

Montgomery County's Lawn Care Law

Town of Somerset
January 29, 2017



Background/History

- October 2012: District of Columbia *Pesticide Education and Control Amendment Act* – Regulates pesticide use on city property, schools, daycare centers and near waterways
- July 2013: Takoma Park *Safe Grow Act* – Regulates pesticide use on public and private lawns
- September 2013: County Council Transportation & Environment Committee work session – Broad discussion on variety of issues related to pesticide regulation and use
- October 2014: Introduction of County Bill 52-14 – Introduction of bill preceded by letter from Councilmember George Leventhal outlining rationale for the legislation



Council Rationale for Adopting the Lawn Care Law

- **Human Health** – Pesticides, by definition, contain toxic substances, which may have detrimental effects on human health and the environment and, in particular, on children
- **Water Quality** – Clean water is essential to human life, wildlife and the environment, and the unnecessary use of pesticides and herbicides for cosmetic purposes contributes to the deterioration of water quality
- **Effects on Pollinators** – Bees and other pollinators are crucial to our ecosystem, and the use of neonicotinoid insecticides has been repeatedly and strongly linked with the collapse of honey bee colonies, as well as harm to aquatic insects and birds



Council Rationale for Adopting the Lawn Care Law (cont'd)

- **Alternatives Are Available** – There are non- and less-toxic alternatives and methods of cultivating a healthy, green lawn that do not pose a threat to public health, and the use of pesticides for cosmetic purposes is not necessary for the management of lawns, especially in light of the risks associated with their use
- **Federal & State Regulation Insufficient** – Pesticide regulations at the federal and State level, and the risk assessments that inform them, do not mimic real world exposure scenarios and fail to account for synergistic or cumulative effects of multiple chemicals acting on the same pathway; and often fail to take sensitive populations like children and pollinators into account



Stated Purpose and Goal of the Lawn Care Law

- The stated purpose of the law is to:
 - Protect the public health and welfare
 - Minimize the potential pesticide hazard to people and the environment, consistent with the public interest in the benefits derived from the safe use and application of pesticides
- The stated goal of the law is to:
 - Inform the public about pesticide applications
 - Minimize the use of pesticides for cosmetic purposes, while not restricting the ability to use pesticides in agriculture, for the protection of public health, or for other public benefit



Applicability of the Lawn Care Law

- Under state law (Section 4-111 of the Local Government Article of the Maryland Code), municipalities have the authority to opt out of certain County laws.
- Currently, the law would not apply in:
 - Chevy Chase Village
 - City of Gaithersburg
 - Town of Garrett Park
 - Town of Kensington
 - Town of Laytonsville
 - Town of Poolesville
 - City of Rockville
 - **Town of Somerset**
 - City of Takoma Park
 - Town of Washington Grove



Legal Challenge

- There is currently a lawsuit pending in the Circuit Court challenging the Lawn Care Law.
- The plaintiffs in the lawsuit argue that the portion of the law that applies to private property is preempted by, and in conflict with, State law.
- The plaintiffs are seeking a declaration to this effect, and an injunction precluding the County from enforcing the law.



What Does the Lawn Care Law Do?





What Does the Lawn Care Law Do?

- Provides that only *Listed Pesticides* can be used on lawns, playgrounds, and children's facilities in Montgomery County (subject to exceptions)
- Establishes new notification requirements for pesticide retailers and applicators
- Requires an extensive public outreach and education campaign related to the law and pesticide use
- Expressly bans use of neonicotinoids on County property



What Does the Lawn Care Law Do?

- Provides that only *Listed Pesticides* can be used within 25 feet of a waterbody on Park property (subject to exceptions)
- Requires the Parks Department to implement a pesticide-free parks program:
 - The maintenance of certain parks entirely with listed pesticides
 - A pilot program that involves the use of only listed pesticides on at least five playing fields
 - A plan submitted to the County Council by September 2019 for transitioning to maintenance of all playing fields with only listed pesticides by 2020



What Doesn't the Lawn Care Law Do?

- It doesn't affect which pesticides can be sold in the County
- It doesn't place restrictions on the use of any pesticides in gardens, on shrubs and trees, or on sidewalks/patios
- It doesn't apply to agricultural activities



What Doesn't the Lawn Care Law Do?





What Substances Can Be Used on Lawns in the County?

- *Listed pesticide* means:
 - a pesticide the active ingredients of which are recommended by the National Organic Standards Board (NOSB) pursuant to 7 U.S.C. §6518, as amended, and published as the National List at 7 C.F.R. §§205.601 and 205.602
 - a pesticide designated a “minimum risk pesticide” under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) §25(b) and listed in 40 C.F.R. §152.25(f)



Exceptions to the Use of Listed Pesticides

- *Registered pesticides* can be used to:
 - control weeds as defined in County Code Chapter 58, Weeds
 - control invasive species as adopted under this law
 - control disease vectors
 - control biting or stinging insects or stinging plants
 - control organisms that threaten the health of trees or shrubs
 - maintain property as part of a utility vegetation management program
 - control indoor pests, if applied around or near the foundation of a building
 - control pests while engaged in agriculture
 - control a pest outbreak that poses an imminent threat to human health or prevent significant economic damage if a registered pesticide is not used



Key Provisions of the Lawn Care Law

- Develop/approve signs and supporting information for retailers that sell pesticides
- Develop information that pesticide applicators must give to customers
- Develop standards for signs that must be posted by pesticide applicators and property owners
- Adopt an integrated pest management (IPM) program for County property



Outreach & Education

- Campaign must provide:
 - NOSB and FIFRA 25(B) listed products
 - Guidance on best practices for organic lawn care
- Information should be provided:
 - Via mail, websites, radio/television, news releases, County cable, posters and brochures
 - In Spanish, French, Chinese, Korean, Vietnamese and other languages as needed





NOSB National List

7 C.F.R. §§205.601

§205.601 Synthetic substances allowed for use in organic crop production.

In accordance with restrictions specified in this section, the following synthetic substances may be used in organic crop production: *Provided*, That, use of such substances do not contribute to contamination of crops, soil, or water. Substances allowed by this section, except disinfectants and sanitizers in paragraph (a) and those substances in paragraphs (c), (j), (k), and (l) of this section, may only be used when the provisions set forth in §205.206(a) through (d) prove insufficient to prevent or control the target pest.

(a) As algicide, disinfectants, and sanitizer, including irrigation system cleaning systems.

(1) Alcohols.

(i) Ethanol.

(ii) Isopropanol.

(2) Chlorine materials—For pre-harvest use, residual chlorine levels in the water in direct crop contact or as water from cleaning irrigation systems applied to soil must not exceed the maximum residual disinfectant limit under the Safe Drinking Water Act, except that chlorine products may be used in edible sprout production according to EPA label directions.

(i) Calcium hypochlorite.

(ii) Chlorine dioxide.

(iii) Sodium hypochlorite.

(3) Copper sulfate—for use as an algicide in aquatic rice systems, is limited to one application per field during any 24-month period. Application rates are limited to those which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

(4) Hydrogen peroxide.

(5) Ozone gas—for use as an irrigation system cleaner only.

(6) Peracetic acid—for use in disinfecting equipment, seed, and asexually propagated planting material. Also permitted in hydrogen peroxide formulations as allowed in §205.601(a) at concentration of no more than 6% as indicated on the pesticide product label.

(7) Soap-based algicide/demossers.

(8) Sodium carbonate peroxyhydrate (CAS #-15630-89-4)—Federal law restricts the use of this substance in food crop production to approved food uses identified on the product label.

(b) As herbicides, weed barriers, as applicable.

(1) Herbicides, soap-based—for use in farmstead maintenance (roadways, ditches, right of ways, building perimeters) and ornamental crops.

(2) Mulches.

(i) Newspaper or other recycled paper, without glossy or colored inks.

(ii) Plastic mulch and covers (petroleum-based other than polyvinyl chloride (PVC)).

(iii) Biodegradable biobased mulch film as defined in §205.2. Must be produced without organisms or feedstock derived from excluded methods.

(c) As compost feedstocks—Newspapers or other recycled paper, without glossy or colored inks.

(d) As animal repellents—Soaps, ammonium—for use as a large animal repellent only, no contact with soil or edible portion of crop.

(e) As insecticides (including acaricides or mite control).

(1) Ammonium carbonate—for use as bait in insect traps only, no direct contact with crop or soil.

(2) Aqueous potassium silicate (CAS #-1312-76-1)—the silica, used in the manufacture of potassium silicate, must be sourced from naturally occurring sand.

(3) Boric acid—structural pest control, no direct contact with organic food or crops.

(4) Copper sulfate—for use as tadpole shrimp control in aquatic rice production, is limited to one application per field during any 24-month period. Application rates are limited to levels which do not increase baseline soil test values for copper over a timeframe agreed upon by the producer and accredited certifying agent.

(5) Elemental sulfur.

(6) Lime sulfur—including calcium polysulfide.

(8) Soaps, insecticidal.

(9) Sticky traps/barriers.

(10) Sucrose octanoate esters (CAS #-42922-74-7; 58064-47-4)—in accordance with approved labeling.

(f) As insect management. Pheromones.

(g) As rodenticides. Vitamin D₃.

(h) As slug or snail bait. Ferric phosphate (CAS # 10045-86-0).

(i) As plant disease control.



FIFRA §25(b)

40 C.F.R. §152.25(f)

Label display name	Chemical name	Specifications	CAS No.
Castor oil	Castor oil	United States Pharmacopeia (U.S.P.) or equivalent	8001-79-4
Cedarwood oil	Cedarwood oil (China)		85085-29-6
Cedarwood oil	Cedarwood oil (Texas)		68990-83-0
Cedarwood oil	Cedarwood oil (Virginia)		8000-27-9
Cinnamon	Cinnamon		N/A
Cinnamon oil	Cinnamon oil		8015-91-6
Citric acid	2-Hydroxypropane-1,2,3-tricarboxylic acid		77-92-9
Citronella	Citronella		N/A
Citronella oil	Citronella oil		8000-29-1
Cloves	Cloves		N/A
Clove oil	Clove oil		8000-34-8
Corn gluten meal	Corn gluten meal		66071-96-3
Corn oil	Corn oil		8001-30-7
Cornmint	Cornmint		N/A
Cornmint oil	Cornmint oil		68917-18-0
Cottonseed oil	Cottonseed oil		8001-29-4
Dried blood	Dried blood		68991-49-9
Eugenol	4-Allyl-2-methoxyphenol		97-53-0
Garlic	Garlic		N/A
Garlic oil	Garlic oil		8000-78-0
Geraniol	(2E)-3,7-Dimethylocta-2,6-dien-1-ol		106-24-1
Geranium oil	Geranium oil		8000-46-2
Lauryl sulfate	Lauryl sulfate		151-41-7
Lemongrass oil	Lemongrass oil		8007-02-1
Linseed oil	Linseed oil		8001-26-1
Malic acid	2-Hydroxybutanedioic acid		6915-15-7
Peppermint	Peppermint		N/A
Peppermint oil	Peppermint oil		8006-90-4

Label display name	Chemical name	CAS No.
Acetyl tributyl citrate	Citric acid, 2-(acetyloxy)-, tributyl ester	77-90-7
Agar	Agar	9002-18-0
Almond hulls	Almond hulls	N/A
Almond oil	Oils, almond	8007-69-0
Almond shells	Almond shells	N/A
alpha-Cyclodextrin	alpha-Cyclodextrin	10016-20-3
Aluminatesilicate	Aluminatesilicate	1327-36-2
Aluminum magnesium silicate	Silicic acid, aluminum magnesium salt	1327-43-1
Aluminum potassium sodium silicate	Silicic acid, aluminum potassium sodium salt	12736-96-8
Aluminum silicate	Aluminum silicate	1335-30-4
Aluminum sodium silicate	Silicic acid, aluminum sodium salt	1344-00-9
Aluminum sodium silicate	Silicic acid (H4 SiO4), aluminum sodium salt (1:1:1)	12003-51-9
Ammonium benzoate	Benzoic acid, ammonium salt	1863-63-4
Ammonium stearate	Octadecanoic acid, ammonium salt	1002-89-7
Amylopectin, acid-hydrolyzed, 1-octenylbutanedioate	Amylopectin, acid-hydrolyzed, 1-octenylbutanedioate	113894-85-2
Amylopectin, hydrogen 1-octadecenylbutanedioate	Amylopectin, hydrogen 1-octadecenylbutanedioate	125109-81-1
Animal glue	Animal glue	N/A
Ascorbyl palmitate	Ascorbyl palmitate	137-66-6
Attapulgit-type clay	Attapulgit-type clay	12174-11-7
Beeswax	Beeswax	8012-89-3
Bentonite	Bentonite	1302-78-9
Bentonite, sodian	Bentonite, sodian	85049-30-5
beta-Cyclodextrin	beta-Cyclodextrin	7585-39-9
Bone meal	Bone meal	68409-75-6
Bran	Bran	N/A



Outreach & Education

- Provide information on requirements of the law
- Focus on organic lawn care practices
- Partner with:
 - Municipal, community, and homeowner associations
 - Property management companies
 - Lawn care providers
 - Pesticide retailers
 - Residents/businesses



Enforcement

- Enforcement will be done by existing Environmental Compliance staff
- Different approach for different audiences
 - Pesticide Applicators
 - Pesticide Retailers
 - Residents/Businesses
- Phased approach
 - Education, notice of violation, citation
 - Letter/email, phone call, site visit



Questions?

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