


Robert Cennamo

FROM	NAME & TITLE	Robert Cennamo, Budget Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432, City Hall (410) 396-4774		
	SUBJECT	City Council Bill 20-0495 – Pesticide Control and Regulation		

DATE:

TO

The Honorable President and
Members of the City Council
City Hall, Room 400

May 6, 2020

Position: Does Not Oppose

The Department of Finance is herein reporting on City Council Bill 20-0495, Pesticide Control and Regulation, the purpose of which is to regulate the use, application and sale of pesticides in Baltimore City, specifically prohibiting the use and application of glyphosate, chlorpyrifos, and neonicotinoid pesticides on City-owned property. The bill also defines guidelines for public awareness about when and where pesticides have been applied.

Background

This bill is modeled after a Montgomery County law, passed in October 2015, which included a ban on State-approved pesticide use on County property. In 2016, trade associations, companies, growers, and individuals challenged the law's private property ban provisions as preempting existing State law. The Circuit Court for Montgomery County ruled in favor of the plaintiffs in 2017. The County appealed the decision and, in 2019, Maryland's Court of Special Appeals upheld the County's ban on the use of lawn and landscape pesticides on private property.

Fiscal Impact

The Department of Finance does not anticipate that revenues from implementing this legislation will offset the service costs. It is challenging to identify formal cases for enforcement. Despite Montgomery County having significantly more green space and a year of public education, they have only nine formal cases for possible violations to investigate, two of which had direct witnesses of illegal product use. There have been two to three times as many inquiries, but these reports lacked sufficient information or were duplicated reports.

Beyond regulating and monitoring businesses and private property, the City will likely see increased costs. Baltimore City Recreation and Parks (BCRP) currently uses both glyphosates and neonicotinoids. Prohibiting the use of these pesticides will likely increase park maintenance and labor costs, as there will need to be more frequent weeding, depending on the alternative chosen. Using glyphosate, it costs BCRP \$30 for an hour of labor to have one-person spray a playground or baseball field to have no weeds for four to eight weeks. Manual weeding is more costly, requiring more maintenance for the same result. BCRP estimates that a three-person crew weeding a playground for approximately four hours costs \$360. Finally, using a weed wacker has the same labor costs as using glyphosate for one hour, but the weeds would regrow in one or two weeks, requiring more frequent attention and increased labor costs.

Other Considerations

This bill is modeled after that of Montgomery County, which has a distinct department, the Department of Environmental Protection, to oversee pesticide regulation. In Baltimore, oversight and enforcement responsibilities fall on the Baltimore City Health Department (BCHD), which is already bearing significant costs with limited resources during the COVID-19 pandemic and does not have as specialized a department as Montgomery County. Under the fiscal concerns outlined above, BCHD would need to meet the new requirement within existing resources. As such, the Department of Finance defers to BCHD on what that would mean for operations.

Montgomery County is still only beginning to implement their program, since it was delayed due to legal proceedings. As such, there is still a lot of learn about the best way to implement and enforce such a law, which relies on resident complaints and catching violators in the act of applying pesticides. The City would benefit from more time before implementation to allow for further discussions with Montgomery County and discussions amongst all impacted City agencies to develop a strong program. In addition, the Maryland General Assembly recently passed legislation that will ban chlorpyrifos starting January 1, 2021. It would be beneficial to see how the State will be implementing this legislation and if there will be any support provided to local jurisdictions before implementing a program in the City.

Conclusion

The Department of Finance recognizes the public health and environmental benefits of safe use and application of pesticides. However, we must also balance our current budget commitments and future budget challenges post-pandemic. Consequently, the Department of Finance requests more time to work with the bill sponsor, committee, and partner agencies to ensure that the legislation passed meets residents' needs, without overburdening BCHD and the City's budget.

For the reasons stated above, the Department of Finance does not oppose City Council Bill 20-0495.

cc: Henry Raymond
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will further challenge BCHD to attain its State-mandated inspections while also ensuring signage is in place, notice is given to customers, markers are placed on lawns, and residents using prohibited pesticides are cited.

Second, BCHD lacks the institutional knowledge to ensure 20-0495's efficacy. Under 20-0495's provisions, BCHD staff would be charged with creating warning signage and the notice provided to customers regarding the application of prohibited pesticides. However, BCHD lacks staff with expertise on the health ramifications of said pesticides, and in review of peer-reviewed health publications regarding glyphosate and neonicotinoids, has found either mixed or no evidence of harm to humans. The latter chemical has only shown adverse outcomes in certain insects, which, while ecologically devastating, is outside the purview of BCHD's mission.⁵

In speaking with officials in Montgomery County, the only county in Maryland to have its own pesticide ban, BCHD discovered that the County has a separate Department of Environmental Protection (DEP) in addition to its Department of Health and Human Services. The County's DEP has both dedicated environmental health inspectors and a dedicated staff person overseeing all pesticide ban efforts. DEP officials informed BCHD staff of having funds in excess of \$500,000 to promote pesticide ban efforts, in addition to nearly 5 years of lead time to implement the County's law. Moreover, by virtue of having a DEP prior to implementing a pesticide ban, the County had already developed relationships with, and a full list of, pesticide retailers within its jurisdiction. Without the resources of Montgomery County and institutional knowledge of the County's DEP, BCHD is at a great disadvantage.

Finally, BCHD has cause for concern regarding the enforcement of 20-0495. Absent seeing the application of prohibited pesticides, environmental health inspectors will be obligated to test the lawns of private individuals and institutions. At present, BCHD has not spoken with potential contractors who may be able to test for prohibited pesticides, but any additional costs borne by the Department, given the present environment, will result in cuts to other essential programming. Additionally, Environmental Health inspectors will be obligated to visit retailers they do not presently regulate to potentially cite them for failing to provide notice to customers or exhibit required signage. In order to cite said entities, inspectors would need to see the prohibited act as it is happening. As a practical matter, retailers may temporarily comply with the provisions of this bill in the presence of BCHD inspectors, and then revert back to prohibited practices in their absence.

Council Bill #20-0495 is laudable in its intent, and BCHD is committed to working with the sponsor and members of the Council to address concerns to ensure the requirements of the department in the final legislation can be effectively implemented by staff. For these reasons, BCHD **opposes** this legislation **in its current form**, and will continue to work with the sponsor on potential amendments.

⁵ "The Sublethal Effects of Pesticides on Beneficial Arthropods".