

Summary of Points for Consideration regarding the Healthy Lawns Act, provided by the National Association of Landscape Professionals by email to the Town of Somerset

May 2020

- Healthy landscapes bring enormous benefits to the environment and human health
 - Control of disease vectoring insects
 - Mosquitoes
 - Ticks
 - Fleas
 - Establish and maintain pollinator habitat (flowering plants)
 - Environmental protection – lawns specifically
 - Bioremediation of environmental toxins
 - Allow for infiltration of rainwater instead of runoff
 - Preservation of topsoil - minimizing of erosion/nutrient loss to ground & surface waters
- Professionalism & regulation of the industry
 - Certified applicators are regulated by EPA & Maryland Department of Agriculture
 - Licenses issued after examination in core competencies
 - Recertified annually with education requirement
 - Lawn specific requirements
 - Post lawn signs
 - Pesticide sensitive notification program
 - Integrated Pest Management in schools
 - Recordkeeping requirements for all pesticides applied
 - Pesticides Registered by EPA & MDA
 - FIFRA Process
 - Extensive Human Health and Ecological Risk Assessments
 - Peer reviewed and scrutinized, 15 year reregistration cycle
- Implementation of Montgomery County Ordinance
 - Originally contemplated a two year roll out
 - Ordinance went into effect immediately upon resolution of litigation
 - Education outreach hastily implemented, duration limited
 - Difficulty inherent in achieving compliance at the retail level
 - Pesticides prohibited for use in the county is still for sale by retailers
 - Difficulty to the point of futility in enforcement of resident uses
 - Professionals legally obliged to follow all relevant pesticide laws and regulations
 - Professionals rely upon uniform, logical, science-based regulation across jurisdictions
 - Professionals entered into good faith agreements with customers to provide services for 2020 season
- Exemptions to County ordinance
 - Agriculture
 - Rights-of-Way
 - County officials
 - Golf courses
 - Structural pest control
- What the landscape industry is doing?
 - Proactively meetings with County Councilmembers and DEP

- Providing stakeholder feedback on invasive weeds (e.g. Japanese stiltgrass)
- Assisting in making sure accurate information is disseminated to lawncare industry
- Discussions with the County on the possibility of assisting in the creation of materials concerning the ordinance
- Working with the County to ensure which products are actually permitted to be used (there has been confusion over a few e.g. Fiesta herbicide)
- Further attempting to refine the ordinance and work with both the County and the Maryland Department of Agriculture
- We want to be constructive partners responsibly creating and maintaining healthy landscapes
- What Can Somerset Do?
 - Work with the landscape industry to find collaborative solutions
 - Delay implementation while the industry continues to work with the County and Council
 - Protect people their businesses and their homes by permitting the continued safe use of pesticides by certified applicators
 - Maintain personal property rights and allow choice
 - Avoid Unintended Consequences
 - 25 (b)s and organic misuse and deceptive advertising/applications for hire
 - Doesn't accomplish the intended goal
 - Jeopardizes controlled Use

In consultation with our members in Montgomery County, the upshot of this ordinance will be the elimination of the professional pesticide applicators in the county. Customer expectations drive business models that stress efficacy and efficiency. The simple fact of the matter is that the products that are allowed (EPA 25(b)s) under the county ordinance do not exhibit efficacy (EPA does not require efficacy testing for 25(b)s), unfortunately these products are unproven and costly and do not produce results that is acceptable to the consumer for a price they are willing to pay in these uncertain economic times. Dissatisfied customers cancel their services causing businesses to fail, something that we observed clearly when a similar law was enacted in the Province of Ontario, Canada. There, retail sales of pesticides were also banned but a study of credit card data showed a significant increase in sales of pesticide products in the Buffalo, New York market by consumers with Ontario postal codes. As was the case with alcoholic beverages, prohibition does not work. Consumers who create demand in a marketplace will either obtain goods or services legally or will revert to a black market to satisfy that demand.

In our opinion and experience, we have complete confidence in the framework for the effective regulation of pesticide products that is currently in place that is administered by the federal EPA and the Maryland Department of Agriculture. As Andrew pointed out in yesterday's meeting, the county is seeking to impose preemptive control of pesticide regulation county-wide, which ironically was the same argument by the plaintiffs in their lawsuit against the county ordinance, that a state preemption of pesticide regulation in concert with federal law and oversight was the intent of Congress and the Maryland Legislature when FIFRA and state law were enacted. As an industry we would like to continue to work with the county if there is an effort to reduce pesticide use, but we think it is not prudent to completely eliminate valuable synthetic pesticides from our toolbox. More troubling is that every other pesticide applicator group can continue to operate, along with homeowners buying the products in stores, yet this ordinance unfairly attacks and minimizes the lawncare industry. As an industry we cannot afford this, especially right now, nor can strained town and homeowner budgets.