



January 29, 2021

**Testimony in Support of: HB208: Agriculture – Neonicotinoid Pesticides – Sales and Storage
House Environment and Transportation Committee**

Dear Chairman Barve, Vice Chairman Stein and member of the committee,

The Smart on Pesticide Coalition comprised of 108 organizations and businesses urges the committee's favorable report for HB208. The coalition is spearheaded by the Maryland Pesticide Education Network.

The Maryland General Assembly passed the nationally ground-breaking 2016 Pollinator Protection Act. This law, which went into effect in 2018, was intended to end all consumer use of garden products that contain *neonicotinoid* (or *neonic*) pesticides, known to kill and harm bees and other pollinators – not only posing a serious threat to our food supply, but also to our public health, and the environment. Unfortunately, a number of stores are using a loophole in the law to allow them to continue to sell these products to consumers.

In 2016, there was significant scientific evidence that the neonicotinoid class of pesticides endangers the survival of pollinators, which are critical for 1/3 of our food supply, and causing the alarming rates of pollinator injury and deaths in our state. Over the years, this evidence has only grown stronger.

HB208 clarifies the bill language so it does what the legislature intended – keep these harmful products away from consumers. HB208 addresses the language that states “a person may not sell at retail in the State a neonicotinoid pesticide unless the person also sells a restricted use pesticide”; this has created a loophole that some retailers are exploiting. The law intended for only certified applicators and farmers to be able to purchase these products, not consumers. Due to the loophole, certain retailers are selling neonic-containing products unbeknownst to consumers who purchase them, and for whom it's illegal to use.

After the 2016 law went into effect, Dennis Howard, MDA's previous manager of pesticide regulation, noted that the law was meant to prohibit sales to the general public for outdoor use. According to a 2018 Bay Journal article, Howard stated: “...the law's language can be a little confusing, but it does prohibit sales to the general public of neonicotinoid pesticides for outdoor use. ...They [neonics] should be behind the counter for the folks [certified applicators] who can actually apply it under the legislation.”

More recently, the Maryland Dept. of Agriculture (MDA) is interpreting this loophole to allow more than 100 Restricted Use Pesticide retailers in Maryland to sell consumers neonic-containing garden products. This includes 39 Target stores, where the products are clearly for consumer use (e.g. they sell BioAdvanced, which is a small aerosol can that cannot be construed for use by restricted use certified applicators in agriculture or for lawn care and landscape companies).

The 2016 law states that beginning January 1, 2018, a person may not use a neonicotinoid pesticide unless the person is (1) a certified applicator or a person working under the supervision of a certified applicator; (2) a farmer, or a person working under the supervision of a farmer, who uses the pesticide for agricultural purposes, including crop production, livestock, poultry, equine, and non-crop agricultural fields; or (3) a veterinarian.

The Smart on Pesticides Coalition's volunteer Pollinator Protection Squad spot-checked "big box" and independent hardware and garden stores in 2018 and 2019 to monitor whether *neonics* were still being sold. In 2018, out of the 50 stores checked, 25% carried illegal products; in 2019, out of the 41 stores checked, 27% carried illegal products. Store checks were suspended in 2020, due to COVID-19.

The Bee Informed Partnership housed in the University of Maryland tracks national and state bee losses. Their annual bee loss survey for 2019-20 nationally found the second highest losses in history at a 44% loss. Maryland was not far behind with 39.5% annual losses. The 2019-2020 survey also found summer losses, a time when bees should thrive. The survey showed the highest summer losses ever recorded at a 32% loss in population.

Honeybees and other pollinators are responsible for one out of every three bites of food we eat. Bees pollinate 71 of the 100 crops that make up 90 percent of the world's food supply. Alarmingly, *neonics* have been shown to be responsible for the vast majority of the 48-fold increase in the toxicity of the U.S. environment to bees in the last 25 years.

Since the Pollinator Protection Act was passed in 2016 a notable number of peer reviewed studies have continued to underscore that even when used at labeled doses, neonics have been shown to weaken and eventually kill honey bee colonies. Recent studies, as noted in Dr. Hartmut Doebel's written testimony in support of HB 208, add to an already considerable body of research in their findings that neonics prevent bees from foraging and protecting their hives by damaging their brains. They kill sperm, even inside queens after they have mated, preventing the replacement of old, dying bees. By making hives weak and sickly, allowing mites and viruses to reproduce to damaging levels, these toxic chemicals prevent honey bees from doing the job of pollinating crops here in the U. S. and around the world.

In fact, the European Union in 2018 took the momentous step of banning all outdoor use of all neonics. The lack of pollination is now decreasing crop yields, and the Worldwide Integrated Assessment on systemic insecticides concluded with alarm that current use of neonics "threatens global... food security" and "can destabilize ecosystems that form our life support system." These chemicals pose dangers to us on many levels, and we must limit their use.

The Pollinator Protection Act was passed by a strong bi-partisan majority with the understanding that consumers would no longer be able to purchase or use neonic-containing outdoor garden products as of January 2018.

HB208 provides a simple fix to close this loophole and end all consumer sales of *neonicotinoids* ensuring that consumers will not have access to *neonicotinoids*, as the law intended.

This amendment will enable the law to be enacted as it was originally intended, by stipulating that retailers may only sell neonicotinoid pesticides to a certified applicator or farmer "and must keep the products behind the counter and out of reach of customers without assistance from a staff member."

Farmers remain exempt from this law, as it only applies to consumers.

By passing HB208, Maryland will continue to demonstrate its leadership and dedication to protecting our food supply, public health, and pollinators by reducing the widespread use of neonicotinoid pesticides that are toxic to our pollinators.

Bonnie Raindrop, Program Director
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WE MUST FIX the Pollinator Protection Act (HB208 / SB375)



The Maryland General Assembly passed the Pollinator Protection Act in 2016 by a strong bipartisan majority to end all consumer use of lawn and garden products that contain neonicotinoid (or neonic) pesticides. Neonics kill bees and other pollinators — posing a serious threat to our food supply, human health, aquatic, and wildlife.

Unfortunately, more than 100 retail stores in Maryland are using unclear language in the bill as a loophole to allow them to continue to sell these bee-killing products to unsuspecting consumers, even though it is illegal for consumers to use them.

This is especially concerning at a time when U.S. beekeepers have lost over 40% of their colonies — the second highest loss in history.

This is a simple fix. We must clarify the bill language, so it does what the legislature originally intended: to keep these harmful pesticides out of the hands of consumers.

Fixing the Pollinator Protection Act would resolve this loophole. This technical fix ([HB208 / SB375](#)) would clarify that retailers who sell Restricted Use Pesticides (RUP) may only sell neonic pesticides to a certified applicator or farmer and must keep the products behind the counter and out of reach of customers without assistance from a staff member.



The Maryland General Assembly must pass this technical fix (HB208 / SB375) to enforce the bipartisan Pollinator Protection Act as it was originally intended.

We urge you to support HB208 / SB375 to continue to protect bees, pollinators, and our food supply.



**SMART on
PESTICIDES
maryland**
For Safe Water & Healthy Kids

The Smart on Pesticides Maryland coalition, spearheaded by the Maryland Pesticide Education Network, works to protect Marylanders and the natural systems we depend upon from the toxic impacts of pesticides. The coalition includes more than 100 organizations, and institutions representing communities, businesses, health care providers, farmers, environmentalists, waterkeepers, interfaith congregants as well as environmental justice, public health and wildlife advocates.





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**SMART ON PESTICIDES CAMPAIGN
MEMBERS (108 and still growing)**

A.I.R Lawncare and Landscaping Services
Alliance of Nurses for a Healthy Environment
American Academy of Pediatrics–Md. Chapter
American Public Health Association–Md. Chapter
Anacostia Watershed Society
Annapolis Green
Anne Arundel Beekeepers Association
Assateague Coastal Trust
Audubon Maryland - DC
Audubon Naturalist Society
Baltimore Backyard Beekeepers Network
Baltimore Bird Club
Bee Friendly Apairy
Beyond Pesticides
Big City Farms
Bowie-Upper Marlboro Beekeepers Association
CATA, Farmworker Support Committee
Carroll County Beekeepers Association
Cecil Bird Club
Center for Biological Diversity
Center for Food Safety
Central Maryland Beekeepers Association
Central Maryland Ecumenical Council/Ecumenical Leaders Group
Centro de los Derechos del Migrante
Charles Smith Apiaries
Charm City Meadworks
Chesapeake BaySavers
Chesapeake Physicians for Social Responsibility
Children’s Environmental Health Network
Clean Bread and Cheese Creek
Clean Water Action
Common Market Co-Op
Conservation Community Consultants
Cottingham Farm
Crossroads Community Food Network
Earth Coalition
Earthjustice
Eastern Shore Food Hub
Environment Maryland
Fair Farms
F&D Apiaries
Farmworker Justice

Food and Water Watch
Fox Haven Farm and Learning Center
Frederick Co. Beekeepers Association
Friends of Briers Mill Run
Friends of Lower Beaverdam Creek
Friends of Quincy Run
Friends of the Earth
Greenbelt Forest Preserve Butterfly Brigade
Hampden Community Council
Hereford Bed and Biscuit
HoneyFlower Foods
Howard County Beekeepers Association
Howard County Bird Club
Interfaith Partners of the Chesapeake
Interfaith Power & Light
Jaires Workgroup/Black By Nature
Johns Hopkins Center for a Livable Future
Karma.Farm
KW Landscaping
Latino Farmers & Ranchers Assoc.–Md. Chapter
League of Women Voters of Maryland
Learning Disabilities Association–Md. Chapter
Lower Susquehanna Riverkeeper
Maryland Autism Project
Maryland Bass Nation
Maryland Conservation Council
Maryland Ethical Cannabis Association
Maryland League of Conservation Voters
Maryland Nurses Association
Maryland Organic Food and Farming Association
Maryland Ornithological Society
Maryland Pesticide Education Network
Maryland Public Interest Research Group
Maryland United for Peace and Justice
Maryland Votes for Animals
McDaniel Honey Farm
Migrant Clinicians Network
Moms Clean Air Force
MOM’S Organic Market
Montgomery Countryside Alliance
National Aquarium
National Resources Defense Council
Organic Consumers Association
Pearlstone Conference Center
Pesticide Action Network–North America
Potomac Riverkeeper
Queen Anne’s Conservation Association
Rachel Carson Council
Really Raw Honey Company

Red Top Farm
Rodale Institute
Rosedale Farm
Ruscombe Community Health Center
SafeGrow Montgomery
Safe Minds
Safe Skies Maryland
Sierra Club–Maryland Chapter
Spa Creek Conservancy
The Flower Factory
Towson Estates Association
Trout Unlimited
Washington County Beekeepers Association
Waterkeepers Chesapeake
Westport Farmers Market
Westport Neighborhood Association
Wicomico Environmental Trust

EVALUATING HEALTH & ENVIRONMENTAL SCIENCE

A Guide for Legislators

Scientific evidence is the underpinning for policy decisions regarding health. This checklist offers guidance for legislators listening to and assessing scientific testimony and scientific arguments on these often difficult questions, as well as help in questioning witnesses during a hearing.

1. What is the purpose, and what is the source of the research being presented?

The goal of a study may influence the outcomes. For instance, studies that a manufacturer must undertake to submit a chemical or drug for federal registration are different from studies performed by independent scientists seeking to understand impacts of chemicals on humans, animals, or the ecosystem.

What you need to know: Are government findings based on industry-provided research? Are they based on a review of all available sources?

Example: In the debate of e-cigarette / vapor product regulation, research reports by the FDA's Division of Pharmaceutical Research was very credible because it reflected totally independent testing.

2. Have the studies been peer-reviewed?

Independent scientific research is subject to review by a panel of “peers”; these are other scientists with no stake in the findings and no conflicts of interest. Peer review ensures accuracy in methodology and statistical significance, as well as proper interpretation of the results. When a study passes peer review, it is usually published in a scientific journal, such as Environmental Health Perspectives or the Journal of the American Medical Association. This is a transparent process, ensuring that rigorous standards are upheld.

What you need to know: Are the studies being cited peer reviewed? If not, consider the source. Blogs and newspaper articles are not peer-reviewed materials, but may link back to a peer-reviewed source.

Peer Reviewed

A panel of independent experts in the same scientific field, who have no connection to the study and no conflicts of interest, have reviewed it and judged it to be valid and worthy of publication.

3. How certain is “certain enough” to act?

Scientists examine facts and complex information and then look for a preponderance of evidence. While scientists routinely disclose elements of uncertainty in their research, they form their conclusions based on the weight of the evidence.

What you need to know: Is there sufficient evidence regarding possible harms that warrants taking action? Is there sufficient evidence of safety to justify inaction?

Example: Based on the preponderance of evidence of likely harm, we passed seat belt laws and prevented children from drinking alcohol.

4. Are the scientists being too cautious?

Scientists are conservative regarding “certainty.” They use a “95% confidence test” in order to conclude that two observations that happen together are more than accidental and probably causal. When it comes to taking action,

however, public and environmental health experts recommend action based on sufficient scientific evidence to warrant concern and not on a specific percentage.

What you need to know: What are the risks and what could be the harm if we wait for more research to be conducted before taking action?

Example: Laws limiting human exposure to DDT, lead, tobacco and alcohol were all passed long before a 95% confidence test was met. These laws were based on a preponderance of evidence rather than 95% certainty.

5. Are the findings influenced by funding source, trade secrets, or suppression of data?

The design of a scientific study may be influenced by the source of its funding. This has been well documented by independent observers. It is therefore reasonable and prudent for legislators to ask all scientists and those who cite scientific research about their sources of funding.

What you need to know: What are the sources of funding for the work being cited? Were any data omitted due to trade secret protections or similar reasons?

Example: 1) The source of funding for a study can influence important findings or cause contrary results to be omitted from the study's report. 2) Important data that an industry provides to a federal agency before marketing will not be in the public domain and may not have been subjected to peer review.

6. Has anyone addressed the economic harm associated with inaction?

Policy-makers must weigh not only the cost of taking action but also the cost of inaction. Science offers insight into the costs of inaction.

What You Need to Know: What public and private costs may be incurred if we do not take action on this proposed policy?

Example: A 2015 peer reviewed study estimated the costs to the EU of human exposure to endocrine disruptors at \$209 billion annually in medical care and lost productivity. (*Trasande et al J Clin Endocrinol Metab. 2015 Apr; 100(4): 1245–1255.*)

Note: The fiscal note on a bill will not typically assess the costs of inaction. It addresses only the costs of adopting the policy, and usually only the costs to government.

7. Have long term effects been assessed?

Early life exposures can create high risks in later life. An example is the link between lead poisoning and long-term harms to children, or between tobacco and cancer. Over time, human exposures to multiple chemicals will have interactive effects that may be quite different from the effects of a single chemical.

What you need to know: Does the science presented also address the long-term effects of exposure? If not, is that because the research does not exist?

Note: Federal agency review does not establish absolute safety. The US EPA registers chemicals based on “reasonable certainty of no harm” and has yet to address the synergistic effects of chemicals in real life, such as interactions with other chemicals in the environment, medications, and illness.

Weight of the Evidence

This term refers to a judgment in the scientific community that most studies to date confirm a particular conclusion. Scientists are always open to new findings, so they may avoid using terms like “certainty”, “100%” or “we are sure.”