



Presentation to the
Ontario Legislature

Standing Committee on Social Policy

June 9th, 2008

concerning

Bill 64:

An Act to amend the Pesticides Act to prohibit the use and sale
of pesticides that may be used for cosmetic purposes

by the

Canadian Federation of University Women
ONTARIO COUNCIL

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SUMMARY OF OUR CONCERNS

CFUW Ontario Council recommends that:

- The bill should **prohibit use of non-essential pesticides**, except as necessary for the promotion of public health or safety.
- **This would negate the need for “other prescribed uses”** currently listed under Section 2. “The Act is amended ... 7.1 (2) 5.” This subsection is unacceptable and counter to the spirit of the Act.
- This prohibition would **not apply to uses related to agriculture, and forestry.**
- **Golf courses should be extended limited exception status for three years**, by which time the exception would be terminated. Limited exception status would entail strict adherence to prescribed conditions as defined by regulation.
- As in Section 12 of the *Smoke-Free Ontario Act*, “If there is conflict between sections ... of this Act and a provision of another Act, a regulation or a municipal by-law that deals with smoking, the provision that is more restrictive of smoking prevails, subject to subsection 13 (3). 1994, c. 10, s. 12.”

where both municipal pesticide ban by-laws and the *Cosmetic Pesticides Ban Act* exist, the provision that is more restrictive of nonessential pesticide use and/or sale will prevail.

- A mechanism must be stipulated in the act that will address future product development to accommodate name changes, formula “tweaking” and development of new products.
- **Public education** with regard to alternative and proactive methods of lawn and garden care should be mandated within the Act. (When defined in regulation, this could in fact be a cross-reference process to the many excellent programmes already extant in municipalities across Ontario, but should nonetheless be recognized as an essential part of the Act.)

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INTRODUCTION

Ladies and Gentlemen:

I am Elaine Harvey of Kingston Ontario, immediate past chair of the Legislation Standing Committee of the Ontario Council of the Canadian Federation of University Women (CFUW).

With me is Sheila Clarke of Stratford Ontario who is a past Director of Legislation for the national organization of CFUW.

Due to the short notice, our President, Myra Willis, was unable to attend today.

CFUW Ontario Council welcomes the opportunity to comment on *Bill 64: Cosmetic Pesticides Ban Act* which will ban the use and sale of pesticides for cosmetic purposes.

We are pleased that the Government of Ontario has initiated a revision of the *Pesticide Act* to limit the use of pesticides that endanger the health and safety of our citizens.

CFUW is a 10,000 member national organization with a long-established history of research and advocacy in public affairs. The Ontario Council of CFUW with 59 Clubs throughout the province pursues the same path with regard to provincial matters. We strive for action, advocacy and education. CFUW is affiliated with the International Federation of University Women (IFUW), founded in 1919, with members in over 120 countries.

CFUW has a well established policy on the environment dating from 1967. Specific policy on cosmetic use of pesticides, initiated by CFUW Stratford, was passed in 2002.

Like Canadians in other jurisdictions, CFUW Ontario Council has become increasingly concerned about the environment. We take as our authority the established policy of IFUW, CFUW and Ontario Council recognizing that each adopted resolution has been carefully researched and approved by delegates at

duly constituted annual general meetings. The environment has always assumed a large role in our research and advocacy.

Hello, my name is Sheila Clarke, past Director of Legislation for the national CFUW.

CFUW is supportive of the government intention to protect the residents of Ontario from the potential health hazards of unnecessary use of pesticides. We particularly commend the application of this legislation to the sale of pesticides, to both urban and rural residential properties, and to industrial, commercial, institutional, municipal and provincial properties. These elements are truly forward-thinking.

CFUW proposes the following recommendations to ensure that the bill will adequately protect public health, successfully change usage and perceptions with regard to non-essential use of pesticides, and fully reflect rapidly changing attitudes toward cosmetic use of pesticides in Ontario municipalities.

RECOMMENDATIONS

CFUW Ontario Council recommends that:

- **The bill should prohibit use of non-essential pesticides, except as necessary for the promotion of public health or safety.**

- This would negate the need for “other prescribed uses” currently listed under Section 2. “The Act is amended ... 7.1 (2) 5.” This subsection is unacceptable and counter to the spirit of the Act.
- This prohibition would not apply to uses related to agriculture, and forestry.
- Golf courses should be extended limited exception status for three years, by which time the exception would be terminated. Limited exception status would entail strict adherence to prescribed conditions as defined by regulation.
- As in Section 12 of the *Smoke-Free Ontario Act*, “If there is conflict between sections ... of this Act and a provision of another Act, a regulation or a municipal by-law that deals with smoking, the provision that is more restrictive of smoking prevails, subject to subsection 13 (3). 1994, c. 10, s. 12.” where both municipal pesticide ban by-laws and the *Cosmetic Pesticides Ban Act* exist, the provision that is more restrictive of nonessential pesticide use and/or sale will prevail.
- A mechanism must be stipulated in the act that will address future product development to accommodate name changes, formula “tweaking” and development of new products.

- **Public education with regard to alternative and proactive methods of lawn and garden care should be mandated within the Act. (When defined in regulation, this could in fact be a cross-reference process to the many excellent programmes already extant in municipalities across Ontario, but should nonetheless be recognized as an essential part of the Act.)**

DISCUSSION OF THESE 7 RECOMMENDATIONS

- **The bill should prohibit use of non-essential pesticides, except as necessary for the promotion of public health or safety.**

This pertains to a fundamental premise of the bill, and that is the designation of chemical components as criteria of use- or not. A list of this nature is essential for the prohibition of sales of cosmetic pesticides.

However, it is puzzling as the defining element for use. It would seem that NO use of pesticides for cosmetic purposes is the message we have received surrounding the intent of the bill. That is a definition by use, rather than by chemical component, and as such, appears to be the language of many municipal bylaws, as well as the general intent expressed by the public.¹

¹Coalition for a Healthy Ottawa, Pesticide Polls and Surveys Across Canada, <http://www.flora.org/healthyottawa/pesticide-ban-public-opinion-poll.htm> Consistently across Canada, between 70 and 90 per cent of Canadians favour pesticide restrictions. In Ontario, the latest poll indicates a figure of 71%.

Approximately 50 years ago, cosmetic pesticide use began. Before that, weeds were generally accepted as a fact of life, and for those who didn't wish to have them, they could be removed manually. Children made necklaces of dandelions, and most mothers received a small and treasured bouquet of what were actually what we call weeds- buttercup, Dame's Rocket, Creeping Charlie, and of course, dandelions.

There is one consideration we have overlooked almost completely. The soil at that time was relatively healthy, replete with the micro-organisms necessary to provide nutrients for the plants above, as well as the larger organisms such as earthworms to aerate the soil. After 50 years of advertising, we now honestly believe that if there's something we don't like, we can buy some product, even vinegar, apply it, kill the invader, and life will be good. We have forgotten that application of anything in large amounts will kill the soil organisms. They exist in a delicate balance in the soil ecosystem. ²

To take that one step further, we exist in and are part of a delicate ecosystem, one which is sending crisis messages at an increasing and alarming rate. The canaries in the mine are becoming legion. Songbird numbers are down by 50% in the last 40 years³, frog numbers are declining, ⁴ bees and millions of pollinators

² Michigan State University, Soil Ecology and Management: Soil Biology, <http://www.safs.msu.edu/soilecology/soilbiology.htm> (Accessed June 9, 2008)

³ Doyle, Leonard, American Songbirds Are Being Wiped Out by Banned Pesticides, [The Independent/ UK](#), Friday, April 4, 2008 (Accessed: June 9, 2008)

vital to food crops are disappearing⁵- and now bats are in serious trouble in the NE United States⁶. All of these declines have pesticides postulated as part of the story.

We too are canaries in the mines, as several cancers continue to increase in incidence with no clear etiology: Non-Hodgkin's Lymphoma, Thyroid Cancer, and Multiple Myeloma. CFUW agrees with the Canadian Cancer Society:

Since ornamental use of pesticides has no countervailing health benefit and has the potential to cause harm, we call for a ban on the use of pesticides on lawns and gardens.

In summary, as noted in the very excellent *Pesticide Literature Review* published by the Ontario Coalition of Family Physicians⁷, it doesn't make sense to prohibit cosmetic pesticides by component or name, but it makes tremendous sense to say there will be no cosmetic use of pesticides, period. The risk is too great, and the benefit superficial at best. The health of our environment, of our ecosystem,

⁴ [AmphibiaWeb](http://amphibiaweb.org/): Information on amphibian biology and conservation. [web application]. 2008. Berkeley, California: AmphibiaWeb. Available: <http://amphibiaweb.org/>. (Accessed: Jun 8, 2008)

⁵ Dyer, Jim, 2004. Bug lovers wanted, *The Blazing Star* - Newsletter of the North American Native Plant Society (Spring). 5(2): 3. (Accessed: June 9, 2008)

⁶ Smith, Dawn M., *Bat Die-Off and Bee Colony Collapse*, February 20, 2008, (Accessed: June 9, 2008)

⁷ *Pesticides Literature Review*, Ontario College of Family Physicians (April 2004), <http://www.ocfp.on.ca/local/files/Communications/Current%20Issues/Pesticides/Final%20Paper%203APR2004.pdf> (Accessed: June 4, 2008)

should be our first priority. It makes eminent sense to frame this very important bill in that context.

- **This would negate the need for “other prescribed uses” currently listed under Section 2. “The Act is amended ... 7.1 (2) 5”. This subsection is unacceptable and counter to the spirit of the Act.**
- **This prohibition would not apply to uses related to agriculture, and forestry.**

If health and safety are the defining parameters of any pesticide use then there is absolutely no need for any further exceptions, beyond agriculture and forestry.

Subsection 7.1 (2) 5 as it stands is a wide open gate to defining weed and bug infestations as exceptions permitting cosmetic pesticide use, an approach that continues the cycle of pesticide dependent lawns and gardens, postpones soil and plant ecosystem health that much longer, and keeps pesticides in the community, which runs counter to the recommendations from those speaking for our health, and especially for the health of our children, and of pregnant and breast-feeding women.

It is unacceptable. Should the listing approach be retained, then this subsection should be deleted.

- **Golf courses should be extended limited exception status for three years, by which time the exception would be terminated. Limited exception status would entail strict adherence to prescribed conditions as defined by regulation.**

We would prefer to see golf course exception denied. Should this not occur, the above recommendation would provide an extended lead time for the courses to accommodate alternative approaches to turf-maintenance, along with eventual pesticide-free status.

- **As in Section 12 of the *Smoke-Free Ontario Act*, “If there is conflict between sections ... of this Act and a provision of another Act, a regulation or a municipal by-law that deals with smoking, the provision that is more restrictive of smoking prevails, subject to subsection 13 (3). 1994, c. 10, s. 12.” where both municipal pesticide ban by-laws and the *Cosmetic Pesticides Ban Act* exist, the provision that is more restrictive of nonessential pesticide use and/or sale will prevail.**

Throughout Ontario, members of communities ranging from small towns to big cities have researched pesticides, discussed, met in committees, had public meetings, and have voted on councils. They have taken responsibility for their own health with regard to pesticides, and have initiated education programs to assist their citizens in making the transition to pesticide-free lawn and garden care.

The Supreme Court of Canada has twice upheld the right of municipalities to determine their own pesticide use through municipal by-laws, in Hudson, Quebec⁸ and again in Toronto.⁹

Just as the government of Ontario wisely did with another public health bill, the *Smoke-Free Ontario Act*, we urge most strongly the rejection of any provincial override of municipal pesticide bylaws, as long as they meet the requirements of the *Cosmetic Pesticides Act*.

- **A mechanism must be stipulated in the act that will address future product development to accommodate name changes, formula “tweaking” and development of new products.**

While we recognize the intent to define pesticide update procedures and protocols through regulations, we would welcome a reference to this intent noted in the bill. This would render the process more transparent and accountable.

- **Public education with regard to alternative and proactive methods of lawn and garden care should be mandated within the Act. (When defined in regulation, this could in fact be a cross-reference process to the**

⁸ Ecojustice, Hudson Pesticide Supreme Court Victory, <http://www.ecojustice.ca/cases/hudson-pesticide-by-law-supreme-court-decision/> (Accessed: June 9, 2008)

⁹ Ecojustice, Ontario Court of Appeal dismisses industry challenge of Toronto Pesticide By-law, May 13, 2005, <http://www.ecojustice.ca/media-centre/press-releases/ontario-court-of-appeal-dismisses-industry-challenge-of-toronto-pesticide-by-law?searchterm=toronto> (Accessed: June 9, 2008)

many excellent programmes already extant in municipalities across Ontario, but should nonetheless be recognized as an essential part of the Act.)

Lastly, we'll circle back to our 50 years of cosmetic use of pesticides and the spectre of chemically dependent lawns, gardens and gardeners. The medical and health voices of authority have clearly indicated to us that while we may never be able to prove that x pesticide causes y disease, there is ample evidence that for our own health and for the health of the ecosystem of which we are a part, the time for the end of cosmetic use of pesticides has come. But how do we get there?

For many young people, they've never known a world without pesticides, a world in which nature was more partner, than enemy. There is an enormous and a most important public education job to do. There are already excellent materials available, created by organizations and municipalities which have begun the transition. It's altogether possible that the education process could be a team effort, bringing together individuals and materials from across Ontario to re-interpret basic understandings on a provincial basis.

We recognize the government will to fund the necessary transition in Ontario. However, due to the critical importance of public education in lawn and garden care without pesticides, CFUW urges the government of Ontario to include in Bill 64 a commitment to the provision of education and information. This would

demonstrate both government support and leadership to enable the residents of Ontario to make the transition to pesticide-free gardening in support of the health of Ontarians, and of the fragile ecosystems that surround us and of which we are a part.

Appendix A

SUGGESTED CHANGES to the TEXT of the ACT:

- **Strike in Section 2, Bill 64, Cosmetic Pesticides Ban Act, 2008**

7.1(1), (2), (3), (4) and (5)

Insert instead in Section 2

2. The Act is amended by adding the following clauses:

Prohibitions – pesticides used for cosmetic purposes

4. (2) No person shall use or cause or permit the use in, on or over land or water of a pesticide for any use except for the promotion of public health or safety.

Excepted uses

(3) As defined by the regulations, subsection (2) does not apply to the following uses of a pesticide:

(a) Uses related to agriculture.

(b) Uses related to forestry.

(4) Golf courses shall receive limited exception for a period of three years, subject to regulation.

Conflict with other legislation

(5) Where both municipal pesticide ban by-laws and the *Cosmetic Pesticides Ban Act* exist; the provision that is more restrictive of non-essential pesticide use will prevail.

Requirement related to excepted uses

(6) A person who, pursuant to subsection (4) uses a non-essential pesticide shall comply with such requirements as may be prescribed.

Prohibition on sale, etc.

6. (2) No person shall sell, offer to sell or transfer a pesticide that has been defined as specific to cosmetic use except as defined under 4. (4)

(3) Protocols shall be established by regulation to ensure currency of those pesticides defined as specific to cosmetic use only.

(4) where both municipal pesticide ban by-laws and the *Cosmetic Pesticides Ban Act* exist; the provision that is more restrictive of sale of non-essential pesticides shall prevail

- **Substitute in Section 4 of Bill 64, *Cosmetic Pesticides Ban Act, 2008***

34. (2) Subsection (1) does not authorize the Director to exempt a person from a provision of a regulation made with respect to section 4. (2)

- **Substitute in Section 5 (1) of Bill 64, Cosmetic Pesticides Ban Act, 2008**

Section 35. [Regulations] of the Act

Substitute:

38. prescribing pesticides for the purpose of subsection **6 (2)**

39. defining golf courses for the purpose of paragraph 1 of subsection **4.(4)**

40. defining agriculture for the purpose of paragraph 2 of subsection **4.(3)1.**

41. defining forestry for the purpose of paragraph 3 of subsection **4.(3)2.**

42. defining promotion of public health or safety for the purpose of subsection **4.(2)**

Strike:

43. prescribing uses for the purpose of paragraph 5 of subsection 7.1 (2);

Substitute:

44. prescribing conditions that **must be met for subsection 4. (4)** to apply;

45. prescribing requirements that must be complied with for the purpose of subsection **4 (4)**

Strike:

46. prescribing sales, offers to sell or transfers to which subsection 7.1 (4) does not apply;

Substitute:

47. providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in relation to section 4. (2) and 6.(2) and (3)

Strike:

48. prescribing municipal by-laws to which subsection 7.1 (5) does not apply.

- **Strike the Section 5 (2) of Bill 64, Cosmetic Pesticides Ban Act, 2008**

Strike: Pesticides prescribed for s. 7.1

Strike: (2) A regulation made under paragraph 38 of subsection (1) shall not prescribe a pesticide unless the pesticide may be used for a cosmetic purpose.

Strike: Municipal by-laws to which s. 7.1 (5) does not apply

Strike: (3) A regulation made under paragraph 48 of subsection (1) shall not prescribe a municipal by-law unless the passing of the by-law is required under an Act.

Appendix B

SOME CANADIAN FEDERATION OF UNIVERSITY WOMEN POLICY CONCERNING PESTICIDES and the ENVIRONMENT

Note: Policy for CFUW Ontario Council integrates resolutions passed by CFUW Ontario Council (www.cfuwontcouncil.ca) as well as the Canadian Federation of University Women (CFUW) (www.cfuw.org) and the International Federation of University Women (IFUW).

2002 **Non-Essential (Cosmetic) Pesticides: Registration and Education**

1999 **Endangered Species**

1995 **Sustainability**

1992 **Endangered Ecosystems**

1989 **Environment Our Common Future (the Brundtland Report)**

1970 **Pollution**

ONTARIO COUNCIL**Club Locations**

Ajax – Pickering	Kingston	Ottawa
Aurora - Newmarket	Kitchener - Waterloo	Owen Sound & Area
Barrie & District	Leaside - East York	Perth
Belleville & District	London	Peterborough
Brampton	Markham- Unionville	Renfrew & District
Brantford	Milton & District	Sarnia Lambton
Brockville & District	Mississauga	Saugeen
Burlington	Muskoka	Scarborough
Cambridge	Nepean	Southport
Chatham -Kent	Niagara Falls	St. Catharines
Cornwall & District	Norfolk	St. Thomas
Etobicoke	North Bay	Stratford
Georgetown	North Toronto	Sudbury
Georgian Triangle	North York	Thunder Bay
Grimsby	Northumberland	Toronto
Guelph	Oakville	Vaughan
Haliburton Highlands	Orangeville & District	Welland & District
Hamilton	Orillia	Weston & District
Kanata	Orleans	Windsor
Kincardine	Oshawa & District	