

BRIEFING NOTE:
LANDSCAPE ONTARIO POSITION ON Bill 64: COSMETIC PESTICIDES BAN ACT, 2008

The Lawncare Commodity Group of Landscape Ontario is the industry organization representing commercial lawn care companies. As the industry responsible for the design, installation and maintenance of Ontario's green infrastructure, we care about environmental stewardship and health care for our customers, employees, and the community at large.

We supported the introduction of Bill 64 as a province-wide pesticide regulation to harmonize rules. The current patchwork of municipal regulations does not provide for a consistent level of public protection and makes for a confused operating environment for plant care professionals.

Bill 64 as drafted addresses two of the critical needs identified by LO in order to have workable, province-wide rules:

1. A prohibition on municipalities imposing standards beyond the provincial law; and
2. Equal standards for professional use and retail sales.

Landscape Ontario commends the province of Ontario for a practical, balanced approach to implementing the provincial ban. As Gavin Dawson, Chair of the Lawncare Commodity Group, said when the Bill was introduced:

"While we recognize there is more work to be done on the details of this initiative, the McGuinty government has delivered on its promise with a Bill that ensures consistent standards everywhere, which apply equally to professionals servicing our green infrastructure and the do-it-yourself market."

Bill 64 is enabling legislation, meaning much of the detail will be included in amendments to Regulation 914 which have not yet been drafted. LO will be submitting comments on the legislation before the Environmental Registry posting expires on May 22nd. We will strongly support the municipal prohibition and retail ban aspects of the Bill. At the same time, we will highlight the importance of Regulations that address remaining key issues, especially ensuring the ability to deal with major insect infestations and reasonable sign posting requirements.

Dealing with Insect Infestations

The Regulatory changes will include the detailed lists of products and active ingredients to be banned. Draft lists have been circulated by the Ministry of the Environment as a starting point for discussion, and include virtually every common pesticide except glyphosate .

The intention of the Bill is to prohibit the use of pesticides for "cosmetic" purposes. The Bill anticipates exemptions where pesticide use is "related to the promotion of public health or safety." One of the examples cited in public would be mosquito control to prevent the spread of West Nile Disease.

The Bill is not clear about what other exceptions might apply, though there is broad regulation-making power to exempt "other prescribed uses."

In our view, insect infestations which threaten the very existence of a lawn, garden or trees go well beyond "cosmetic." The regulation should allow for the use of a limited number of essential products in defined circumstances of infestation.

The Ontario government, through the expertise of the Ministry of Agriculture, Food and Rural Affairs, already establishes Integrated Pest Management guidelines for turf which define infestations. We believe that if the presence of insects exceeds a level defined in the IPM Turf Manual (OMAFRA Publication 816 or OMAFRA Publication 162) thus constituting a destructive infestation, an exemption defined by Regulation should allow for treatment to prevent such destruction. As an example, in the case of grubs infesting non-irrigated turf, more than 5 larvae per 0.1 m² of lawn will cause damage and should allow for treatment within a defined geographic area to prevent destruction.

LO believes that of the 78 active ingredients on the draft list of active ingredients, only three would be essential in special situations to deal with destructive infestations:

- Deltamethrin
- Imidacloprid
- Pyrethrins

In order to avoid abuse, products available in exempted circumstances cannot be freely available to anyone who simply claims to be dealing with an infestation, or else the retail ban will be broadly circumvented.

LO proposes that Deltamethrin and Imidacloprid should only be available to certified professionals on provision of documented detection of insect infestation, noting the address, homeowner, type of insect, level of infestation and treatment. Such records would be maintained by the licensed professional available for Ministry inspection on a spot basis.

Neither one of these products is currently available for retail use. The situation is somewhat different in the case of Pyrethrins, which are currently exempt from almost all current municipal bans. In LO's view, Pyrethrins are the one category on the list which should be maintained as generally available. However, if included as a banned active ingredient, then Pyrethrins should still be available to certified professionals for use on infestations on the same basis as the other two products.

Dealing with Weed Infestations

As professional turf managers, it is our contention that the best defense against weed invasion is a thick healthy stand of turf. The integration of cultural, holistic and specific intervention practices are necessary to develop and maintain this health. We are also fully aware that the environmental stresses and poor soil conditions inherent to the urban landscape leave many Ontario homeowners with lawns and turf areas overrun with weeds. We believe that in specific cases of major weed infestations, an exemption as defined by Regulation should allow for an initial intervention with a herbicide application. This will allow cultural turf care practices to maintain weed infestations at a manageable level. As with damaging insect infestations, OMAFRA's Turf IPM Manual (Publication 816) can be used as reference to develop the regulatory framework.

Signposting

Current provincial sign posting regulations can be misleading as the same sign must be used for newer reduced-risk pesticides and older traditional pesticides. In addition, regulations do not permit the sign to indicate the amount or location of the property treated (i.e.: spot or area treatment versus entire lawn treated).

The new Regulation should provide for reasonable and consistent sign posting requirements based on:

1. No requirement to post or non-threatening "green posting" when lawns or gardens are sprayed with products not covered by the banned lists, including organics, soap-based products, and approved new compounds. Currently Regulation 914 under the Pesticides Act identifies some active ingredients that do not require sign posting. LO believes this list should be updated and expanded upon, particularly with an interest to promoting and developing next generation or alternative control products.
2. Yellow pesticide notification signs posted on the lawns or areas where an insect infestation has been treated with an otherwise banned pesticide product.
3. The allowance of the sign to be posting in the exact area of infestation treatment and such information should be permissible on the sign.

LO urges the government to work with industry on developing a sensible and informative sign format to replace the current approach.

Existing Pesticide Inventories

With the potential for Bill 62 to be implemented in 2009, there may be the need to address an inventory of pesticide products across the professional field, products that professionals may no longer be able to utilize. Landscape Ontario is open and willing to discuss with the provincial government on means to deal with these potential inventories.

Education, Outreach and R&D

The implementation of the most wide-ranging pesticide ban in North America will require a significant education effort to inform the public and the industry about the ban and alternative methods of treatment. Training and certification programs will also need to be expanded to deal with the new law, including the regulations relating to dealing with infestations. As an organization with thousands of member companies and horticultural professionals servicing hundreds of thousands of homes and businesses across Ontario, Landscape Ontario is uniquely positioned to assist government with both public and industry education. We would welcome the opportunity to do so.

At the same time, partnership is needed between industry and government to develop and market the next generation of eco-friendly pest control agents. The province should provide incentives and work cooperatively with industry, research organizations, the academic community and others to research, develop, market and utilize effective alternative pest control methods, including development of biological-based controls, new generations of non-residual chemicals and advanced application methods.