

Bill No. 52-14  
Concerning: Pesticides – Notice  
Requirements – ~~[[Non-essential~~  
Pesticides – Prohibitions]] Cosmetic  
Pesticide Use Restrictions  
Revised: October 6, 2015 Draft No. 11  
Introduced: October 28, 2014  
Enacted: October 6, 2015  
Executive: Returned unsigned;  
becomes law October 20, 2015  
Effective: January 19, 2016; see  
Section 3 for specific provisions  
Sunset Date: None  
Ch. 46, Laws of Mont. Co. 2015

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Lead Sponsors Council Vice President Leventhal and Councilmembers Elrich, Huckler, Riemer,  
and Navarro  
Co-sponsor: Councilmember Floreen

---

**AN ACT** to:

- (1) require posting of notice for certain ~~[[lawn]]~~ applications of pesticide;
- (2) ~~[[prohibit the use of certain pesticides on lawns]]~~ [[require a Countywide pesticide use reduction plan]] ~~prohibit the use of certain pesticides on lawns;~~
- (3) [[require common ownership communities to take certain steps before the application of certain pesticides;
- (4)] prohibit the use of certain pesticides on playgrounds, children's facilities, and certain County-owned property;
- ~~[[4]]~~~~[[5]]~~ (4) require the County to adopt an integrated pest management program for certain County-owned property; ~~[[and]]~~
- ~~[[5]]~~~~[[6]]~~ (5) require the Parks Department to take certain steps to reduce the use of certain pesticides; and
- ~~[[7]]~~ (6) generally amend County law regarding pesticides.

By amending

Montgomery County Code  
Chapter 33B, Pesticides  
Sections 33B-1, 33B-2, 33B-3, 33B-4, 33B-5, 33B-6, and 33B-7

By adding

Montgomery County Code  
Chapter 33B, Pesticides  
Articles 2, 3, and 4~~[[, and 5]]~~  
Sections 33B-8, 33B-9, 33B-10, 33B-11, 33B-12, ~~[[and]]~~ 33B-13, and 33B-14~~[[, 33B-15,~~  
33B-16 and 33B-17]]

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
[Single boldface brackets]	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

1           Sec. 1. Sections 33B-1, 33B-2, 33B-3, 33B-4, 33B-5, 33B-6 and 33B-7 are  
2 amended, and Sections 33B-8, 33B-9, 33B-10, 33B-11, 33B-12, ~~[[and]]~~ 33B-13,  
3 and 33B-14~~[[, 33B-15, 33B-16 and 33B-17]]~~ are added as follows:

4                           **ARTICLE 1. General Provisions**

5 **33B-1. Legislative findings and purpose.**

6           (a) The County Council finds that:

- 7                   (1) pesticides have value when they are used to protect the public  
8                   health, the environment, and our food and water supply;
- 9                   (2) pesticides, by definition, contain toxic substances, many of which  
10                   may have a detrimental effect on human health and the  
11                   environment and, in particular, may have developmental effects  
12                   on children;
- 13                   (3) exposure to certain pesticides has been linked to a host of serious  
14                   conditions in children including pediatric cancers, decreased  
15                   cognitive function, and behavioral problems such as ADHD, and  
16                   the following conditions in adults: Parkinson's disease, diabetes,  
17                   leukemia, lymphoma, lupus, rheumatoid arthritis, dementia,  
18                   reproductive dysfunction, Alzheimer's disease, and a variety of  
19                   cancers including breast, colon, prostate and lung cancer;
- 20                   (4) clean water is essential to human life, wildlife and the  
21                   environment, and the unnecessary use of pesticides and  
22                   herbicides for cosmetic purposes contributes to the deterioration  
23                   of water quality, as substantiated by several studies including the  
24                   2014 USGS study which found that 90% of urban waterways  
25                   have pesticide levels high enough to harm aquatic life;
- 26                   (5) bees and other pollinators are crucial to our ecosystem, and the  
27                   use of neonicotinoid insecticides, which have been repeatedly and

28 strongly linked with the collapse of honey bee colonies, as well  
 29 as harm to aquatic insects and birds, pose an unacceptable risk to  
 30 beneficial organisms;

31 (6) there are non- and less-toxic alternatives and methods of  
 32 cultivating a healthy, green lawn that do not pose a threat to  
 33 public health, and that use of pesticides for cosmetic purposes is  
 34 not necessary for the management of lawns, especially in light of  
 35 the risks associated with their use;

36 (7) pesticide regulations at the federal and State level, and the risk  
 37 assessments that inform them, do not mimic real world exposure  
 38 scenarios and fail to account for synergistic or cumulative effects  
 39 of multiple chemicals acting on the same pathway; do not include  
 40 sufficient evaluation of a pesticide's "inert" ingredients and the  
 41 pesticide formulations that are sold to consumers; and often fail  
 42 to take sensitive populations like children and pollinators into  
 43 account;

44 (8) in the absence of adequate regulation at the federal or State level,  
 45 the County is compelled to act to protect the health of children,  
 46 families, pets and the environment.

47 (b) The purpose of this Chapter is to protect the public health and welfare  
 48 and to minimize the potential pesticide hazard to people and the  
 49 environment, consistent with the public interest in the benefits derived  
 50 from the safe use and application of pesticides. The goal is to inform  
 51 the public about pesticide applications and minimize the use of  
 52 pesticides for cosmetic purposes, while not restricting the ability to use  
 53 pesticides in agriculture, for the protection of public health, or for other  
 54 public benefit.

55 **33B-2. Definitions.**

56 In this [chapter] Chapter:

57 Agriculture means the business, science, and art of cultivating and managing  
58 the soil, composting, growing, harvesting, and selling sod, crops and livestock,  
59 and the products of forestry, horticulture and hydroponics; breeding, raising, or  
60 managing livestock, including horses, poultry, fish, game and fur-bearing  
61 animals; dairying, beekeeping and similar activities, and equestrian events and  
62 activities.

63 Children's facility means a building or part of a building which, as part of its  
64 function, is regularly occupied by children under the age of 6 years and is  
65 required to obtain a certificate of occupancy as a condition of performing that  
66 function. Children's facility includes a child day care center, family day care  
67 home, nursery school, and kindergarten classroom.

68 Custom applicator means a person engaged in the business of applying  
69 pesticides.

70 Department means the Department of Environmental Protection.

71 Director means Director of the Department of Environmental Protection[,] or  
72 the Director's designee.

73 Garden means an area of land used to cultivate food crops, flowers, or other  
74 ornamental plants.

75 [[Integrated pest management means a process for managing pests that:

- 76 (1) uses monitoring to determine pest injury levels;  
77 (2) combines biological, cultural, mechanical, physical, and chemical  
78 tools and other management practices to control pests in a safe,  
79 cost effective, and environmentally sound manner that  
80 contributes to the protection of public health and sustainability;

- 81           (3) uses knowledge about pests, such as infestations, thresholds, life  
 82           histories, environmental requirements, and natural control of  
 83           pests; and
- 84           (4) uses non-chemical pest-control methods and the careful use of  
 85           least-toxic chemical methods when non-chemical methods have  
 86           been exhausted or are not feasible.]]

87           [[Larvicide means a pesticide designed to kill larval pests.]]

88           *Lawn* means an area of land, except agricultural land, that is:

- 89           (1) [Mostly] mostly covered by grass, other similar herbaceous  
 90           plants, shrubs, or trees; and
- 91           (2) [Kept] kept trim by mowing or cutting.

92           [[Lawn includes an athletic playing field other than a golf course.]] *Lawn does*  
 93           not include a:

- 94           (1) playing field;
- 95           (2) golf course; [[or]]
- 96           (3) garden; or
- 97           (4) tree or shrub..

98           [[Lawn care pesticide means a pesticide registered by the United States  
 99           Environmental Protection Agency and labeled pursuant to the Federal  
 100           Insecticide, Fungicide and Rodenticide Act for use in lawn, garden and  
 101           ornamental sites or areas.]]

102           Listed pesticide means:

- 103           (1) a pesticide the active ingredients of which are recommended by  
 104           the National Organic Standards Board (NOSB) pursuant to 7  
 105           U.S.C. § 6518, as amended, and published as the National List at  
 106           7 C.F.R. §§ 205.601 and 205.602; or

107           (2) a pesticide designated a “minimum risk pesticide” under the  
 108                     Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) §  
 109                     25(b) and listed in 40 C.F.R. § 152.25(f).

110           Mulched recreation area means an area of land covered with natural or  
 111           synthetic mulch or wood chips that is not a playground, but is open to the  
 112           public for picnic or other recreation use.

113           Neonicotinoid means a class of neuro-active pesticides chemically related to  
 114           nicotine. Neonicotinoid includes acetamiprid, clothianidin, dinotefuran,  
 115           imidacloprid, nitenpyram, nithiazine, thiacloprid, and thiamethoxam.

116           [[Non-essential pesticide means a pesticide designated as a non-essential  
 117           pesticide under Section 33B-4.]]

118           Pest means an insect, snail, slug, rodent, nematode, fungus, weed, or other  
 119           form of plant or animal life or microorganism (except a microorganism on or  
 120           in a living human or animal) that is normally considered to be a pest or defined  
 121           as a pest by applicable state regulations.

122           Pesticide means a substance or mixture of substances intended or used to:

- 123                     (1) prevent, destroy, repel, or mitigate any pest;
- 124                     (2) be used as a plant regulator, defoliant, or desiccant; or
- 125                     (3) be used as a spray adjuvant, such as a wetting agent or adhesive.

126           However, *pesticide* does not include an antimicrobial agent, such as a  
 127           disinfectant, sanitizer, or deodorizer, used for cleaning that is not considered a  
 128           pesticide under any federal or state law or regulation.

129           Playground means an outdoor children’s play area that is on the premises of a  
 130           children’s facility, school, apartment building or complex, common ownership  
 131           community, or park. Playground includes a mulched path that is used to enter  
 132           a children’s play area.

133           Playing field means:

- 134           (1) an athletic field maintained by the Montgomery County  
 135                     Department of Parks; or  
 136           (2) an area of land on private property maintained exclusively for  
 137                     sporting use.

138           *Private lawn application* means the application of a pesticide to a lawn on  
 139           property owned by or leased to the person applying the pesticide. *Private*  
 140           *lawn application* does not include:

- 141                     (1) applying a pesticide for the purpose of engaging in agriculture; or  
 142                     (2) applying a pesticide around or near the foundation of a building  
 143                             for the purpose of indoor pest control[[;  
 144                     (3) applying a pesticide to a golf course or turf farm]].

145           *Registered pesticide* means a pesticide registered by the United States  
 146           Environmental Protection Agency and labeled pursuant to FIFRA for use in  
 147           lawn, garden and ornamental sites or areas.

148           [[*Restricted lawn care pesticide* means a pesticide designated as a restricted  
 149           lawn care pesticide under Section 33B-4.]]

150           *Vector or disease vector* means an animal, insect, or microorganism that  
 151           carries and transmits an infectious pathogen into another organism.

152           *Waterbody* means waters located within the County that are:

- 153                     (1) subject to the ebb and flow of the tide; or  
 154                     (2) free flowing, unconfined, and above-ground rivers, streams or  
 155                             creeks.

156           **[33B-4.] [[33B-2.]] 33B-3. Signs with retail purchase of pesticide.**

157           A person who sells at retail a pesticide or material that contains a pesticide  
 158           must:

- 159                     (a) make available to a person who buys the pesticide or material that  
 160                             contains a pesticide:



- 161            ~~[(a)]~~(1)    [Notice] notice signs and supporting information that are
- 162                            approved by the [department] Department; ~~[[and]]~~
- 163            ~~[(b)]~~(2)    [The] the product label or other information that [the
- 164                            federal Insecticide, Fungicide, and Rodenticide Act] FIFRA [, 7
- 165                            U.S.C. 136 et seq.,] requires for sale of the pesticide~~[[.]]~~; and
- 166            (3)    materials approved or distributed by the Department that:
- 167                            (A)    explain the dangers of contamination that may occur from
- 168    pesticide use; and
- 169                            (B)    inform buyers of the availability of alternative products;
- 170    and
- 171            (b)    display a sign or signs in each area of the retail establishment where
- 172                            registered pesticides are available to consumers, with language
- 173                            approved by the Department, that:
- 174                            (1)    informs buyers of the County law on the use of registered
- 175    pesticides on lawns; and
- 176                            (2)    identifies pest control options that are permissible for lawn
- 177    application under the law.

178            The Department must enforce this Section and must annually inspect each

179            person who sells at retail a pesticide or material that contains a pesticide.

180            **[33B-5] ~~[[33B-3.]] 33B-4. Storage and handling of pesticides.~~**

- 181            Any person who sells at retail a pesticide or material that contains a pesticide must:
- 182                            (a)    transport, display, and store each pesticide in a secure, properly labeled
  - 183    container that resists breakage and leakage, and promptly clean up and
  - 184    either repackage or properly dispose of any pesticide that escapes from
  - 185    its container;
  - 186                            (b)    display and store each pesticide separately from any food, medicine, or
  - 187    other product that a human being or animal may ingest; and

- 188 (c) transport each pesticide separately from any food, medicine, or other  
 189 product that a human being or animal may ingest unless the pesticide is  
 190 in a secure container that resists breakage and leakage[;];
- 191 (d) offer to each buyer of a pesticide materials approved or distributed by  
 192 the Department that:
- 193 (1) explain the dangers of contamination that may occur from  
 194 pesticide use; and
- 195 (2) inform buyers of the availability of alternative products]].

196 The Department, the Health and Human Services Department, and any other  
 197 agency designated by the County Executive, must enforce this Section.

198 **[33B-6] [[33B-4.]] 33B-5. Regulations.**

- 199 (a) The [County] Executive must adopt regulations to carry out this Chapter  
 200 under method (2).
- 201 (b) The Executive must include in the regulations adopted under this  
 202 [section] Section the minimum size or quantity, and type of pesticide  
 203 subject to [section 33B-4] Section [[33B-2]] 33B-3.
- 204 (c) [[The Executive must include in the regulations adopted under this  
 205 Section a list of]] [[non-essential]] [[restricted lawn care pesticides. The  
 206 list of]] [[non-essential]] [[restricted lawn care pesticides must be based  
 207 on an evaluation of all lawn care pesticides and must include:
- 208 (1)] [[all pesticides]] [[each pesticide classified]] [[as “Carcinogenic  
 209 to Humans” or “Likely to Be Carcinogenic to Humans”]] [[by the  
 210 U.S. Environmental Protection Agency as:
- 211 (A) “carcinogenic to humans” (Group A);
- 212 (B) “likely to be carcinogenic to humans” (Groups B1 and  
 213 B2);

- 214                   (C) “suggestive evidence of carcinogenic potential” (Group  
 215                   C); or  
 216                   (D) inadequate information to assess carcinogenic potential”  
 217                   (Group D);  
 218           (2)]] [[all pesticides]] [[each pesticide classified by the U.S.  
 219           Environmental Protection Agency as a “Restricted Use Product”;  
 220           (3)]] [[all pesticides classified as a “Class 9” pesticide by the Ontario,  
 221           Canada, Ministry of the Environment]] [[each pesticide classified  
 222           by the International Agency for Research on Cancer as:  
 223                   (A) “carcinogenic to humans” (Group 1);  
 224                   (B) “probably carcinogenic to humans” (Group 2A);  
 225                   (C) “possibly carcinogenic to humans” (Group 2B); or  
 226                   (D) “not classifiable as to its carcinogenicity to humans”  
 227                   (Group 3);  
 228           (4)]] [[all pesticides classified as a “Category 1 Endocrine Disruptor”  
 229           by the European Commission]] [[each pesticide in the top quartile  
 230           of toxicity for pesticides evaluated by the U.S. Environmental  
 231           Protection Agency or other federal government authority for  
 232           systemic non-carcinogenic human toxicity; and  
 233           (5)]] [[any other pesticides which the Executive determines are not  
 234           critical to pest management in the County]] [[each pesticide in  
 235           the top quartile of toxicity for pesticides evaluated by the U.S.  
 236           Environmental Protection Agency for:  
 237                   (A) chronic toxicity to fish; and  
 238                   (B) chronic toxicity to aquatic invertebrates.

239 (d)] The Executive must include in the regulations adopted under this  
 240 Section a list of invasive species that may be detrimental to the  
 241 environment in the County.

242 ~~[(e)]~~ (d) The Executive must review and update the ~~[[lists]]~~ list of ~~[[non-~~  
 243 essential]] ~~[[restricted lawn care pesticides and]]~~ invasive species  
 244 designated under ~~[[subsections]]~~ subsection (c) ~~[[and (d)]]~~ by July 1 of  
 245 each year.

246 ~~[33B-7] ~~[[33B-5.]]~~ 33B-6. Penalty for violating chapter.~~

247 (a) Any violation of this Chapter is a class C violation.

248 (b) Each day a violation continues is a separate offense.

249 ARTICLE 2. Notice Requirements.

250 ~~[33B-2] ~~[[33B-6.]]~~ 33B-7. Notice about pesticides to customer ~~[[~~~~  
 251 acknowledgement and direction by customer]].

252 (a) In this ~~[section]~~ Section:

253 (1) Customer means a person who makes a contract with a custom  
 254 applicator to have the custom applicator apply a pesticide to a  
 255 lawn.

256 (2) New customer includes a customer who renews a contract with a  
 257 custom applicator.

258 (b) A custom applicator must give to a new customer:

259 (1) ~~[Before]~~ before application, a list of:

260 ~~[a.](A)~~ [The] the trade name of each pesticide that might be  
 261 used;

262 ~~[b.](B)~~ [The] the generic name of each pesticide that might  
 263 be used; and

264 ~~[c.](C)~~ [Specific] specific customer safety precautions ~~[[~~  
 265 including all potential health risks identified by the United

266 States Environmental Protection Agency and the World  
 267 Health Organization]] for each pesticide that might be  
 268 used; and

- 269 (2) [After] after application, a list of:
- 270 [a.](A) [The] the trade name of each pesticide actually used;
  - 271 and
  - 272 [b.](B) [The] the generic name of each pesticide actually
  - 273 used; and

274 (3) [A] a written notice about pesticides prepared by the [department]  
 275 Department under subsection (c) [of this section].

276 (c) The [department] Department must prepare, keep current, and provide  
 277 to a custom applicator a written notice about pesticides for the custom  
 278 applicator to give to a customer under subsection (b) [of this section].

279 (d) The notice prepared by the [department] Department under subsection  
 280 (c) [of this section] must include:

- 281 (1) [Government] government agency phone numbers to call to:

  - 282 [a.](A) [Make] make a consumer complaint;
  - 283 [b.](B) [Receive] receive technical information on
  - 284 pesticides; and
  - 285 [c.](C) [Get] get assistance in the case of a medical
  - 286 emergency;

287 (2) [A] a list of general safety precautions a customer should take  
 288 when a lawn is treated with a pesticide;

- 289 (3) [A] a statement that a custom applicator must:

  - 290 [a.](A) [Be] be licensed by the Maryland Department of
  - 291 Agriculture; and
  - 292 [b.](B) [Follow] follow safety precautions; and

293 (4) [A] a statement that the customer has the right to require the  
 294 custom applicator to notify the customer before each treatment of  
 295 the lawn of the customer with a pesticide.

296 [(e) Before applying a pesticide to a lawn, a custom applicator must:

297 (1) inform a new customer of:

298 (A) the existence of other means of pest control without the use  
 299 of restricted lawn care pesticides; and

300 (B) the practice of integrated pest management (IPM),  
 301 including a description of the process of IPM that is  
 302 consistent with that of the U.S. Environmental Protection  
 303 Agency; and

304 (2) obtain from a new customer, in writing or other electronic format  
 305 approved by the Director :

306 (A) acknowledgement that the customer received the  
 307 information required under this subsection and subsection  
 308 (b); and

309 (B) direction from the customer as to whether or not to use  
 310 IPM practices.

311 (f) A custom applicator must retain a acknowledgement from a new  
 312 customer obtained under subsection (e) for at least one year.]]

313 **[33B-3] [[33B-7.]] 33B-8. Posting signs after application by custom applicator.**

314 (a) Immediately after a custom applicator treats a lawn with a pesticide, the  
 315 custom applicator must [post a sign on the lawn] place markers within  
 316 or along the perimeter of the area where pesticides [[will be]] have been  
 317 applied.

318 (b) A [sign posted] marker required under this [section] Section must:

- 319 (1) [Be] be clearly visible [from the principal place of access to] to
- 320 persons immediately outside the perimeter of the property;
- 321 (2) [Be] be a size, form, and color approved by the [department]
- 322 Department;
- 323 (3) [Be] be made of material approved by the [department]
- 324 Department; [and]
- 325 (4) [Have] have wording with content and dimensions approved by
- 326 the [department] Department[.]; and
- 327 (5) be in place on the day that the pesticide is applied.

328 **[[33B-8.]] 33B-9. Posting signs after application by property owner or tenant.**

- 329 (a) A person who performs a private lawn application treating an area
- 330 more than 100 square feet, or an area of any size within five feet of a
- 331 property line, must place markers within or along the perimeter of the
- 332 area where pesticides [[will be]] have been applied.
- 333 (b) A marker required under this Section must:
- 334 (1) be clearly visible to persons immediately outside the perimeter of
- 335 the property;
- 336 (2) be a size, form, and color approved by the Department;
- 337 (3) be made of material approved by the Department; and
- 338 (4) have wording with content and dimensions approved by the
- 339 Department; and
- 340 (5) be in place on the day that the pesticide is applied.

341 **ARTICLE 3. [[Application restrictions.]] [[Pesticide use reduction.]]**

342 **Application restrictions.**

343 **[[33B-9.]] 33B-10. [[Prohibited application.]] [[Countywide use reduction plan.]]**

344 **Prohibited applications.**

345 **[[A person must not apply a non-essential pesticide to a lawn.]]**

- 346        [(a) The Director must by July 1, 2016 provide a report to the County  
 347                Executive and County Council that outlines options for:
- 348                (1) determining a baseline estimate of the use of restricted lawn care  
 349                        pesticides in the County; and
- 350                (2) measuring changes in the use of restricted lawn care pesticides in  
 351                        the County over time.
- 352        (b) The Director must then develop a restricted lawn care pesticide use  
 353                plan, with a goal of reducing, by 2018, the use in the County of  
 354                restricted lawn care pesticides other than in agriculture by at least 50%  
 355                from the baseline established under subsection (a).
- 356        (c) If the reduction goal is not achieved, the Director must implement  
 357                additional measures to further reduce the use of restricted lawn care  
 358                pesticides.]]
- 359        (a) On County-owned property and private property, except as provided in  
 360                subsection (b), a person must not apply a registered pesticide other than  
 361                a listed pesticide to:
- 362                (1) a lawn;
- 363                (2) a playground;
- 364                (3) a mulched recreation area;
- 365                (4) a children's facility; or
- 366                (5) the grounds of a children's facility.
- 367        (b) A person may apply any registered pesticide to:
- 368                (1) control weeds as defined in Chapter 58, Weeds;
- 369                (2) control invasive species listed in a regulation adopted under  
 370                        subsection 33B-5(c);
- 371                (3) control disease vectors;
- 372                (4) control biting or stinging insects or stinging plants;



- 373           (5) control organisms that threaten the health of trees or shrubs;  
 374           (6) maintain property as part of efforts by a public utility to comply  
 375           with applicable vegetation management provisions of any  
 376           federal, state, or local law or regulation;  
 377           (7) control indoor pests, if applied around or near the foundation of  
 378           a building;  
 379           (8) control pests while engaged in agriculture; and  
 380           (9) control a pest outbreak that poses an imminent threat to human  
 381           health or prevent significant economic damage if a registered  
 382           pesticide is not used.
- 383           (c) If a pesticide is applied under paragraph (b)(9) of this Section, the  
 384           person applying the pesticide must:
- 385           (1) within seven days after a pesticide is applied on private property,  
 386           notify the Department of the application and the reasons for the  
 387           use of the pesticide; or
- 388           (2) within 30 days after a pesticide is applied on County-owned  
 389           property, inform the Council of the application and the reasons  
 390           for the use of the pesticide.
- 391           **[[33B-10.] [Exceptions and exemptions] [Playgrounds and Children's**  
 392           **Facilities.]**
- 393           [[a) A person may apply a non-essential pesticide for the following  
 394           purposes:
- 395           (1) for the control of weeds as defined in Chapter 58, Weeds;  
 396           (2) for the control of invasive species listed in a regulation adopted  
 397           under Subsection 33B-4(d);  
 398           (3) for pest control while engaged in agriculture; and  
 399           (4) for the maintenance of a golf course.

400 (b) A person may apply to the Director for an exemption from the  
 401 prohibition of Section 33B-9 for a non-essential pesticide. The Director  
 402 may grant an exemption to apply a non-essential pesticide on property  
 403 where application is prohibited under Section 33B-9 if the applicant  
 404 shows that:

- 405 (1) effective alternatives are unavailable;  
 406 (2) granting an exemption will not violate State or federal law; and  
 407 (3) use of the non-essential pesticide is necessary to protect human  
 408 health or prevent significant economic damage.

409 (c) A person may apply to the Director for an emergency exemption from  
 410 the prohibition in Section 33B-9 if a pest outbreak poses an imminent  
 411 threat to public health or if significant economic damage would result  
 412 from the inability to use a pesticide prohibited by Section 33B-9. The  
 413 Director may impose specific conditions for the granting of emergency  
 414 exemptions.]]

415 [[a) Except as provided in subsection (b), a person must not apply a  
 416 restricted lawn care pesticide to a playground, children's facility, or  
 417 the grounds of a children's facility.

418 (b) A person may apply a restricted lawn care pesticide to a playground,  
 419 children's facility, or the grounds of a children's facility only to:

- 420 (1) control weeds as defined in Chapter 58, Weeds;  
 421 (2) control invasive species listed in a regulation adopted under  
 422 subsection 33B-4(d);  
 423 (3) control disease vectors;  
 424 (4) control biting or stinging insects or stinging plants;  
 425 (5) control organisms that threaten the health of trees or shrubs; or

426           (6) control a pest outbreak that poses an imminent threat to human  
 427                 health or prevent significant economic damage if a restricted  
 428                 lawn care pesticide is not used.]]

429 **33B-11. Outreach and education campaign.**

430           (a) The Executive must implement a public outreach and education  
 431                 campaign before and during implementation of the provisions of this  
 432                 Article.

433           (b) [[This]] The outreach and education campaign [[should]] must include  
 434                 the provision of the following resources:

435                 (1) the NOSB National List or the Organic Materials Review  
 436                         Institute (OMRI) listed products which are the NOSB National  
 437                         list products categorized by use;

438                 (2) FIFRA § 25(b) minimum risk pesticides, listed in 40 C.F.R. §  
 439                         152.25(f); and

440                 (3) guidance on best practices for organic and pesticide-free lawn  
 441                         care.

442           (c) The outreach and education campaign should include:

443                 ~~[[a]]~~ (1) informational mailers to County households;

444                 ~~[[b]]~~ (2) distribution of information through County internet and  
 445                         web-based resources;

446                 ~~[[c]]~~ (3) radio and television public service announcements;

447                 ~~[[d]]~~ (4) news releases and news events;

448                 ~~[[e]]~~ (5) information translated into Spanish, French, Chinese,  
 449                         Korean, Vietnamese, and other languages, as needed;

450                 ~~[[f]]~~ (6) extensive use of County Cable Montgomery and other  
 451                         Public, Educational, and Government channels funded by the  
 452                         County; ~~[[and]] and~~

453 ~~[[g]]~~ (7) posters and brochures made available at County events, on  
 454 Ride-On buses and through Regional Service Centers, libraries,  
 455 recreation facilities, senior centers, public schools, Montgomery  
 456 College, health care providers, hospitals, clinics, and other  
 457 venues;; and

458 (h) a survey of pesticide use by County residents and custom applicators].

459 **[[ARTICLE 4. Common Ownership Communities.**

460 **33B-12. Definitions.**

461 In this article the terms association document, common element, community  
 462 association, owner, and unit have the meanings attributed to them in Section 10B-8.

463 **33B-13. Application of pesticide to individual units.**

464 (a) Beginning July 1, 2016, each year, a community association must  
 465 provide owners an opportunity to decline to have a restricted lawn care  
 466 pesticide applied to the owner's unit.

467 (b) If a unit owner declines to have a restricted lawn care pesticide applied,  
 468 the community association or its agent must not apply the restricted  
 469 lawn care pesticide to the unit.

470 **33B-14. Application of pesticide to common elements.**

471 (a) Beginning July 1, 2016, each year, the owners in a common ownership  
 472 community must approve, by a majority of votes cast, in person or by  
 473 proxy, the application of a restricted lawn care pesticide to a common  
 474 element during the following year.

475 (b) A community association may apply to the Director for an emergency  
 476 exemption from the prohibition or restrictions under this Section if a  
 477 pest outbreak poses an imminent threat to public health or if significant  
 478 economic damage would result from the inability to use a restricted

479 lawn care pesticide. The Director may impose specific conditions on  
 480 each emergency exemption.

481 (c) A community association must post notice of each pesticide application  
 482 to the common elements. The notice required under this subsection  
 483 must consist of signs that:

- 484 (1) are clearly visible to persons immediately outside the perimeter  
 485 of the property;
- 486 (2) are in place on the day that the pesticide is applied;
- 487 (3) are of a size, form, and color approved by the Department;
- 488 (3) are made of material approved by the Department; and
- 489 (4) have wording with content and dimensions approved by the  
 490 Department.]]

491 **ARTICLE [[4.]] [[5.]] 4. County Property and Parks**

492 **[[33B-12.]] [[33B-15.]] 33B-12. [[Prohibition]] Neonicotinoid pesticides on**  
 493 **County-owned property.**

494 (a) Prohibition. Except as provided in subsection (b), a [[person]] County  
 495 employee or County contractor must not [[apply to any lawn]] use a  
 496 neonicotinoid pesticide on property owned by the County[[:]]  
 497 [[ (1) a]] [[non-essential]] [[restricted lawn care pesticide; or  
 498 (2) a neonicotinoid]].

499 (b) Exceptions.

500 (1) A [[person]] County employee or County contractor may use  
 501 [[any larvicide or rodenticide on a lawn on property owned by the  
 502 County as a public health measure to reduce the spread of disease  
 503 vectors under recommendations and guidance provided by the  
 504 Centers for Disease Control and Prevention, the United States  
 505 Environmental Protection Agency, or the State Department of

506 Agriculture. Any rodenticide used must be in a tamper-proof  
 507 product, unless the rodenticide is designed and registered for a  
 508 specific environment inaccessible to humans and pets.]] a  
 509 neonicotinoid pesticide on County-owned property to control  
 510 pests while engaged in agriculture.

511 (2) [[A]] [[person]] [[County employee or County contractor may  
 512 use a]] [[non-essential]] [[restricted lawn care pesticide or  
 513 neonicotinoid on a lawn on property owned by the County for the  
 514 following purposes]] [[set forth in Subsection 33B-10(a).]]

- 515 (A) for the control of weeds as defined in Chapter 58, Weeds;
- 516 (B) for the control of invasive species listed in a regulation  
 517 adopted under Subsection 33B-4(d);
- 518 (C) for pest control while engaged in agriculture;
- 519 (D) for the maintenance of a golf course; and
- 520 (E) for the maintenance of medians and islands in County  
 521 rights-of-way.

522 (3) A]] [[person]] [[County employee or County contractor may use  
 523 a]] [[non-essential]] [[restricted lawn care pesticide or  
 524 neonicotinoid on a lawn on property owned by the County if the  
 525 Director determines, after consulting the Directors of General  
 526 Services and Health and Human Services, that the use of the  
 527 pesticide is necessary to protect human health or prevent  
 528 imminent and significant economic damage, and that no  
 529 reasonable alternative is available. If a pesticide is used under]]  
 530 [[this paragraph]]], the Director must, within 30 days after using  
 531 the pesticide, report to the Council on the reasons for the use of  
 532 the pesticide.

(4)]] This Section does not apply to County-owned property that the Parks Department operates or manages for the County.

[[33B-13.]] [[33B-16.]] 33B-13. Integrated pest management on County property.

(a) Adoption of program. The Department must adopt[[, by a method (2) regulation,]] an integrated pest management program for all property owned by the County.

(b) Requirements. Any program adopted under subsection (a) must require:

- (1) monitoring the turf or landscape as appropriate;
- (2) accurate record-keeping documenting any potential pest problem;
- (3) evaluating the site for any injury caused by a pest and determining the appropriate treatment;
- (4) using a treatment that is the least damaging to the general environment and best preserves the natural ecosystem;
- (5) using a treatment that will be the most likely to produce long-term reductions in pest control requirements and is operationally feasible and cost effective in the short and long term;
- (6) using a treatment that minimizes negative impacts to non-target organisms;
- (7) using a treatment that is the least disruptive of natural controls;
- (8) using a treatment that is the least hazardous to human health; and
- (9) exhausting the list of all non-chemical methods and [[organic treatments available]] listed pesticides for the targeted pest before using any [[synthetic chemical]] other treatments.

(c) The Department must provide training in integrated pest management for each employee who is responsible for pest management.

[[33B-17.]] 33B-14. County parks.

- 560 (a) Policy. It is the policy of Montgomery County to promote  
561 environmentally sensitive landscape pest management in its parks by  
562 phasing out the use of the most hazardous pesticides and reducing  
563 overall pesticide use while preserving landscape assets, maintaining  
564 functionality of playing fields, and protecting the health and safety of  
565 the public and County employees. To carry out this policy, the Parks  
566 Department must, subject to appropriation, implement the provisions of  
567 this Section.
- 568 (b) Pesticide-free parks. The Parks Department must implement a  
569 pesticide-free parks program that, at a minimum, consists of:
- 570 (1) the maintenance of certain parks entirely without the use of  
571 [[restricted lawn care]] registered pesticides other than listed  
572 pesticides [[or neonicotinoids]];
- 573 (2) a program for reducing the use of [[restricted lawn care]]  
574 registered pesticides other than listed pesticides [[and  
575 neonicotinoids]] on playing fields that includes:
- 576 (A) a pilot program consisting of at least five playing fields  
577 maintained without the use of [[restricted lawn care]]  
578 registered pesticides other than listed pesticides [[or  
579 neonicotinoids]] that:
- 580 (i) is conducted in consultation with an expert in  
581 organic turf management, with experience in  
582 successful transitions from conventional to organic  
583 turf management; and
- 584 (ii) includes a publicly available plan describing the  
585 practices and procedures used; [[and]]



- 586                    (B) maintenance of all other playing fields using an integrated  
 587                    pest management program; and
- 588                    (C) a plan submitted to the Council by September 2019 for  
 589                    transitioning to maintenance of all playing fields without  
 590                    the use of registered pesticides other than listed pesticides  
 591                    by 2020; and
- 592                    (3) a public communication campaign to inform the public of the  
 593                    existence and progress of the pesticide-free parks program.
- 594                    (c) *Pesticide usage protocols.* The Parks Department must develop usage  
 595                    protocols which limit the use of ~~[[restricted lawn care]] registered~~  
 596                    pesticides other than listed pesticides ~~[[and neonicotinoids]] to the~~  
 597                    maximum extent possible and, subject to the exceptions in subsection  
 598                    (d):
- 599                    (1) do not permit the use of ~~[[restricted lawn care]] registered~~  
 600                    pesticides other than listed pesticides ~~[[or neonicotinoids]] within~~  
 601                    25 feet of a waterbody;
- 602                    (2) ~~[[do not permit the application of restricted lawn care pesticides~~  
 603                    or neonicotinoids to playgrounds in County parks; and
- 604                    (3)]] except where immediate application is necessary to protect  
 605                    human health or prevent significant economic damage, include  
 606                    the posting of notice of each planned application of ~~[[restricted~~  
 607                    lawn care]] a registered pesticide other than a listed pesticide ~~[[or~~  
 608                    neonicotinoid]] on the appropriate Parks Department website and  
 609                    in the area where the pesticide is to be applied, from at least 48  
 610                    hours before application through at least 48 hours after  
 611                    application, that includes:
- 612                    (A) the common name of the pesticide;

- 613                    (B) the location of the application;  
 614                    (C) the planned date and time of the application; and  
 615                    (D) the reason for the use of the pesticide[[.]]; and  
 616                    (3) provide for pesticide application information required under  
 617                    paragraph (c)(2) to be made available to the public in real-time  
 618                    and in a manner consistent with the Montgomery County Open  
 619                    Data Act, Chapter 2, Article XIV of this Code.
- 620                    (d) Exceptions. The pesticide-free parks program and pesticide usage  
 621                    protocols may generally permit the application of a [[restricted lawn  
 622                    care]] registered pesticide to:
- 623                    (1) control weeds as defined in Chapter 58, Weeds;  
 624                    (2) control invasive species listed in a regulation adopted under  
 625                    subsection [[33B-4(d)]] 33B-5(c);  
 626                    (3) control disease vectors;  
 627                    (4) control biting or stinging insects or stinging plants;  
 628                    (5) control organisms that threaten the health of trees or shrubs;  
 629                    (6) remove weeds as part of the renovation of a playing field;  
 630                    (7) control pests while engaged in agriculture; and  
 631                    [[7]] (8) otherwise protect human health or prevent significant  
 632                    economic damage.
- 633                    (e) Reporting requirement. The Parks Department must submit [[a report]]  
 634                    semi-annual reports to the County Executive and County Council on or  
 635                    before January 15 and July 15 of each year that:
- 636                    (1) [[details restricted lawn care]] detail registered pesticide [[and  
 637                    neonicotinoid]] usage, other than listed pesticide usage, in  
 638                    County parks during the preceding year, including:

- 639                   (A) the common name of each ~~restricted lawn care~~  
 640                   registered pesticide ~~and neonicotinoid~~ used;  
 641                   (B) the location of each application;  
 642                   (C) the date and time of each application; and  
 643                   (D) the reason for each use of a ~~restricted lawn care~~  
 644                   registered pesticide ~~and neonicotinoid~~; ~~and~~  
 645                   (2) ~~describes~~ describe the status of the pesticide-free parks  
 646                   program implemented under this Section; and  
 647                   (3) are available to the public in a manner consistent with the  
 648                   Montgomery County Open Data Act, Chapter 2, Article XIV of  
 649                   this Code.

650                   **Sec. 2. Initial ~~Lists~~ List of ~~Non-Essential~~ Restricted Lawn Care**  
 651 **Pesticides and Invasive Species.** The Executive must submit the ~~lists~~ list of  
 652 ~~non-essential~~ restricted lawn care pesticides and invasive species required by  
 653 ~~Subsections~~ Subsection ~~33B-4(c) and (d)~~ 33B-5(c) to the Council for approval  
 654 by ~~January~~ March 1, 2016

655                   **Sec. 3. Effective Date.** The ~~prohibitions on~~ requirements for the use  
 656 of ~~non-essential~~ restricted lawn care pesticides in common ownership  
 657 communities contained in ~~Section 33B-9~~ Sections 33B-12 and 33B-13, and  
 658 the prohibitions and requirements related to the ~~on~~ use of ~~non-essential~~  
 659 restricted lawn care registered pesticides and neonicotinoids on County-owned  
 660 property and in County parks contained in ~~Section 33B-14~~ Sections ~~33B-15~~  
 661 33B-10, 33B-12, 33B-13 and ~~33B-17~~ 33B-14 take effect on ~~January~~ July 1,  
 662 2016; the prohibitions on the use of registered pesticides on private property  
 663 contained in Section 33B-10 take effect on January 1, 2018.

664                   **Sec. 4. Expiration.** This Act and any regulation adopted under it expires on  
 665 January 1, 2019.

666 *Approved:*

667 George Leventhal

10/8/15

George Leventhal, President, County Council

Date

668 *Approved:*

669 Returned Unsigned

10/19/15

Isiah Leggett, County Executive

Date

670 *This is a correct copy of Council action.*

671 Linda M. Lauer

10/19/15

Linda M. Lauer, Clerk of the Council

Date




OFFICE OF THE COUNTY EXECUTIVE  
ROCKVILLE, MARYLAND 20850

Isiah Leggett  
County Executive

MEMORANDUM

October 19, 2015

TO: George Leventhal, Council President

FROM: Isiah Leggett, County Executive 

RE: Bill 52-14, Pesticides – Notice - Requirements

I have received Bill 52-14 from the Council. I am returning the Bill without my signature for the reasons explained below.

A number of individuals and groups have been involved in the debate over Bill 52-14, and I believe they all share the goal of protecting public health and the environment. The challenge has always been figuring out the best way to achieve this goal related to regulating the use of pesticides.

No one would disagree that the issue is incredibly complex. There are differing opinions on the state of the science and risk associated with pesticide use, society's perception and values on what constitutes a healthy lawn, and the availability and viability of organic only alternatives.

Most importantly, there are differing views on the role local government should play in regulating pesticides.

I am concerned about the opinions of an Assistant Attorney General regarding whether a ban on the use of certain pesticides in the County would be preempted by state law. Undoubtedly, this measure will be taken to court, and the result there is quite uncertain.

I support limited bans on child care centers, playgrounds, and other areas where the potential effects on children may be greater, but believe additional outreach and education on alternatives to non-essential pesticides are needed. An outright ban on the use of certain pesticides will be confusing to residents and businesses in the County, and will make enforcement of the law challenging, particularly given that these pesticides have been approved for use by the U.S. Environmental Protection Agency and the State of Maryland.

I remain opposed to setting a prescribed date for a ban of non-essential pesticides on playing and recreational fields, particularly the County's higher-quality, competitive-level playing fields. The amended legislation sets out an expectation that playing fields will be

George Leventhal  
October 19, 2015  
Page 2

pesticide free by 2020 with submittal of a plan of action by 2019. My understanding is that turf experts have expressed concerns that, because of factors unique to our Mid-Atlantic climate, pesticides are required to ensure quality playing surfaces and to minimize player injury resulting from uneven surfaces.

It is my view that the schedule and scope of plans to create pesticide-free playing fields should be informed by the pilot projects Parks is undertaking, as well as the current state of the organic lawn care technology and feasibility, rather than an arbitrary deadline. That is common sense. Why would we pre-judge the pilot project before it even begins?

Again, I appreciate the due diligence the Council has given to this issue. However, I am returning the measure, and will allow it to go into effect without my signature.