



## Ontario appeal court dismisses grain farmers' appeal over pesticide rules



Diana Mehta, The Canadian Press  
Published Wednesday, April 20, 2016 4:29PM EDT

TORONTO -- Ontario's grain farmers were dealt a legal blow Wednesday as the province's highest court dismissed their appeal over controversial pesticide regulations intended to protect bees in the province.

The case pitted the Grain Farmers of Ontario against the province's Ministry of Environment and Climate Change over the issue of seeds treated with neonicotinoids -- a class of pesticide used to protect crops from harmful insects.

The Ontario government unveiled restrictions on the use of neonicotinoid insecticides last year -- a first in North America -- after beekeepers lost more than half their hives in 2013-14.

The Grain Farmers of Ontario argued the rules were unworkable, of little benefit and would impair the ability of farmers to protect their crops from damaging insects.

They took the case to Ontario's Court of Appeal after a lower court dismissed their application for a declaration interpreting the new rules, as well as their motion to stay the regulation until its application was ruled on.

In dismissing the appeal, the higher court found the pesticide regulations were not ambiguous.

"GFO has not identified a genuine dispute about the farmers' rights and obligations," its ruling said. "To grant the remedy that GFO seeks would be tantamount to amending a regulation through interpretation, a remedy well outside the court's discretionary power."

The GFO, which represents 28,000 barley, corn, oat, soybean and wheat farmers in Ontario, said it was "extremely disappointed" with the court's ruling.

"The decision is both frustrating and disheartening," said GFO chair Mark Brock.

In the wake of the court decision, Brock said the group will now commission an audit of the impact of the pesticide regulations on grain farmers and present the findings to the Ontario government.

Crop seeds are treated with neonicotinoids before they are planted and as the plant grows, the chemical remains in the nectar and the pollen that bees and other pollinators feed on. The pesticide has also been found in crop dust after the plants are harvested.

Under the new rules, farmers cannot use seed treated with neonicotinoids on half their land this year, and on any of it in 2017, unless crop and soil assessments prove they have crop-eating worm or insect infestations.

The appeal court pointed out that the GFO did not challenge the constitutionality of the new rules, or their validity, but rather, claimed that the rules were unclear -- something the court disagreed with.

"The regulatory preconditions that must be satisfied before a farmer can purchase and use treated seeds are clear," the court said. "Although its policy dispute with Ontario is real and may have significant consequences for GFO, the problem of legal interpretation alleged by GFO is artificial -- the dispute between the parties does not turn on the interpretation of the regulation."