

# Montgomery County Pesticide Ban May Go Into Effect, Following Court Ruling



Jacob Fenston



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Some homeowners worry without pesticides, they won't be able to maintain their beautiful lawns.

Orlin Wagner / AP

Montgomery County's 2015 ban on "cosmetic pesticides" for lawn care may finally be implemented. It would prohibit the use of certain chemicals that have been linked to cancer and other conditions. The law was overturned by a Montgomery County circuit court in 2017. Now, an appeals court has [struck down](#) that decision.

Montgomery County Councilmember Tom Hucker, one of the sponsors of the ban, called the ruling "a huge victory for public health and the environment."

"The great majority of objective scientific studies tell us that pesticides cause cancer, nervous system

disorders, reproductive dysfunction, immune system disorders, and many other conditions,” says Hucker.

[The legislation](#) also cited concern over the effect of pesticides on waterways, as well as honeybees and other pollinators.

Many residents opposed the legislation, worrying about the effect it would have on the lushness of their lawns. The pesticide industry and landscaping industry weren’t happy either. Several Montgomery County residents filed suit against the county over the pesticide ban, along with several local lawn care companies.

The plaintiffs argued that the legislation was in conflict with, and preempted by, state pesticide law. The circuit court judge agreed, writing that the law “flouts decades of State primacy in ensuring safe and proper pesticide use.” In other words — the county overstepped its authority, and should defer to Maryland state law.

### **Following In Rachel Carson’s Footsteps?**

The appeals court judge, Robert Zarnoch, referred in his decision to famed environmentalist Rachel Carson, whose 1962 book “Silent Spring” is credited with jumpstarting the modern environmental movement and leading to the creation of the Environmental Protection Agency. (She wrote the book while living in Montgomery County.)

“Carson’s examination of the health impacts of DDT and other pesticides galvanized the public, and the next decade saw Congress enact a broad range of statutes that are foundational to modern environmental law,” wrote Zarnoch. “Montgomery County claims, in essence, that it is following in these footsteps, but we must determine whether it has done so consistently with State law.”

Zarnoch ruled that Maryland law does not prohibit local governments from regulating pesticides. “Accordingly, we conclude that the citizens of Montgomery County are not powerless to restrict the use of certain toxins that have long been recognized as ‘economic poisons’ and which pose risks to the public health and environment,” wrote Zarnoch.

### **Would The Ban Really Reduce Pesticide Use?**

“What are we talking about? This is not the ‘Silent Spring,’” says Eric Wenger, president of Complete Lawncare, one of the plaintiffs in the case. “I am a lover of the environment.”

Wenger says he opposes the law, not just because of the effect it will have on his business. He says it’s poorly written, and won’t actually lead to a decrease in pesticide use. The law prohibits the application of pesticides in cases where children are likely to come in contact with the chemicals, but it does not ban possession or sale — meaning you’ll still be able to buy it at your local garden center or hardware store.

Wenger says the law will have the effect of keeping professionals — like his staff — from applying pesticides, causing homeowners to do it themselves.

“It literally takes the people that are trained to apply these things in a safe manner — it takes them out of the picture — and it puts it into the hands of folks who are not necessarily trained.”

The law specifically excludes some of the grassiest parts of the county — golf courses and playing fields. It also exempts agricultural land.

It’s still unclear when the law could go into effect. The plaintiffs can still appeal the decision to the state’s highest court. “I am inclined to fight this ruling,” says Wenger.

The Montgomery County Attorney is reviewing how quickly the law can be implemented.

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Jacob Fenston is WAMU's environment reporter.

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