

Posting, notification key topics in lawn care industry spotlight

■ Posting and notification are the pesticide issues that communities are focusing on after June's U.S. Supreme Court ruling. And, yes, they're making their own rules, as this series of articles about various communities throughout the nation shows.

Lawn pros seeing red over large, pink lawn posting signs

Too late to halt local laws, LCOs take up costly fight over restrictive requirements and get initial favorable ruling.

■ Once a local board drafts and puts pesticide laws on the books, it will fight to keep them there.

That's what the green industry is finding out.

ChemLawn of Easton (Mass.), TruGreen of Warwick (R.I.), Tuckahoe, and The Lawn Co., Inc., are defendants in a lawsuit filed by the Mansfield (Mass.) Board of Health. The suit alleges the companies disobeyed town pesticide laws early this past summer. It seeks a total of \$16,000 in fines from the companies.

The four, as a group, had been contesting the town's regulations.

Now, as a group, they're contesting its suit.

The five-member Mansfield Board of Health passed the regulations last February. Mansfield is a small city just off I-95, closer to Providence, R.I., than to Boston.

By the time lawn care companies reacted, and came in person to seek a compromise, the health board's resolve had hardened.

Emboldened by a June U.S. Supreme Court decision, the board soon thereafter scouted for, and found, victims.

"Apparently someone went around one day and determined we weren't complying with their laws," Ed McGuire, president, The Lawn Co., Inc., tells LANDSCAPE MANAGEMENT.

A town official seemingly took company names from lawn flags—the ones required by state law—and cited the companies for not posting pink (that's right, pink) 8-by-11-inch signs that regulations mandate.

Other provisions of the Mansfield "Turf

Care and Plant Regulator Applicators" regulation:

● Companies applying a turf pesticide or plant growth regulator within Mansfield must obtain a certificate of registration from the health board each year. The fee is \$100.

● The names of all products used as turf pesticides and plant growth regulators must be filed, with appropriate labels and MSDSs, with the board.

● All pesticide spills must be reported immediately to the board.

● All lawn service vehicles must carry storm drain protective covers and 100 pounds of granular absorbent.

● All applicators must be licensed. The license shall be surrendered for inspection upon request of the board or its agent.



McGuire: we weren't complying

Failure to comply may be cause for revocation of the registration certificate.

● There's a \$500 per violation per day penalty for violations in posting, product registration, and for failure to report spills.

In late August Superior Court Judge John Xifaras denied the health board's preliminary request to force the companies to comply with the laws.

"Any local regulation which imposes additional or inconsistent conditions or requirements on the use of pesticides beyond those established by state law must fail," wrote Judge Xifaras.

He said the Mansfield law "frustrates" the purpose of having standard signs as required by state law. These signs, he said, are recognizable by the public.

But the Xifaras decision represents, at best, a dubious victory for the applicators. Even if the lawn care firms win the lawsuit, they will have spent thousands of dollars in legal fees.

Meanwhile, the Mansfield health board continues to spend taxpayers' money in legal fees over concerns already debated and decided upon by the State of Massachusetts. That's the green industry's position anyway.

—Ron Hall

Farm, green industry unit for Indiana pre-emption law

Industry fears too many masters; weakening of state's regulatory framework if towns meddle with pesticide laws.

■ It's no easy matter telling a city councilman or county commissioner to butt out of the pesticide legislation picture.

There's some question now—in light of the U.S. Supreme Court ruling last June in *Mortier v. Town of Casey*—that you even

can. Or should.

"It's very difficult to tell people that their local elected officials don't have a say over certain things," admits Robert Andrews, owner of a lawn care company in Carmel, Ind. "After all, they are elected to represent their constituents' best interests."

But Andrews isn't the only business person or farmer in Indiana skittish about local legislators telling them what chemicals they can use and how they can use them.

Indiana, like most states, doesn't specifically forbid local political bodies from making their own pesticide laws.

Indiana does now, however, have a