section as a whole. Shall section 5, as amended, carry? Those in favour? Those opposed?
Section 5, as amended, carried.

To date we've received no amendments for section 6, so we'll proceed unless there are comments directly to its adoption.

Shall section 6 carry? Carried.

We'll now proceed to NDP motion 14.

Mr. Peter Tabuns: Withdrawn, Chair.

The Chair (Mr. Shafiq Qaadri): Thank you. We'll consider section 7. Shall section 7 carry? Carried.

We'll now consider NDP motion 15.

Mr. Peter Tabuns: Withdrawn.

The Chair (Mr. Shafiq Qaadri): Thank you, Mr. Tabuns.

Shall the title carry? Carried.

Shall Bill 64, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

Are there any further questions or comments, or applause? Seeing none, I declare this committee adjourned.

The committee adjourned at 1505.

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<http://tinyurl.com/6xq7w5>

Find all debates about Bill 64 at:

http://www.ontla.on.ca/web/house-proceedings/house_current.do

Second Reading:

http://www.ontla.on.ca/web/house-proceedings/house_detail.do?Date=2008-05-12&Parl=39&Sess=1&locale=en#P875_211420

First Reading:

<http://hansardindex.ontla.on.ca/hansardeissue/39-1/I031a.htm>

STATEMENTS BY THE MINISTRY
AND RESPONSES
PESTICIDES

Hon. John Gerretsen: It's my honour to rise and tell the House about important legislation that, if passed, would ban the sale and use of pesticides for cosmetic purposes across Ontario. This is the first step in Ontario's new toxics reduction strategy, which we announced last November. This proposed bill is designed to protect our people's health, particularly that of our children.

Our government understands that by acting now, by tackling toxics in our air, land and water, and in consumer products, we can help safeguard our environment. More and more, we understand how our health and the health of future generations is linked to the amount of chemicals seeping into our environment. It's up to us all to take a stand and make a difference.

To that point, I would like to acknowledge Jan Kasperski, with the Ontario College of Family Physicians, who is in the gallery today. She's joined by Susan Koswan, Sari Merson and Tania Orton, with Pesticide Free Ontario; Doris Grinspun, of the Registered Nurses' Association of Ontario; Gideon Forman and Farrah Khan, of the Canadian Association of Physicians for the Environment; and Irene Gallagher, with the Canadian Cancer Society. Welcome to each and every one of them, and thanks for the hard work they have done on this issue.

Jan is the CEO of the Ontario College of Family Physicians, and tells the story of how her grandson was running onto a lawn that had just been sprayed with pesticide. He was too young to read the warning sign. He picked up a ball and put it in his mouth, and became gravely ill. As she states, "We need to choose the health of our children over the odd weed in our yard."

Our government agrees. We listened to Jan and to others throughout the province on this issue. We also listened to medical experts, who have made a convincing case for reducing our exposure to pesticides, particularly for children who are susceptible to the potential harmful effects. Our proposed legislation benefits from their input, as well as from the insight of diverse groups representing environmental, agricultural, industrial and municipal interests, as well as many others.

Our government would like to recognize the good work of the Ontario chapter of the Canadian Cancer Society, Cancer Care Ontario and so many other organizations that fight this terrible disease and support those who suffer. The Canadian Cancer Society has expressed its concern over growing evidence that exposure to pesticides may cause an increased risk of some types of cancer. Numerous other studies have also shown that pesticides can negatively affect human health.

Therefore, since the cosmetic use of pesticide has no health benefit, and does have the potential to cause harm, and since there are environmentally friendly alternatives for lawn and garden care, our government is proposing this ban on both the use and sale of pesticides. Pesticides, including herbicides, insecticides and fungicides, would be banned for use for cosmetic purposes; for example, sprays and chemicals that are applied merely to improve the appearance of lawns, gardens, parks and schoolyards.

The proposed legislation would allow pesticide use in Ontario's agricultural and forestry sectors, since they already have strict rules on the storage and application of pesticides through certification and licensing processes. An exception will also be made for golf courses; however, that exception would only be given if golf courses comply with the requirements set out in regulations that would be made if the legislation is enacted, through integrated pest management programs. It would also allow pesticides to be used, as needed, to ensure public health; for instance, to fight West Nile virus.

If passed, this legislation would authorize the province to develop a regulation listing the specific pesticides and active ingredients in lawn and garden products that would be banned. We're also posting the proposed legislation on the Environmental Bill of Rights registry. We ask that interested parties follow the link on the Ministry of the Environment's home page to review the legislation and provide their comments by May 22 of this year. We hope that the proposed legislation will be passed and a ban will go into effect for the 2009 growing season.

Today we proposed a ban on the cosmetic use and sale of pesticides across the province. This is an important step towards protecting Ontario's children and families from needless exposure to harmful chemicals. I urge all the members of this House to support this legislation.

The Speaker (Hon. Steve Peters): Responses?

PESTICIDES

Mr. Toby Barrett: I will say off the top, on behalf of myself and many of my caucus colleagues, that we support the concept of eliminating, obviously, the non-essential use of pesticides, albeit to protect the health and environment of this province. We might even support this bill-although I see it's only three pages-provided it's not, as we've heard in the media today, public relations puffery, which this government is renowned for.

Now, as far as an outright ban-a ban on the sale and use-well, that's why we have debate. That's why we have public hearings. That's why it's so important to review the literature, to review the research and the evidence.

To be more specific, we support a science-based approach to ensuring our health and environment are protected when it comes to the use of chemicals, not only on our food, but on our parkland, our lawns, our gardens, our farms, our golf courses. This is a very important issue, not to be decided on emotion or based on a gimmick presented during the very important Earth Day celebration that goes back decades and not to be rushed through as a mere three-page bill.

I can also say that to achieve our shared goals, take a look at farmers and what they've achieved in reducing their pesticide use by 52% over the past 15 years, through proper, informed use that stresses the benefits of IPM-integrated pest management. Clearly, we can learn from the example our agricultural producers have set, farmers who are required to go through training and certification every five years, as I think you've just mentioned.

I certainly look forward to debating this legislation's place within the myriad, the constellation, of rules and regulations, legislation that's already in existence, not only here in Ontario but right across Canada.

For instance, in the province of Ontario, pesticides and their use are already regulated federally: The federal Pest Control Products Act controls the sale and use of pesticides in Canada. The Food and Drugs Act allows for the setting of maximum limits for pesticide residue in foods. The Environmental Protection Act includes numerous provisions to protect the environment and human health from injury from pesticides. The Fertilizers Act requires registration of the fertilizer-pesticide mixtures. The Feeds Act is to prevent contamination of livestock feeds. And here, within our own province of Ontario, as we know, we have the Ontario Pesticides Act, we have the Municipal Act, we already have the Weeds Act and the forest sustainability act.

We have met with stakeholders on all sides on this issue in the wake of the government's publication of its proposal on the Environmental Bill of Rights. I do note there's very real concern that emotion does not override what we can learn from science and from experience, from advice and regulations as we see from the federal PMRA-the pesticides management review agency.

I also do note-I hear concerns-that it is important to be clear of definitions of cosmetic use distinguished from curative and public health issues. There's confusion. Are we talking about cosmetic use or cosmetic pesticides? As well, in rural Ontario, the current proposal has led to questions emanating from the possible introduction of a ban on the use of Health Canada-approved pest control products in urban centres, while permitting their use in rural settings. Some do point out that this precedent establishes two standards for health and safety for Ontario residents. Clearly, where our health and the health of our environment are concerned, a double standard is neither desirable nor acceptable.

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Further, I hear in rural Ontario the concern that this proposed legislation may well be a slippery slope. It seems to suggest that there's something inherently wrong with the various herbicides, insecticides, fungicides, and I would go on to mention algacides and rodenticides, whether they be used in farming, forestry, on golf courses or on homeowners' properties. Is it okay to walk on a sprayed lawn but not on a sprayed golf course? Or, is it okay to eat food that has been treated with some of the products we're discussing today?

PESTICIDES

Mr. Peter Tabuns: New Democrats look forward to ensuring that the bill that's been presented by the minister actually has the teeth to deliver the ban on the aesthetic use of pesticides that Ontarians want.

Let's be clear that praise today should be for Ontario's municipalities, like the city of Toronto, and Ontario's activists, many of whom are here today: the RNAO, the Canadian Association of Physicians for the Environment, the Ontario College of Family Physicians, and the David Suzuki Foundation—a variety of people who over a long period of time have worked hard to make sure that action would be taken in this province. They've done the heavy lifting on this issue.

It was actually the city of Toronto that, 10 years ago, first brought forward in this province the legislation, and was joined by 30 other municipalities like Oakville, Georgina, Caledon, Guelph, Newmarket, Markham, Vaughan, London and Peterborough. Those were the pioneers. They were the people who went through the heavy-duty fights in the council chambers to make this happen.

In January I had the opportunity to talk to a fellow in London who had been on the other side of this fight when London brought forward its bylaw. He had been a pesticide applicator in the lawn care business. He found that, in the end, when that bylaw came into effect, he did extraordinarily well switching to analysis of lawns and their need for nutrients and feeding lawns with nutrients as a way of having them resist pests and weeds without using herbicides or pesticides—a huge business opportunity for him and a huge business opportunity for this province as a whole.

So it was the city of Toronto and these activists who fought the chemical companies all the way to the Supreme Court of Canada. That's what these folks did, and we need to thank them today, on Earth Day. They have been the leaders.

I want to say to you, Speaker, and to those in the gallery who are listening today that they've gone quite a distance. But I have to note to them that an act that was the key recommendation from the Walkerton inquiry, the Sustainable Water and Sewage Systems Act, has not yet been proclaimed by this government even though it has been passed. So my caution to all of you: You've come quite a distance. This act may well be passed in this Legislature. Will it in fact be proclaimed?

A second point: If proclaimed, will it be enforced? Last year, the Environmental Commissioner of Ontario reported widespread non-enforcement of environmental laws in this province. His report was entitled *Doing Less with Less*. In fact, there are not adequate resources with the Ministry of Natural Resources or the Ministry of the Environment to enforce the laws that are on the books. Those laws that are on the books but going unenforced may just as well not even be on the books.

I have to say to the people in this Legislature and to those who are present in the gallery today that you have to be prepared to go the next few steps to make sure that if legislation is passed that's useful, then you have to make sure it gets proclaimed so that it comes into effect. Then they will have to act to ensure that it is enforced. Those are things that have to happen. It is not good enough to simply put a law on a table, declare a virtue and walk off. The other steps have to be there.