

# **Ontario cosmetic pesticide ban update - Landscape Ontario**



Licensed professionals want regulation tweaked to allow access to new lower-risk products.

---

## **By Jordan Whitehouse**

It's been almost a decade since Ontario's controversial cosmetic pesticides ban was put in place, and since then and November 2018, 92 charges with convictions have been levelled against 37 individuals or companies from the province's lawn care industry. From 2013 to 2018, there were an average of 4.5 prosecutions with convictions per year.

That's not nearly enough, say some.

"There's so much more cheating going on, and they know it," says Gavin Dawson, the chair of Landscape Ontario's Turf Management Sector Group.

When the provincial-wide ban came into effect in April 2009, it was the toughest pesticide rule book in Canada, outlawing more than 250 products for sale and over 95 ingredients for cosmetic uses on lawns, vegetable and ornamental gardens, patios, driveways, cemeteries, and in parks and school yards. It also superseded any local municipal pesticides bylaws.

Dawson, the region technical manager at TruGreen Canada, says they lost 50 per cent of their business during the first year of the ban. Other similar companies, both large and small, were in similar "absolute free fall" for the next five years, he adds.

"Those that survived were probably the larger companies. The smaller, family-owned companies either divested into other business interests, went under, or perhaps sold their business."

But he and others paying attention also saw — and continue to see — some of those companies and private homeowners forging ahead, using the same banned products they always have. And Dawson understands why.

"In some cases, you're talking about family-owned businesses where it's either find a way to do business in an impossible environment or go out of business."

So where are they finding these banned products? On websites like [lawnproducts.ca](http://lawnproducts.ca) or, as CBC has reported, in places like New York state, where they're legal and where they're being brought back across the border.

In other words, this is a complicated issue with much at stake and many different players involved.

When the Ministry of Environment announced the ban in 2009, they said it would "create one clear, transparent and understandable set of rules across the province." Ten years later, that clarity still seems illusive.

## **What's the problem?**

Critics of the ban say the problem starts with how the government arrived at banning these particular products and ingredients to begin with.

“Simply put, it was not based on science,” says Ken Pavely, sales manager at Lawn Life Natural Turf Products and a member of Landscape Ontario’s Turf Management Group.

In an email, one of the province’s pesticide specialists, Scott Olan, writes that they relied on Health Canada guidelines to determine which pesticides would be allowed.

And yet they didn’t completely rely on those guidelines to determine which pesticides to ban, since some of those banned products still get the okay from Health Canada.

Plus, asks Dawson, if the goal was to improve public health and safety, why do some of the permitted pesticides require more stringent personal protective equipment than some of the banned pesticides? And since there are exceptions to the ban for industries like golf and agriculture, how did the government determine that this regulation would provide the greatest impact on risk reduction?

“We strongly feel that it has actually done the opposite of improving public health and safety,” says Dawson. “It’s not understood or respected by the general public, and everyone knows very well that it can’t be properly enforced.”

Scott Olan says that the ministry manages its approach to compliance and enforcement through education and outreach, inspections, site visits, response to incidents, voluntary abatement, orders, tickets and prosecutions. When a provincial officer becomes aware of non-compliance, the officer has a number of tools available to ensure compliance, such as provincial officer’s orders and tickets. More serious matters are referred to the ministry’s Investigations and Enforcement Branch for possible prosecution.

“Over the last few years, the ministry has received many complaints from licensed lawn care companies who want everyone to follow the same rules,” writes Olan. “In all cases of non-compliance, the ministry follows-up to ensure that individuals and companies take appropriate actions to achieve compliance.”

One big reason that enforcement plan isn’t working, says Dawson, is because it makes it easier to crack down on professional, licensed applicators than fly-by-night, unlicensed companies or do-it-yourself homeowners.

“Although unintended, this process of selective enforcement is a form of natural selection and is resulting in an evolution in urban pesticide use, away from licensed professionals and toward an underground market or untrained do-it-yourselfers.”

## **What now?**

The other goal with the pesticide ban, at least as it was conveyed to the lawn care industry, was that it would encourage innovation and the development of new products. Again, though, it’s done the opposite, because it’s so stringent, says Pavely.

“There’s no provision, for instance, for low-risk synthetic products that have been shown to do a good job, that are target-oriented, and that don’t have a detrimental effect on off-target species or the environment. The framework hasn’t kept up with technology, and is 10 years or more behind the times.”

Such rigidity has also created a ripple effect across the country, says Dawson. “Any manufacturer or developer or scientist looking to get a product into Canada first

looks at Ontario to see if it will be allowed because it's such a big economy with respect to landscape care. And if it's not, they don't even bring it into the country."

So, what's to be done about all of this now?

Scott Olan says there are no specific plans for significant changes to the ministry's overall approach to identifying non-compliance, let alone to penalties.

As for loosening the regulation to help it "get with the times," Pavely thinks that's very much up in the air.

Gavin Dawson is cautious, too, saying that he's a realist and that he's well aware of the attitude the general public has about pesticides — that they're all toxic and that anything that kills anything will kill or harm people, too.

"But," he says, "our point is this: there are new lower-risk products out there that aren't permitted under this regulation that should be. So, I think it's incumbent upon this government to tweak the regulation, to put in place a mechanism to allow licensed professional in our industry to have access to those products."

In doing so, he thinks the regulation will actually do what it was meant to: improve public health and safety, and innovation.

"If all of this was as serious of a public health threat as the 2009 government claimed it to be, they would have put infrastructure in place to support all of that. And they simply didn't."