



**OUR INDUSTRY IS APPEALING THE MONTGOMERY COUNTY  
PESTICIDE BAN DECISION AND SEEKING A STAY TO STOP ITS IMPLEMENTATION**

**WE NEED YOUR HELP IMMEDIATELY BY**

- 1. SIGNING ON TO A FRIEND OF THE COURT BRIEF BY JUNE 7, 2019. EMAIL KREARDON@PESTFACTS.ORG TO SIGN ON.**
- 2. SENDING AN EMAIL TO KREARDON@PESTFACTS.ORG DESCRIBING THE IMPACTS THE PRIVATE PROPERTY PESTICIDE USE BAN IN MONTGOMERY COUNTY WILL HAVE ON YOUR BUSINESS, EMPLOYEES, CUSTOMERS AND FAMILY. I NEED THIS INFORMATION BY FRIDAY MORNING, MAY 24, 2019. BULLET POINTS OR A CALL TO TELL ME BY PHONE WILL WORK GIVEN OUR QUICK TURN AROUND ON THIS INFORMATION TO SUPPORT OUR PETITION FOR A STAY OF BAN IMPLEMENTATION.**

**Background**

On May 2, 2019, the Court of Special Appeals for Maryland upheld Montgomery County, Maryland's ban on the use by licensed professionals and consumers of all EPA-registered pesticides on private lawns and landscapes. This decision:

- **Overtured the Montgomery County Circuit Court's August 2017 ruling** we received along with co-plaintiffs that the county's private property use ban was preempted by existing state law and Maryland Department of Agriculture's comprehensive regulatory program.
- **Gives broad authority to localities to regulate virtually any pesticide use on any property** in Maryland, providing a basis for expansion of Montgomery County's ban and for new bans across the state.
- **Absent further court action, the County ban will go into effect and will be fully enforceable as soon as June 3, 2019.** Companies and private citizens in Montgomery County would then face civil and criminal enforcement for any pesticide use in violation of the County ordinance.

The next step is petitioning Maryland's highest court, the Court of Appeals, to undertake a review of the Court of Special Appeals decision. This court takes at its discretion some 20-25 percent of cases for review with those cases having met the standard of being in the public interest of the people of Maryland.



To persuade the Court of Appeals to hear the case, we need to explain the practical impacts on residents and businesses if each Maryland locality is authorized to adopt its own bans of EPA- and State-approved pesticide products. If the Court of Appeals refuses to take this case, no further appeal is available to us and the ruling will remain as binding state-wide precedent regarding the scope of local authority to regulate pesticides. **Your support is essential to any effort to seek to reverse the Court of Special Appeals' decision.**

As before, we are building a coalition of Friends of the Court (Amici) to show the Appellate Judges that there are many Maryland stakeholders who support the responsible use of pesticides under State and federal law, and who oppose local laws that attempt to countermand State law. We have plans to expand our group to even more interested parties. Please also connect me with other stakeholders in Maryland, and I will reach out to them.

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**Maryland Politics**

# Appeals court finds Montgomery County pesticide ban doesn't clash with state law

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By Jennifer Barrios

May 3

Montgomery County lawmakers and environmentalists celebrated a ruling by a Maryland appeals court this week that clears the way for the county to implement its prohibition on the use of cosmetic pesticides on lawns.

The ban had been put on hold after opponents filed suit.

While the plaintiffs still can appeal Thursday's decision by the Maryland Court of Special Appeals, Montgomery officials are "reviewing how soon the county can implement its law," County Attorney Marc Hansen said.

The county council approved the pesticide ban in 2015 by a vote of 6 to 3, becoming the first major jurisdiction to pass such a ban. The measure targeted certain pesticides that are approved federally but contain substances linked to cancer. It did not apply to agricultural land and golf courses, and it would not have stopped the sale of lawn pesticides in the county.

The ban was supposed to have taken effect last year, but it was halted after a group of six Montgomery County lawn-care companies, county residents and a District-based trade association, Responsible Industry for a Sound Environment (RISE), filed suit in 2016, arguing that the county overstepped its authority.

While a Montgomery County Circuit Court judge agreed with the groups, ruling in 2017 that the county's ban was preempted by state law, the state Court of Special Appeals on Thursday disagreed, overturning that ruling.

Council member Tom Hucker (D-District 5), who was one of the lead sponsors of the ban, called the decision "a huge win for both public health and the environment."

"It's unfortunate that the original law was delayed like this, but we had a very vigorous review of this, and I'm ecstatic that the law will be back in effect," Hucker said.

Josh Tulkin, director of the Maryland Sierra Club, which supported the measure, said other counties probably will follow Montgomery's lead. Two smaller municipalities, Takoma Park, Md., and Ogunquit, Maine, have passed similar bans.



“This decision reinforces the rights of counties to set strong environmental laws to protect the health of their residents,” Tulkin said. “Montgomery County developed a strong and well-thought-out policy, and we’re pleased the court upheld their right to implement it.”

Karen Reardon, vice president of public affairs for RISE, said in a statement that her group was reviewing the decision and “considering all options.”


“Montgomery County residents now have no realistic options to treat their own property or to have professionals make treatments using products that have been approved for this precise use in Maryland by the U.S. EPA and Maryland Department of Agriculture and that have been scientifically proven to be safe and effective when used according to their labels,” she said.

The opinion, written by Judge Robert A. Zarnoch, pointed out other instances in which counties had created local regulations on pesticides “without any record of chaos and confusion.”

It also noted a 1985 opinion from the Maryland attorney general that found Montgomery County was not prohibited by state law from requiring lawn-care businesses and pesticide sellers to warn the public about the dangers of pesticides before and after they were applied.

“We conclude that the citizens of Montgomery County are not powerless to restrict the use of certain toxins that have long been recognized as ‘economic poisons’ and which pose risks to the public health and environment,” Zarnoch wrote.

### **Jennifer Barrios**

Jennifer Barrios is a reporter covering Montgomery County government and politics. Previously, she was an editor and reporter at Newsday on Long Island, and a reporter at the Austin (Tex.) American-Statesman. Follow 

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