

THE *Scotts* **Miracle-Gro**
COMPANY

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March 16, 2012

Join Committee on Environment
Legislative Office Building
Hartford, CT 06106

RE: Opposition Memo for HB 5121

Dear Members of the Committee,

Thank you for the opportunity to submit testimony on HB 5121 an act concerning the use of pesticides on school grounds and pesticide preemption in the State of Connecticut. The Scotts Miracle-Gro Company has been in the lawn and garden business for over 140 years becoming the largest marketer and distributor of lawn and garden products for consumer use in that time. Our company also operates the Scotts LawnService, the second largest residential lawn service business in the United States. With operations in the State of Connecticut supporting various business units of our company we are vested in the State's future both as a place to operate as well as providing a high quality of life for our associates.

We are very concerned with the possible impacts of HB 5121 on both our business and that of our partners. As the largest marketer and distributor lawn and garden products, including synthetic and organic pesticides, we currently distribute our products to approximately two hundred and sixty five stores in the State of Connecticut with over half of those stores being independent retail garden and hardware centers. The proposal to remove state preemption from the regulation would create an extremely onerous and inequitable regulation program in the state for retailers and manufacturers.

Currently, in the State of Connecticut to get a pesticide product registered for sale or use a product must be registered with the United States Environmental Protection Agency as well as Connecticut's Department of Energy and Environmental Protection. This is a uniform system that makes use, sale, distribution, storage, display, and content compliance coherent and functional for manufacturers, retailers, and consumers.

The proposal in HB 5121 would permit the one hundred and sixty nine towns and cities to regulate pesticides. Regulating pesticides in this way could lead to one hundred and sixty nine different rules in Connecticut on product use, sale, distribution, storage, display, and content. Businesses would go from a system of uniformity to a balkanized system of regulation. We are convinced that ensuring our products, applicators, retail partners, and consumers are properly educated and operating in compliance with regulations from one hundred and sixty nine municipalities, the state, and the federal government would be impossible.

Many local retailers are in jeopardy of being unfairly affected by such local regulation. We support these stores with marketing materials and product delivery and help to ensure their compliance with regulations. Under a uniform system all retailers operate under the same rules

while a local regulation system would cause unfair competitive advantages. In addition, a retailer who operates multiple stores could have different rules for each store putting them in greater jeopardy of violating local laws.

Applicator education is an important part of proper pesticide use. A uniform statewide system of regulation ensures manufacturers, retailers, regulators, and commercial applicators all communicate proper application requirements. Without uniformity consumers may shop in a town which permits sale or use of products that are not permitted where they reside. Commercial applicators will be required to know where municipal boundaries begin and end to ensure they are applying in accordance with all local laws. We are not convinced a coherent education program could be operated under a decentralized system under HB 5121.

Lastly, this proposal only removes preemption for residential use. We feel such a provision creates a flawed system of regulation and product evaluation. Our lawn service and retail partners sell to consumers who are not only residential property owners but also commercial and industrial property owners. The current regulatory system evaluates pest control products for all these environments. We feel this provision will again put manufactures, retailers, applicators, and consumers into a system that is not uniform and cause great confusion around product availability and use.

Scotts Miracle-Gro is supportive of the concept of modifying the current ban on pesticide use on school property to ensure healthy school landscapes. The current pesticide ban fails to account for all the conditions that need to be addressed in protecting health, safety, and the environment. In our role as the industry leader our company provides both organic and synthetic pest control products and we feel the HB 5121 proposal fails to accurately or fairly evaluate pesticides and their use at schools in Connecticut.

The current dialogue on this issue appears to revolve around the use of synthetic versus organic methods and that is a separate discussion from safe pesticide use. In formulating a modification to the current policy a change should not be based on whether a product is organic or synthetic because this analysis fails to take into consideration the most important factors when reviewing safety which are toxicity and risk of exposure. Both synthetic and organic products can have toxicity and to determine products that should be permitted the toxicity and likelihood of exposure should be evaluated. A program for pesticide use should look at how the substance shall be used, human health toxicity, fate of substance in terrestrial and aquatic environments, and impacts on wildlife to name a few. Synthetic and organic pesticides can only be fairly and accurately selected based on such a proper risk analysis. We would encourage the state to adopt the USEPA proposed model for Integrated Pest Management. Such a plan ensures all risk and management factors are considered and an appropriate pesticide is used only as a last resort.

The Scotts Miracle-Gro Company believes in being a responsible and sustainable citizen and we are constantly searching for opportunities to further enhance the environmental sustainability aspects of our products, active ingredients and raw materials. This commitment is highlighted by our announcement last year to remove phosphorus from our lawn maintenance products and our recent formulation change of Scotts GrubEx® to replace imidacloprid with Acelepryn® as the active ingredient. The Scotts GrubEx® change enabled the product to achieve control of more species of grubs with less of an impact on non-target organisms, including fish, birds and bees.

Part of our sustainability program is a pest control formulation review which utilizes independent expert consultants and takes several factors into consideration, including efficacy, interaction with other ingredients as well as with the product packaging, safety to humans and animals, and

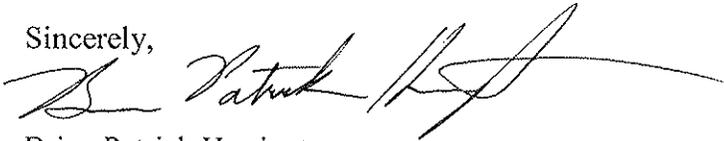
impact on the environment. We also strive to use the lowest active ingredient rate to meet the minimum effective dose necessary for the product to be effective.

Our formulation stewardship pledge on pest controls goes beyond ingredients available in the marketplace today. We are committed to working with chemical manufacturers, universities and research centers in efforts to develop and produce ingredients that have improved efficacy and human and environmental health profiles. This includes research and development agreements with leading global providers of naturally derived products for pest management in the agricultural and water treatment markets to adopt biopesticides for consumer markets.

Our company appreciates being part of the dialogue in Connecticut and working collaboratively to address all concerns and finding solutions that benefit all those involved in these efforts.

Thank you again for your time and efforts on these important issues. Please do not hesitate to contact me if you have any further questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Patrick Herrington". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Brian Patrick Herrington
Government Relations Manager
The Scotts Miracle-Gro Company

