

Department of Legislative Services
 Maryland General Assembly
 2015 Session

FISCAL AND POLICY NOTE

House Bill 995 (Delegate Hixson, *et al.*)
 Environment and Transportation

Lawn Care Pesticides - Child Care Centers, Schools, and Recreation Facilities - Prohibition

This bill prohibits the application of a lawn care pesticide on the grounds of any “child care center,” “school,” or recreation center, or on any other recreational field used by a child under the age of 18, unless an emergency application is necessary to eliminate an immediate threat to human health. In the event of an emergency application, children must be prohibited from access to the area treated for at least the amount of time specified on the pesticide label. Each child care center, school, and recreation center must keep records of emergency applications and designate a contact person to maintain the pesticide label or material safety data sheet for each lawn care pesticide used. Specified notification must also be provided by a child care center or school to each parent, guardian, and staff member within 24 hours of an emergency application or on the next school day.

Fiscal Summary

State Effect: General fund expenditures increase by \$201,800 in FY 2016 to hire three inspectors within the Maryland Department of Agriculture (MDA) to implement and enforce the bill. Future years reflect annualization and inflation. State finances are not otherwise affected, assuming the bill applies to Department of Natural Resources (DNR) land on a limited basis, as discussed below.

(in dollars)	FY 2016	FY 2017	FY 2018	FY 2019	FY 2020
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	201,800	166,800	171,600	178,400	186,700
Net Effect	(\$201,800)	(\$166,800)	(\$171,600)	(\$178,400)	(\$186,700)

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: Local government finances may be meaningfully impacted as a result of pursuing alternative methods of pest control.

Small Business Effect: Meaningful.

Analysis

Bill Summary: The bill prohibits a person from applying a lawn care pesticide on the grounds of any child care center, school, or recreation center, or on any other recreational field that is used by a child under the age of 18, unless an emergency application of a lawn care pesticide is necessary to eliminate an immediate threat to human health. The determination of whether an emergency application is necessary is made by the Secretary of Agriculture, the head of the county health department, or, for a public school, the local superintendent of schools. If an emergency application of a lawn care pesticide occurs on the grounds of a child care center, school, or recreation center, or on a recreational field, children must be prohibited from access to the area treated with the lawn care pesticide for at least the amount of time specified on the pesticide label.

Each child care center, school, and recreation center must (1) designate a contact person to maintain the pesticide label or material safety data sheet of each lawn care pesticide used on the grounds and (2) keep and maintain a written record of any emergency application of a lawn care pesticide on the grounds of the child care center, school, or recreation center for at least five years. Within 24 hours after an emergency application, or on the next school day, the child care center or school must notify each parent, guardian, and staff member that a lawn care pesticide was applied for emergency pest control and provide specified information regarding the application. The notification may be made by (1) telephone call; (2) direct contact; or (3) written notice sent home with the child or provided to the staff member.

“Child care center” is defined as a specified child care center licensed by the Maryland State Department of Education (MSDE). “School” includes (1) any school in which an instructional program is offered or provided for children in any grade from kindergarten through grade 12 and (2) a preschool.

“Lawn care pesticide” means a pesticide registered by the U.S. Environmental Protection Agency (EPA) and labeled pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act for use in lawn, garden, or ornamental sites and areas.

MDA must adopt regulations to implement the bill’s provisions.

Current Law: Integrated pest management is required to be conducted at public schools in the public elementary and secondary system of the State. “Integrated pest management” means a managed pest control program in which methods are integrated and used to keep pests from causing economic, health-related, or aesthetic injury through the utilization of

site or pest inspections, pest population monitoring, evaluating the need for control, and the use of one or more pest control methods including sanitation, structural repair, nonchemical methods, and, when nontoxic options are unreasonable or have been exhausted, pesticides in order to minimize the use of pesticides and minimize the risk to human health and the environment associated with pesticide applications.

Specified recordkeeping and notification requirements apply when pesticides are used. The integrated pest management law applicable to schools does not limit pesticide application only to emergency situations, but under the definition of integrated pest management, nontoxic options must be unreasonable or have been exhausted before applying a pesticide, and notification must be provided prior to an application. The law applies to pesticides in general and is not specific to lawn care pesticides, and it applies to school buildings as well as grounds.

State regulations governing child care facilities licensed by MSDE state that a pesticide may be used only if it is (1) approved by EPA; (2) used according to the manufacturer's instructions; (3) used only when children are not in care; and (4) stored apart from food, beverages, and cleaning agents.

Generally, any person who violates any provision of the Agriculture Article is guilty of a misdemeanor, and unless another penalty is specifically provided, is subject to a fine of up to \$500 and/or imprisonment for up to three months. Any person found guilty of a second or subsequent violation is subject to a fine of up to \$1,000 and/or imprisonment for up to one year.

State Fiscal Effect:

Maryland Department of Agriculture

General fund expenditures for MDA increase by \$201,778 in fiscal 2016, which accounts for the bill's October 1, 2015 effective date. This estimate reflects the cost of hiring three inspectors to conduct outreach, training, and compliance inspections of affected facilities. It includes salaries, fringe benefits, one-time start-up costs, and ongoing operating expenses.

MDA indicates that existing staff cannot handle the additional workload associated with implementing the bill due to other State and federal inspection/investigation activities that they are required to perform. The bill is enforced in a similar manner as the integrated pest management requirements are enforced, in which inspectors routinely conduct inspections at public schools to ensure compliance with the law. The inspectors also conduct outreach and training in the initial years of implementation.

Positions	3
Salaries and Fringe Benefits	\$112,208
Vehicles	55,860
Operating Expenses	<u>33,710</u>
Total FY 2016 MDA Expenditures	\$201,778

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses.

Department of Natural Resources

The bill does not define “recreation center” or “recreational field,” both of which presumably may be defined by MDA by regulation. DNR advises that its operations and finances may be meaningfully impacted to the extent the bill applies extensively to lawn care pesticides used in State forests and parks and wildlife management areas. If the bill applies extensively, it affects the department’s ability to implement invasive species control efforts on State lands, potentially impacting expenditures (for alternative control methods) and timber sales and agricultural lease revenues. It is assumed, for the purposes of this fiscal and policy note, that the bill’s application is limited to curtailment of pesticide use in heavy day use areas of State lands, which DNR advises has minimal anticipated impact.

Penalties

Any penalties imposed for violations of the bill are not expected to materially affect State finances.

Local Fiscal Effect: Local governments may be affected by the bill’s impact on schools and recreation centers and fields. County school systems are currently subject to the integrated pest management laws mentioned above, but the bill prohibits public schools from using lawn care pesticides on school grounds except in emergencies involving an immediate threat to human health. Currently, pesticide applications are allowed under the integrated pest management law under certain circumstances other than emergencies.

The extent to which local government finances are affected by the bill’s application to schools, recreation centers, and recreational fields overall is unclear, but it appears that the bill has the potential to meaningfully impact local government finances in some jurisdictions. The Maryland-National Capital Park and Planning Commission, for example, which operates parks and recreation facilities in Montgomery and Prince George’s counties, indicates that its capital and operating costs increase significantly, in the millions of dollars, for alternative methods of pest control, and that its revenues decrease due to rented athletic fields being closed more often for maintenance.

Any penalties imposed for violations of the bill are not expected to materially affect local government finances.

Small Business Effect: Small business child care facilities or schools, or facilities considered recreation centers under the bill, may be meaningfully impacted to the extent the bill limits their ability to control pests and operate safely or results in increased costs. The Maryland State Child Care Association has indicated in the past that use of pesticides is avoided to the extent possible by child care facilities, though in some cases where a facility is leasing space in a larger building, the facility may not have complete control over pesticide application around the facility. Those facilities may have more difficulty complying with the bill.

Small business lawn care and landscape management companies are expected to be meaningfully impacted by reduced business. Some companies are more significantly impacted depending on the amount of their business that consists of schools and athletic fields.

Additional Information

Prior Introductions: None.

Cross File: None.

Information Source(s): Maryland Department of Agriculture; Department of Natural Resources; Maryland State Department of Education; Department of Human Resources; Department of Juvenile Services; Anne Arundel, Howard, and Montgomery counties; Baltimore City; Maryland-National Capital Park and Planning Commission; Maryland Association of County Health Officers; Maryland Association of Boards of Education; Maryland Association of Green Industries, Inc.; Maryland State Child Care Association; Department of Legislative Services

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md/lgc

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