

Action Alert

The key points to emphasize are:

1. The provincial ban should still allow municipalities to pass more restrictive bylaws, as stated by Premier McGuinty when the legislation was introduced.
2. The only exemptions should be to protect public health. There should be no exemptions for "other prescribed uses".
3. The Bill needs to focus on products that will be allowed rather than a list of prohibited active ingredients and products, with effective mechanisms to ensure the integrity of that list. e.g. Roundup/glyphosate is currently NOT on the banned list, but should be.

2. Write to The Honourable Dalton McGuinty, Minister Gerretsen and your own MPP

dmcguinty.mpp.co@liberal.ola.org cc: jgerretsen.mpp.co@liberal.ola.org cc: **your own MPP**

Please personalize and send a letter, emphasizing the following points:

Sample Letter:

To The Honourable Dalton McGuinty,

I am writing to say that, although I support most of the proposed Provincial Pesticide Legislation banning the sale and use of lawn and garden pesticides, I strongly believe that we need the following changes to Bill 64 so that this legislation does not leave us vulnerable to future, unnecessary pesticide use.

- a) Remove the clause, "Bylaw-laws inoperative - (5) A municipal by-law is inoperative if it addresses the use, sale, offer for sale or transfer of a pesticide that may be used for a cosmetic purpose". Cities and towns should retain the authority to enact pesticide bylaws that are more health-protective than the provincial ban.
- b) Remove the clause "Excepted uses (2) 5. "Other prescribed uses". The only exemption should be to protect public health.
- c) The Bill needs to focus on products that will be allowed rather than a list of prohibited active ingredients and products, with effective mechanisms to ensure the integrity of that list. e.g. Roundup/glyphosate is currently NOT on the banned list, but should be.

I believe these changes are needed to provide the best protection to all Ontario residents.

Sincerely,

Official website where you can find your MPP contact information

PFO Comments:

June 12, 2008

Attn: Dr. Shafiq Qaadri
Chair, Standing Committee on Social Policy

Re: Bill 64 Cosmetic Pesticides Ban Act

As the spokespersons for Pesticide Free Ontario, we are writing to express our support for Bill 64, the Cosmetic Pesticides Ban Act.

However, we believe the following two changes are critical for this Bill to effectively protect human and environmental health from unnecessary pesticide exposure. Our rationale follows.

- **Remove clause that renders municipal bylaws inoperative**

- **Remove the exemption for “other prescribed uses”.**

Municipal Powers

1. The unanimous opinion of our legal team is to entirely remove the clause that renders municipal bylaws inoperative. This area of law is well settled by both the highest federal and provincial courts, and supported by recent amendments to the Municipal Act in support of municipal bylaws and multi-level regulation. Only where there is a real operational conflict that makes it impossible to comply with both, will the provincial law prevail. A stricter municipal bylaw is not an operational conflict. Replacing the clause muddies the current clarity and undermines the strong court precedents.
2. Although Bill 64 is regarded as levelling the playing field, the legislation should be considered “the floor not the ceiling”, allowing more restrictive municipal bylaws.
3. Pre-empting municipal power is contrary to recent trends in Canadian municipal law where cities are given progressively greater regulatory authority.
4. Quebec’s success at having the lowest rate of pesticide use in the country is due, in part, to more restrictive municipal bylaws that prohibit the use of products still for sale (e.g. dicamba, mecoprop, imidicloprid, glyphosate)
5. Municipalities must retain the authority to act in response to local conditions, such as differences in geography.

RECOMMENDATION: Remove Entire Clause:

“By-laws inoperative

(5) A municipal by-law is inoperative if it addresses the use, sale, offer for sale or transfer of a pesticide that may be used for a cosmetic purpose”

Remove exemption for other prescribed uses

- 1. Bill 64’s open-ended exemption for “other prescribed uses” of pesticides is a gaping loophole that should be closed. It has the potential to authorize exceptions, such as weed infestations, that would run counter to the overall purpose of a bill designed to prohibit pesticide uses.
 2. The proposed ban should apply to all non-agricultural, outdoor uses of pesticides, on both urban and rural properties, the only exemption being to protect public health, where the benefit exceeds the risk of using pesticides.
 3. It is crucial that any exemptions are very specifically defined and that overall policy decisions be determined by the elected legislature and not delegated to the unelected provincial administration.

RECOMMENDATION: Under Excepted Uses remove “5. Other prescribed uses”

Other important issues

The following would also improve the legislation. Our rationale follows.

- **The products/active ingredients should have a banned AND an acceptable list;**
- **Golf courses should receive a limited exemption for a period of three years, subject to regulation; and**
- **Synthetic fertilizers should have restrictions on their use.**

List of acceptable products

1. The list of banned products/active ingredients is extensive, so for clarity and ease of use, a list of acceptable products/active ingredients for sale and use should be created simultaneously.
2. Assigning active ingredients/products to either a banned or acceptable list for lawn and garden use creates a workable system for existing, new and re-evaluated active ingredients/products.
3. Products containing active ingredients in the same chemical class must be carefully considered. For example, imidacloprid (Merit) is on the proposed banned list, but another neonicotinoid insecticide, acetamiprid, is not. Both break down into 6-chloronicotinic acid and then into the persistent and toxic 2-chloropyridine. The breakdown products are more toxic to mammals than the parent compound. [1]
4. Ontario legislation should aspire to the highest international standards of Best Practices, such as the substitution principle in Sweden, which allows only the most benign products.
5. Bill 64, as written, is less restrictive than most municipal bylaws on allowed products, the most glaring example being glyphosate/Round-up.
6. Dr. Richard van der Jagt, Chair of the Canadian Leukemia Studies Group writes, "I find the data suggesting the genotoxicity of glycoposphate herbicides leading to an increased incidence of myeloma and non-Hodgkin's lymphoma is consistent with what we have seen in other large and small studies. The findings recur frequently enough that this is very worrisome. "As I have pointed out before, the one non-Hodgkin's lymphoma that has the biggest rise in incidence in Canada is the one that has been demonstrated to be linked on a dose-response relationship to exposure to pesticides. All of this is strong grounds for moving far more rapidly to a precautionary principle and total and outright bans where there is no true justification of use other than for health purposes." [2]
7. To harmonize with current municipal pesticide bylaws, we recommend the following list of acceptable active ingredients/products.
 - A product that uses pheromones to lure pests, sticky media to trap pests or "quick-kill" traps for vertebrate species considered pests, such as mice and rats.
 - A product that is or contains only the following active ingredients:
 - A soap;
 - A mineral oil, also called "dormant or horticultural oil";
 - Silicon dioxide, also called "diatomaceous earth";
 - Biological pesticides, including Bt (*Bacillus thuringiensis*) and nematodes
 - Borax, also called "boric acid" or "boracic acid";
 - Ferric phosphate;
 - Acetic acid;
 - Fatty acids;
 - Sulphur; or
 - Corn gluten meal.

Golf courses

1. With a set time frame and prescribed regulations, **golf courses should become pesticide-free.** There are several examples of organic or pesticide-free golf courses in Canada. We include links to several on-line resources:

Blackburn Meadows – Salt Spring Island – organic golf course

<http://www.blackburnmeadows.com/>

Fiddler's Green Golf Course – Nova Scotia – organic golf course

<http://users.eastlink.ca/~fiddlersgreen/>

Organic Golf Coming to Alberta (Edmonton)

<http://www.cbc.ca/canada/calgary/story/2006/07/10/organic-golf.html>

An Organic Approach to Golf Course Management - U.S.

http://www.usga.org/turf/green_section_record/2006/jul_aug/anorganic.html

Synthetic Fertilizers

1. The use of synthetic fertilizers on lawns is a significant contributor to non-source point water pollution and eutrophication of surface waters. "Nitrogen pollution will undoubtedly become an even larger global problem if agricultural and urban development continues in developed and developing countries without the incorporation of safeguards to reduce the amount of nitrogen that enters aquatic environments."^[3] We are concerned about the potential for abuse from companies offering contracts of "organic" lawn care that is nothing more than excessive use of synthetic fertilizers.
2. Research by Dr. David Patriquin at Dalhousie University has shown that "Excess N (nitrogen) in soil and plants stimulates pests (including plant diseases) through a variety of mechanisms, while some pests are stimulated by plant N deficiency." See Appendix A.

Pesticide Free Ontario

Pesticide Free Ontario is a volunteer, citizens' network, comprised of individuals and groups across Ontario, who have worked and continue to work towards replacing pesticide use on lawns and gardens with sustainable practices.

Our members have been actively engaged, some for decades, in lobbying for restrictive municipal bylaws and education through informative literature, websites, Dandelion Festivals, "WeedGee Kidz", workshops, participating in related community events, articles, op/ed pieces and letters to the Editor, and more.

The efforts and goals of Pesticide Free Ontario are supported by numerous prominent health and environmental organizations.

Former Commissioner of the Environment and Sustainable Development, Johanne Gelinás' said, "that Ottawa is not managing pesticides effectively, nor can it honestly say that pesticide use in Canada is safe." Dr. Neil Arya, recently the representative for the Ontario College of Family Physicians on the Pest Management Advisory Committee, continues to raise concerns. See Appendix B.

Thank you for the opportunity to participate in such an important process on Bill 64. We look forward to Ontario setting the standard for the world's most restrictive legislation.

Sincerely,

Susan Koswan, Tania Orton, Sari Merson, Janet May
Pesticide Free Ontario

^[1] email correspondence from Meg Sears, MEng (Chemical Engineering and Applied Chemistry), PhD Biochemical Engineering, Science analyst, medical writer, and adjunct investigator at the Children's Hospital of Eastern Ontario Research Institute. megsears@nrc.ca

^[2] email correspondence from Richard van der Jagt, MD, FRCP (C), Associate Professor of Medicine, Chair, Canadian Leukemia Studies Group (CLSG), University of Ottawa, Ottawa Hospital-General Campus, 501 Smyth Road, Ottawa, Canada K1H 8L6 tel. 613-737-8804

[3] Rouse, J.D., Bishop C.A., Struger J, Canadian Wildlife Service, *Nitrogen Pollution: An Assessment of its Threat to Amphibian Survival*
Environment Canada, Burlington, Ontario, Canada