

Bill No. 52-14
Concerning: Pesticides - Notice
Requirements - [[Non-essential
Pesticides - Prohibitions]] Cosmetic
Pesticide Use Restrictions
Revised: October 6, 2015 Draft No. 11
Introduced: October 28, 2014
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Executive: Returned unsigned;
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Section 3 for specific provisions
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Ch. 46, Laws of Mont. Co. 2015

COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

By: Lead Sponsors Council Vice President Leventhal and Councilmembers Elrich, Hucker, Riemer,
and Navarro

Co-sponsor: Councilmember Floreen

AN ACT to:

- (1) require posting of notice for certain [[lawn]] applications of pesticide;
- (2) [[prohibit the use of certain pesticides on lawns]] [[require a Countywide pesticide use reduction plan]] prohibit the use of certain pesticides on lawns;
- (3) [[require common ownership communities to take certain steps before the application of certain pesticides;
- (4)]] prohibit the use of certain pesticides on playgrounds, children's facilities, and certain County-owned property;
- [[(4)]] [[(5)]] (4) require the County to adopt an integrated pest management program for certain County-owned property; [[and]]
- [[(5)]] [[(6)]] (5) require the Parks Department to take certain steps to reduce the use of certain pesticides; and
- [[(7)]] (6) generally amend County law regarding pesticides.

By amending

Montgomery County Code
Chapter 33B, Pesticides
Sections 33B-1, 33B-2, 33B-3, 33B-4, 33B-5, 33B-6, and 33B-7

By adding

Montgomery County Code
Chapter 33B, Pesticides
Articles 2, 3, and 4~~[[, and 5]]~~
Sections 33B-8, 33B-9, 33B-10, 33B-11, 33B-12, [[and]] 33B-13, and 33B-14~~[[, 33B-15, 33B-16 and 33B-17]]~~

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

The County Council for Montgomery County, Maryland approves the following Act:

1 Sec. 1. Sections 33B-1, 33B-2, 33B-3, 33B-4, 33B-5, 33B-6 and 33B-7 are
2 amended, and Sections 33B-8, 33B-9, 33B-10, 33B-11, 33B-12, ~~[[and]]~~ 33B-13,
3 and 33B-14~~[[, 33B-15, 33B-16 and 33B-17]]~~ are added as follows:

4 **ARTICLE 1. General Provisions**

5 **33B-1. Legislative findings and purpose.**

6 (a) The County Council finds that:

- 7 (1) pesticides have value when they are used to protect the public
8 health, the environment, and our food and water supply;
- 9 (2) pesticides, by definition, contain toxic substances, many of which
10 may have a detrimental effect on human health and the
11 environment and, in particular, may have developmental effects
12 on children;
- 13 (3) exposure to certain pesticides has been linked to a host of serious
14 conditions in children including pediatric cancers, decreased
15 cognitive function, and behavioral problems such as ADHD, and
16 the following conditions in adults: Parkinson's disease, diabetes,
17 leukemia, lymphoma, lupus, rheumatoid arthritis, dementia,
18 reproductive dysfunction, Alzheimer's disease, and a variety of
19 cancers including breast, colon, prostate and lung cancer;
- 20 (4) clean water is essential to human life, wildlife and the
21 environment, and the unnecessary use of pesticides and
22 herbicides for cosmetic purposes contributes to the deterioration
23 of water quality, as substantiated by several studies including the
24 2014 USGS study which found that 90% of urban waterways
25 have pesticide levels high enough to harm aquatic life;
- 26 (5) bees and other pollinators are crucial to our ecosystem, and the
27 use of neonicotinoid insecticides, which have been repeatedly and

28 strongly linked with the collapse of honey bee colonies, as well
29 as harm to aquatic insects and birds, pose an unacceptable risk to
30 beneficial organisms;

31 (6) there are non- and less-toxic alternatives and methods of
32 cultivating a healthy, green lawn that do not pose a threat to
33 public health, and that use of pesticides for cosmetic purposes is
34 not necessary for the management of lawns, especially in light of
35 the risks associated with their use;

36 (7) pesticide regulations at the federal and State level, and the risk
37 assessments that inform them, do not mimic real world exposure
38 scenarios and fail to account for synergistic or cumulative effects
39 of multiple chemicals acting on the same pathway; do not include
40 sufficient evaluation of a pesticide's "inert" ingredients and the
41 pesticide formulations that are sold to consumers; and often fail
42 to take sensitive populations like children and pollinators into
43 account;

44 (8) in the absence of adequate regulation at the federal or State level,
45 the County is compelled to act to protect the health of children,
46 families, pets and the environment.

47 (b) The purpose of this Chapter is to protect the public health and welfare
48 and to minimize the potential pesticide hazard to people and the
49 environment, consistent with the public interest in the benefits derived
50 from the safe use and application of pesticides. The goal is to inform
51 the public about pesticide applications and minimize the use of
52 pesticides for cosmetic purposes, while not restricting the ability to use
53 pesticides in agriculture, for the protection of public health, or for other
54 public benefit.

55 **33B-2. Definitions.**

56 In this [chapter] Chapter:

57 Agriculture means the business, science, and art of cultivating and managing
 58 the soil, composting, growing, harvesting, and selling sod, crops and livestock,
 59 and the products of forestry, horticulture and hydroponics; breeding, raising, or
 60 managing livestock, including horses, poultry, fish, game and fur-bearing
 61 animals; dairying, beekeeping and similar activities, and equestrian events and
 62 activities.

63 Children's facility means a building or part of a building which, as part of its
 64 function, is regularly occupied by children under the age of 6 years and is
 65 required to obtain a certificate of occupancy as a condition of performing that
 66 function. Children's facility includes a child day care center, family day care
 67 home, nursery school, and kindergarten classroom.

68 *Custom applicator* means a person engaged in the business of applying
 69 pesticides.

70 *Department* means the Department of Environmental Protection.

71 *Director* means Director of the Department of Environmental Protection[,] or
 72 the Director's designee.

73 Garden means an area of land used to cultivate food crops, flowers, or other
 74 ornamental plants.

75 [[Integrated pest management means a process for managing pests that:

- 76 (1) uses monitoring to determine pest injury levels;
- 77 (2) combines biological, cultural, mechanical, physical, and chemical
 78 tools and other management practices to control pests in a safe,
 79 cost effective, and environmentally sound manner that
 80 contributes to the protection of public health and sustainability;

(3) uses knowledge about pests, such as infestations, thresholds, life histories, environmental requirements, and natural control of pests; and

(4) uses non-chemical pest-control methods and the careful use of least-toxic chemical methods when non-chemical methods have been exhausted or are not feasible.]]

[[Larvicide means a pesticide designed to kill larval pests.]]

Lawn means an area of land, except agricultural land, that is:

(1) [Mostly] mostly covered by grass, other similar herbaceous plants, shrubs, or trees; and

(2) [Kept] kept trim by mowing or cutting.

[[Lawn includes an athletic playing field other than a golf course.]] *Lawn* does not include a:

(1) playing field;

(2) golf course; [[or]]

(3) garden; or

(4) tree or shrub..

[[Lawn care pesticide means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to the Federal Insecticide, Fungicide and Rodenticide Act for use in lawn, garden and ornamental sites or areas.]]

Listed pesticide means:

(1) 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; or

(2) 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).

Mulched recreation area means an area of land covered with natural or synthetic mulch or wood chips that is not a playground, but is open to the public for picnic or other recreation use.

Neonicotinoid means a class of neuro-active pesticides chemically related to nicotine. Neonicotinoid includes acetamiprid, clothianidin, dinotefuran, imidacloprid, nitenpyram, nithiazine, thiacloprid, and thiamethoxam.

[[Non-essential pesticide means a pesticide designated as a non-essential pesticide under Section 33B-4.]]

Pest means an insect, snail, slug, rodent, nematode, fungus, weed, or other form of plant or animal life or microorganism (except a microorganism on or in a living human or animal) that is normally considered to be a pest or defined as a pest by applicable state regulations.

Pesticide means a substance or mixture of substances intended or used to:

- (1) prevent, destroy, repel, or mitigate any pest;
- (2) be used as a plant regulator, defoliant, or desiccant; or
- (3) be used as a spray adjuvant, such as a wetting agent or adhesive.

However, *pesticide* does not include an antimicrobial agent, such as a disinfectant, sanitizer, or deodorizer, used for cleaning that is not considered a pesticide under any federal or state law or regulation.

Playground means an outdoor children's play area that is on the premises of a children's facility, school, apartment building or complex, common ownership community, or park. Playground includes a mulched path that is used to enter a children's play area.

Playing field means:

(1) an athletic field maintained by the Montgomery County Department of Parks; or

(2) an area of land on private property maintained exclusively for sporting use.

Private lawn application means the application of a pesticide to a lawn on property owned by or leased to the person applying the pesticide. Private lawn application does not include:

(1) applying a pesticide for the purpose of engaging in agriculture; or

(2) applying a pesticide around or near the foundation of a building for the purpose of indoor pest control[[;

(3) applying a pesticide to a golf course or turf farm]].

Registered pesticide means a pesticide registered by the United States Environmental Protection Agency and labeled pursuant to FIFRA for use in lawn, garden and ornamental sites or areas.

[[Restricted lawn care pesticide means a pesticide designated as a restricted lawn care pesticide under Section 33B-4.]]

Vector or disease vector means an animal, insect, or microorganism that carries and transmits an infectious pathogen into another organism.

Waterbody means waters located within the County that are:

(1) subject to the ebb and flow of the tide; or

(2) free flowing, unconfined, and above-ground rivers, streams or creeks.

[33B-4.] [[33B-2.]] 33B-3. Signs with retail purchase of pesticide.

A person who sells at retail a pesticide or material that contains a pesticide must:

(a) make available to a person who buys the pesticide or material that contains a pesticide:

[(a)](1) [Notice] notice signs and supporting information that are approved by the [department] Department; [(and)]

[(b)](2) [The] the product label or other information that [the federal Insecticide, Fungicide, and Rodenticide Act] FIFRA [, 7 U.S.C. 136 et seq.,] requires for sale of the pesticide[.]; and

(3) materials approved or distributed by the Department that:

(A) explain the dangers of contamination that may occur from pesticide use; and

(B) inform buyers of the availability of alternative products;
and

(b) display a sign or signs in each area of the retail establishment where registered pesticides are available to consumers, with language approved by the Department, that:

(1) informs buyers of the County law on the use of registered pesticides on lawns; and

(2) identifies pest control options that are permissible for lawn application under the law.

The Department must enforce this Section and must annually inspect each
person who sells at retail a pesticide or material that contains a pesticide.

[33B-5] ~~[[33B-3.]]~~ 33B-4. Storage and handling of pesticides.

Any person who sells at retail a pesticide or material that contains a pesticide must:

(a) transport, display, and store each pesticide in a secure, properly labeled container that resists breakage and leakage, and promptly clean up and either repackage or properly dispose of any pesticide that escapes from its container;

(b) display and store each pesticide separately from any food, medicine, or other product that a human being or animal may ingest; and

- 188 (c) transport each pesticide separately from any food, medicine, or other
 189 product that a human being or animal may ingest unless the pesticide is
 190 in a secure container that resists breakage and leakage[;];
- 191 (d) offer to each buyer of a pesticide materials approved or distributed by
 192 the Department that:
- 193 (1) explain the dangers of contamination that may occur from
 194 pesticide use; and
- 195 (2) inform buyers of the availability of alternative products]].

196 The Department, the Health and Human Services Department, and any other
 197 agency designated by the County Executive, must enforce this Section.

198 **[33B-6] [[33B-4.]] 33B-5. Regulations.**

- 199 (a) The [County] Executive must adopt regulations to carry out this Chapter
 200 under method (2).
- 201 (b) The Executive must include in the regulations adopted under this
 202 [section] Section the minimum size or quantity, and type of pesticide
 203 subject to [section 33B-4] Section [[33B-2]] 33B-3.
- 204 (c) [[The Executive must include in the regulations adopted under this
 205 Section a list of]] [[non-essential]] [[restricted lawn care pesticides. The
 206 list of]] [[non-essential]] [[restricted lawn care pesticides must be based
 207 on an evaluation of all lawn care pesticides and must include:
- 208 (1)] [[all pesticides]] [[each pesticide classified]] [[as “Carcinogenic
 209 to Humans” or “Likely to Be Carcinogenic to Humans”]] [[by the
 210 U.S. Environmental Protection Agency as:
- 211 (A) “carcinogenic to humans” (Group A);
- 212 (B) “likely to be carcinogenic to humans” (Groups B1 and
 213 B2);

- 214 (C) “suggestive evidence of carcinogenic potential” (Group
 215 C); or
 216 (D) inadequate information to assess carcinogenic potential”
 217 (Group D);
- 218 (2)] [[all pesticides]] [[each pesticide classified by the U.S.
 219 Environmental Protection Agency as a “Restricted Use Product”;
- 220 (3)] [[all pesticides classified as a “Class 9” pesticide by the Ontario,
 221 Canada, Ministry of the Environment]] [[each pesticide classified
 222 by the International Agency for Research on Cancer as:
- 223 (A) “carcinogenic to humans” (Group 1);
 224 (B) “probably carcinogenic to humans” (Group 2A);
 225 (C) “possibly carcinogenic to humans” (Group 2B); or
 226 (D) “not classifiable as to its carcinogenicity to humans”
 227 (Group 3);
- 228 (4)] [[all pesticides classified as a “Category 1 Endocrine Disruptor”
 229 by the European Commission]] [[each pesticide in the top quartile
 230 of toxicity for pesticides evaluated by the U.S. Environmental
 231 Protection Agency or other federal government authority for
 232 systemic non-carcinogenic human toxicity; and
- 233 (5)] [[any other pesticides which the Executive determines are not
 234 critical to pest management in the County]] [[each pesticide in
 235 the top quartile of toxicity for pesticides evaluated by the U.S.
 236 Environmental Protection Agency for:
- 237 (A) chronic toxicity to fish; and
 238 (B) chronic toxicity to aquatic invertebrates.

(d)] The Executive must include in the regulations adopted under this Section a list of invasive species that may be detrimental to the environment in the County.

[(e)] (d) The Executive must review and update the [lists] list of [non-essential] [restricted lawn care pesticides and] invasive species designated under [subsections] subsection (c) [and (d)] by July 1 of each year.

[33B-7] [[33B-5.]] 33B-6. Penalty for violating chapter.

(a) Any violation of this Chapter is a class C violation.

(b) Each day a violation continues is a separate offense.

ARTICLE 2. Notice Requirements.

[33B-2] [[33B-6.]] 33B-7. Notice about pesticides to customer [acknowledgement and direction by customer]].

(a) In this [section] Section:

(1) Customer means a person who makes a contract with a custom applicator to have the custom applicator apply a pesticide to a lawn.

(2) New customer includes a customer who renews a contract with a custom applicator.

(b) A custom applicator must give to a new customer:

(1) [Before] before application, a list of:

[a.](A) [The] the trade name of each pesticide that might be used;

[b.](B) [The] the generic name of each pesticide that might be used; and

[c.](C) [Specific] specific customer safety precautions [including all potential health risks identified by the United

States Environmental Protection Agency and the World Health Organization]] for each pesticide that might be used; and

(2) [After] after application, a list of:

[a.](A) [The] the trade name of each pesticide actually used; and

[b.](B) [The] the generic name of each pesticide actually used; and

(3) [A] a written notice about pesticides prepared by the [department] Department under subsection (c) [of this section].

(c) The [department] Department must prepare, keep current, and provide to a custom applicator a written notice about pesticides for the custom applicator to give to a customer under subsection (b) [of this section].

(d) The notice prepared by the [department] Department under subsection (c) [of this section] must include:

(1) [Government] government agency phone numbers to call to:

[a.](A) [Make] make a consumer complaint;

[b.](B) [Receive] receive technical information on pesticides; and

[c.](C) [Get] get assistance in the case of a medical emergency;

(2) [A] a list of general safety precautions a customer should take when a lawn is treated with a pesticide;

(3) [A] a statement that a custom applicator must:

[a.](A) [Be] be licensed by the Maryland Department of Agriculture; and

[b.](B) [Follow] follow safety precautions; and

- (4) [A] a statement that the customer has the right to require the custom applicator to notify the customer before each treatment of the lawn of the customer with a pesticide.

[(e) Before applying a pesticide to a lawn, a custom applicator must:

(1) inform a new customer of:

(A) the existence of other means of pest control without the use of restricted lawn care pesticides; and

(B) the practice of integrated pest management (IPM), including a description of the process of IPM that is consistent with that of the U.S. Environmental Protection Agency; and

(2) obtain from a new customer, in writing or other electronic format approved by the Director :

(A) acknowledgement that the customer received the information required under this subsection and subsection (b); and

(B) direction from the customer as to whether or not to use IPM practices.

(f) A custom applicator must retain a acknowledgement from a new customer obtained under subsection (e) for at least one year.]]

[33B-3] [[33B-7.]] 33B-8. Posting signs after application by custom applicator.

(a) Immediately after a custom applicator treats a lawn with a pesticide, the custom applicator must [post a sign on the lawn] place markers within or along the perimeter of the area where pesticides [[will be]] have been applied.

(b) A [sign posted] marker required under this [section] Section must:

- 319 (1) [Be] be clearly visible [from the principal place of access to] to
 320 persons immediately outside the perimeter of the property;
 321 (2) [Be] be a size, form, and color approved by the [department]
 322 Department;
 323 (3) [Be] be made of material approved by the [department]
 324 Department; [and]
 325 (4) [Have] have wording with content and dimensions approved by
 326 the [department] Department[.]; and
 327 (5) be in place on the day that the pesticide is applied.

328 **[[33B-8.]] 33B-9. Posting signs after application by property owner or tenant.**

- 329 (a) A person who performs a private lawn application treating an area
 330 more than 100 square feet, or an area of any size within five feet of a
 331 property line, must place markers within or along the perimeter of the
 332 area where pesticides [[will be]] have been applied.
 333 (b) A marker required under this Section must:
 334 (1) be clearly visible to persons immediately outside the perimeter of
 335 the property;
 336 (2) be a size, form, and color approved by the Department;
 337 (3) be made of material approved by the Department; and
 338 (4) have wording with content and dimensions approved by the
 339 Department; and
 340 (5) be in place on the day that the pesticide is applied.

341 **ARTICLE 3. [[Application restrictions.]] [[Pesticide use reduction.]]**

342 **Application restrictions.**

343 **[[33B-9.]] 33B-10. [[Prohibited application.]] [[Countywide use reduction plan.]]**

344 **Prohibited applications.**

- 345 [[A person must not apply a non-essential pesticide to a lawn.]]

[(a) The Director must by July 1, 2016 provide a report to the County Executive and County Council that outlines options for:

- (1) determining a baseline estimate of the use of restricted lawn care pesticides in the County; and
- (2) measuring changes in the use of restricted lawn care pesticides in the County over time.

(b) The Director must then develop a restricted lawn care pesticide use plan, with a goal of reducing, by 2018, the use in the County of restricted lawn care pesticides other than in agriculture by at least 50% from the baseline established under subsection (a).

(c) If the reduction goal is not achieved, the Director must implement additional measures to further reduce the use of restricted lawn care pesticides.]]

(a) On County-owned property and private property, except as provided in subsection (b), a person must not apply a registered pesticide other than a listed pesticide to:

- (1) a lawn;
- (2) a playground;
- (3) a mulched recreation area;
- (4) a children's facility; or
- (5) the grounds of a children's facility.

(b) A person may apply any registered pesticide to:

- (1) control weeds as defined in Chapter 58, Weeds;
- (2) control invasive species listed in a regulation adopted under subsection 33B-5(c);
- (3) control disease vectors;
- (4) control biting or stinging insects or stinging plants;

- (5) control organisms that threaten the health of trees or shrubs;
- (6) maintain property as part of efforts by a public utility to comply with applicable vegetation management provisions of any federal, state, or local law or regulation;
- (7) control indoor pests, if applied around or near the foundation of a building;
- (8) control pests while engaged in agriculture; and
- (9) control a pest outbreak that poses an imminent threat to human health or prevent significant economic damage if a registered pesticide is not used.

(c) If a pesticide is applied under paragraph (b)(9) of this Section, the person applying the pesticide must:

- (1) within seven days after a pesticide is applied on private property, notify the Department of the application and the reasons for the use of the pesticide; or
- (2) within 30 days after a pesticide is applied on County-owned property, inform the Council of the application and the reasons for the use of the pesticide.

[[33B-10.]] [[Exceptions and exemptions]] [[Playgrounds and Children's Facilities.]]

[(a) A person may apply a non-essential pesticide for the following purposes:

- (1) for the control of weeds as defined in Chapter 58, Weeds;
- (2) for the control of invasive species listed in a regulation adopted under Subsection 33B-4(d);
- (3) for pest control while engaged in agriculture; and
- (4) for the maintenance of a golf course.

(b) A person may apply to the Director for an exemption from the prohibition of Section 33B-9 for a non-essential pesticide. The Director may grant an exemption to apply a non-essential pesticide on property where application is prohibited under Section 33B-9 if the applicant shows that:

- (1) effective alternatives are unavailable;
- (2) granting an exemption will not violate State or federal law; and
- (3) use of the non-essential pesticide is necessary to protect human health or prevent significant economic damage.

(c) A person may apply to the Director for an emergency exemption from the prohibition in Section 33B-9 if a pest outbreak poses an imminent threat to public health or if significant economic damage would result from the inability to use a pesticide prohibited by Section 33B-9. The Director may impose specific conditions for the granting of emergency exemptions.]]

[[(a) Except as provided in subsection (b), a person must not apply a restricted lawn care pesticide to a playground, children's facility, or the grounds of a children's facility.

(b) A person may apply a restricted lawn care pesticide to a playground, children's facility, or the grounds of a children's facility only to:

- (1) control weeds as defined in Chapter 58, Weeds;
- (2) control invasive species listed in a regulation adopted under subsection 33B-4(d);
- (3) control disease vectors;
- (4) control biting or stinging insects or stinging plants;
- (5) control organisms that threaten the health of trees or shrubs; or

- (6) control a pest outbreak that poses an imminent threat to human health or prevent significant economic damage if a restricted lawn care pesticide is not used.]]

33B-11. Outreach and education campaign.

(a) The Executive must implement a public outreach and education campaign before and during implementation of the provisions of this Article.

(b) [[This]] The outreach and education campaign [[should]] must include the provision of the following resources:

(1) the NOSB National List or the Organic Materials Review Institute (OMRI) listed products which are the NOSB National list products categorized by use;

(2) FIFRA § 25(b) minimum risk pesticides, listed in 40 C.F.R. § 152.25(f); and

(3) guidance on best practices for organic and pesticide-free lawn care.

(c) The outreach and education campaign should include:

[[a)] (1) informational mailers to County households;

[[b)] (2) distribution of information through County internet and web-based resources;

[[c)] (3) radio and television public service announcements;

[[d)] (4) news releases and news events;

[[e)] (5) information translated into Spanish, French, Chinese, Korean, Vietnamese, and other languages, as needed;

[[f)] (6) extensive use of County Cable Montgomery and other Public, Educational, and Government channels funded by the County; [[and]] and

453 [[(g)]] (7) posters and brochures made available at County events, on
 454 Ride-On buses and through Regional Service Centers, libraries,
 455 recreation facilities, senior centers, public schools, Montgomery
 456 College, health care providers, hospitals, clinics, and other
 457 venues[; and

458 (h) a survey of pesticide use by County residents and custom applicators]].

459 [[ARTICLE 4. Common Ownership Communities.

460 33B-12. Definitions.

461 In this article the terms association document, common element, community
 462 association, owner, and unit have the meanings attributed to them in Section 10B-8.

463 33B-13. Application of pesticide to individual units.

464 (a) Beginning July 1, 2016, each year, a community association must
 465 provide owners an opportunity to decline to have a restricted lawn care
 466 pesticide applied to the owner's unit.

467 (b) If a unit owner declines to have a restricted lawn care pesticide applied,
 468 the community association or its agent must not apply the restricted
 469 lawn care pesticide to the unit.

470 33B-14. Application of pesticide to common elements.

471 (a) Beginning July 1, 2016, each year, the owners in a common ownership
 472 community must approve, by a majority of votes cast, in person or by
 473 proxy, the application of a restricted lawn care pesticide to a common
 474 element during the following year.

475 (b) A community association may apply to the Director for an emergency
 476 exemption from the prohibition or restrictions under this Section if a
 477 pest outbreak poses an imminent threat to public health or if significant
 478 economic damage would result from the inability to use a restricted

lawn care pesticide. The Director may impose specific conditions on each emergency exemption.

(c) A community association must post notice of each pesticide application to the common elements. The notice required under this subsection must consist of signs that:

- (1) are clearly visible to persons immediately outside the perimeter of the property;
- (2) are in place on the day that the pesticide is applied;
- (3) are of a size, form, and color approved by the Department;
- (3) are made of material approved by the Department; and
- (4) have wording with content and dimensions approved by the Department.]]

ARTICLE [[4.]] [[5.]] 4. County Property and Parks

[[33B-12.]] [[33B-15.]] 33B-12. [[Prohibition]] Neonicotinoid pesticides on County-owned property.

(a) Prohibition. Except as provided in subsection (b), a [[person]] County employee or County contractor must not [[apply to any lawn]] use a neonicotinoid pesticide on property owned by the County[[:]]
[[(1) a]] [[non-essential]] [[restricted lawn care pesticide; or
(2) a neonicotinoid]].

(b) Exceptions.

(1) A [[person]] County employee or County contractor may use
[[any larvicide or rodenticide on a lawn on property owned by the
County as a public health measure to reduce the spread of disease
vectors under recommendations and guidance provided by the
Centers for Disease Control and Prevention, the United States
Environmental Protection Agency, or the State Department of

Agriculture. Any rodenticide used must be in a tamper-proof product, unless the rodenticide is designed and registered for a specific environment inaccessible to humans and pets.]] a neonicotinoid pesticide on County-owned property to control pests while engaged in agriculture.

(2) [[A]] [[person]] [[County employee or County contractor may use a]] [[non-essential]] [[restricted lawn care pesticide or neonicotinoid on a lawn on property owned by the County for the following purposes]] [[set forth in Subsection 33B-10(a).]]

(A) for the control of weeds as defined in Chapter 58, Weeds;

(B) for the control of invasive species listed in a regulation adopted under Subsection 33B-4(d);

(C) for pest control while engaged in agriculture;

(D) for the maintenance of a golf course; and

(E) for the maintenance of medians and islands in County rights-of-way.

(3) A]] [[person]] [[County employee or County contractor may use a]] [[non-essential]] [[restricted lawn care pesticide or neonicotinoid on a lawn on property owned by the County if the Director determines, after consulting the Directors of General Services and Health and Human Services, that the use of the pesticide is necessary to protect human health or prevent imminent and significant economic damage, and that no reasonable alternative is available. If a pesticide is used under]] [[this paragraph]], the Director must, within 30 days after using the pesticide, report to the Council on the reasons for the use of the pesticide.

(4)] This Section does not apply to County-owned property that the Parks Department operates or manages for the County.

[[33B-13.]] [[33B-16.]] 33B-13. Integrated pest management on County property.

(a) Adoption of program. The Department must adopt[, by a method (2) regulation,] an integrated pest management program for all property owned by the County.

(b) Requirements. Any program adopted under subsection (a) must require:

- (1) monitoring the turf or landscape as appropriate;
- (2) accurate record-keeping documenting any potential pest problem;
- (3) evaluating the site for any injury caused by a pest and determining the appropriate treatment;
- (4) using a treatment that is the least damaging to the general environment and best preserves the natural ecosystem;
- (5) using a treatment that will be the most likely to produce long-term reductions in pest control requirements and is operationally feasible and cost effective in the short and long term;
- (6) using a treatment that minimizes negative impacts to non-target organisms;
- (7) using a treatment that is the least disruptive of natural controls;
- (8) using a treatment that is the least hazardous to human health; and
- (9) exhausting the list of all non-chemical methods and [[organic treatments available]] listed pesticides for the targeted pest before using any [[synthetic chemical]] other treatments.

(c) The Department must provide training in integrated pest management for each employee who is responsible for pest management.

[[33B-17.]] 33B-14. County parks.

(a) Policy. It is the policy of Montgomery County to promote environmentally sensitive landscape pest management in its parks by phasing out the use of the most hazardous pesticides and reducing overall pesticide use while preserving landscape assets, maintaining functionality of playing fields, and protecting the health and safety of the public and County employees. To carry out this policy, the Parks Department must, subject to appropriation, implement the provisions of this Section.

(b) Pesticide-free parks. The Parks Department must implement a pesticide-free parks program that, at a minimum, consists of:

(1) the maintenance of certain parks entirely without the use of
[[restricted lawn care]] registered pesticides other than listed
pesticides [[or neonicotinoids]];

(2) a program for reducing the use of [[restricted lawn care]]
registered pesticides other than listed pesticides [[and
neonicotinoids]] on playing fields that includes:

(A) a pilot program consisting of at least five playing fields
maintained without the use of [[restricted lawn care]]
registered pesticides other than listed pesticides [[or
neonicotinoids]] that:

(i) is conducted in consultation with an expert in
organic turf management, with experience in
successful transitions from conventional to organic
turf management; and

(ii) includes a publicly available plan describing the
practices and procedures used; [[and]]

- 586 (B) maintenance of all other playing fields using an integrated
 587 pest management program; and
- 588 (C) a plan submitted to the Council by September 2019 for
 589 transitioning to maintenance of all playing fields without
 590 the use of registered pesticides other than listed pesticides
 591 by 2020; and
- 592 (3) a public communication campaign to inform the public of the
 593 existence and progress of the pesticide-free parks program.
- 594 (c) *Pesticide usage protocols.* The Parks Department must develop usage
 595 protocols which limit the use of [[restricted lawn care]] registered
 596 pesticides other than listed pesticides [[and neonicotinoids]] to the
 597 maximum extent possible and, subject to the exceptions in subsection
 598 (d):
- 599 (1) do not permit the use of [[restricted lawn care]] registered
 600 pesticides other than listed pesticides [[or neonicotinoids]] within
 601 25 feet of a waterbody;
- 602 (2) [[do not permit the application of restricted lawn care pesticides
 603 or neonicotinoids to playgrounds in County parks; and
- 604 (3)]] except where immediate application is necessary to protect
 605 human health or prevent significant economic damage, include
 606 the posting of notice of each planned application of [[restricted
 607 lawn care]] a registered pesticide other than a listed pesticide [[or
 608 neonicotinoid]] on the appropriate Parks Department website and
 609 in the area where the pesticide is to be applied, from at least 48
 610 hours before application through at least 48 hours after
 611 application, that includes:
- 612 (A) the common name of the pesticide;

- 613 (B) the location of the application;
 614 (C) the planned date and time of the application; and
 615 (D) the reason for the use of the pesticide[[]]; and
 616 (3) provide for pesticide application information required under
 617 paragraph (c)(2) to be made available to the public in real-time
 618 and in a manner consistent with the Montgomery County Open
 619 Data Act, Chapter 2, Article XIV of this Code.
- 620 (d) *Exceptions.* The pesticide-free parks program and pesticide usage
 621 protocols may generally permit the application of a [[restricted lawn
 622 care]] registered pesticide to:
- 623 (1) control weeds as defined in Chapter 58, Weeds;
 624 (2) control invasive species listed in a regulation adopted under
 625 subsection [[33B-4(d)]] 33B-5(c);
 626 (3) control disease vectors;
 627 (4) control biting or stinging insects or stinging plants;
 628 (5) control organisms that threaten the health of trees or shrubs;
 629 (6) remove weeds as part of the renovation of a playing field;
 630 (7) control pests while engaged in agriculture; and
 631 [[(7)] (8) otherwise protect human health or prevent significant
 632 economic damage.
- 633 (e) *Reporting requirement.* The Parks Department must submit [[a report]]
 634 semi-annual reports to the County Executive and County Council on or
 635 before January 15 and July 15 of each year that:
- 636 (1) [[details restricted lawn care]] detail registered pesticide [[and
 637 neonicotinoid]] usage, other than listed pesticide usage, in
 638 County parks during the preceding year, including:

(A) the common name of each [[restricted lawn care]] registered pesticide [[and neonicotinoid]] used;

(B) the location of each application;

(C) the date and time of each application; and

(D) the reason for each use of a [[restricted lawn care]] registered pesticide [[and neonicotinoid]]; [[and]]

(2) [[describes]] describe the status of the pesticide-free parks program implemented under this Section; and

(3) are available to the public in a manner consistent with the Montgomery County Open Data Act, Chapter 2, Article XIV of this Code.

Sec. 2. Initial [[Lists]] List of [[Non-Essential]] [[Restricted Lawn Care Pesticides and]] Invasive Species. The Executive must submit the [[lists]] list of [[non-essential]] [[restricted lawn care pesticides and]] invasive species required by [[Subsections]] Subsection [[33B-4(c) and (d)]], 33B-5(c) to the Council for approval by [[January]] March 1, 2016

Sec. 3. Effective Date. The [[prohibitions on]] [[requirements for the use of]] [[non-essential]] [[restricted lawn care pesticides in common ownership communities contained in]] [[Section 33B-9]] [[Sections 33B-12 and 33B-13, and the]] prohibitions and requirements related to the [[on]] use of [[non-essential]] [[restricted lawn care]] registered pesticides and neonicotinoids on County-owned property and in County parks contained in [[Section 33B-14]] Sections [[33B-15]] 33B-10, 33B-12, 33B-13 and [[33B-17]] 33B-14 take effect on [[January]] July 1, 2016; the prohibitions on the use of registered pesticides on private property contained in Section 33B-10 take effect on January 1, 2018.

[[Sec. 4. Expiration. This Act and any regulation adopted under it expires on January 1, 2019.]]

666 *Approved:*

667 *Geoff Leventhal*

10/8/15

George Leventhal, President, County Council

Date

668 *Approved:*

669 Returned Unsigned

10/19/15

Isiah Leggett, County Executive

Date

670 *This is a correct copy of Council action.*

671 *Linda M. Lauer*

10/19/15

Linda M. Lauer, Clerk of the Council

Date




OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

MEMORANDUM

October 19, 2015

TO: George Leventhal, Council President

FROM: Isiah Leggett, County Executive 

RE: Bill 52-14, Pesticides – Notice - Requirements

I have received Bill 52-14 from the Council. I am returning the Bill without my signature for the reasons explained below.

A number of individuals and groups have been involved in the debate over Bill 52-14, and I believe they all share the goal of protecting public health and the environment. The challenge has always been figuring out the best way to achieve this goal related to regulating the use of pesticides.

No one would disagree that the issue is incredibly complex. There are differing opinions on the state of the science and risk associated with pesticide use, society's perception and values on what constitutes a healthy lawn, and the availability and viability of organic only alternatives.

Most importantly, there are differing views on the role local government should play in regulating pesticides.

I am concerned about the opinions of an Assistant Attorney General regarding whether a ban on the use of certain pesticides in the County would be preempted by state law. Undoubtedly, this measure will be taken to court, and the result there is quite uncertain.

I support limited bans on child care centers, playgrounds, and other areas where the potential effects on children may be greater, but believe additional outreach and education on alternatives to non-essential pesticides are needed. An outright ban on the use of certain pesticides will be confusing to residents and businesses in the County, and will make enforcement of the law challenging, particularly given that these pesticides have been approved for use by the U.S. Environmental Protection Agency and the State of Maryland.

I remain opposed to setting a prescribed date for a ban of non-essential pesticides on playing and recreational fields, particularly the County's higher-quality, competitive-level playing fields. The amended legislation sets out an expectation that playing fields will be

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pesticide free by 2020 with submittal of a plan of action by 2019. My understanding is that turf experts have expressed concerns that, because of factors unique to our Mid-Atlantic climate, pesticides are required to ensure quality playing surfaces and to minimize player injury resulting from uneven surfaces.

It is my view that the schedule and scope of plans to create pesticide-free playing fields should be informed by the pilot projects Parks is undertaking, as well as the current state of the organic lawn care technology and feasibility, rather than an arbitrary deadline. That is common sense. Why would we pre-judge the pilot project before it even begins?

Again, I appreciate the due diligence the Council has given to this issue. However, I am returning the measure, and will allow it to go into effect without my signature.