

In the Know

BUSINESS

NEWS YOU CAN USE

Senators take another crack at H-2B extension

WASHINGTON, D.C. — Senators Barbara A. Mikulski (D-MD) and John Warner (R-VA) have reintroduced their bill to provide a 5-year extension to a crucial provision from her Save Our Small and Seasonal Businesses Act that many in the Green Industry rely on to bring seasonal guest workers into the country. A last-minute extension was included as part of the 2007 Department of Defense authorization bill in the 109th Congress, but it expires on September 30, 2007.

"Without these seasonal workers, many businesses would not survive — forced to limit services, lay off permanent U.S. workers or, worse yet, close their doors," said Mikulski. "This extension protects workers, and gives us an-

other congressional session to keep up the fight until we make this cap exemption permanent."

Added Warner: "This legislation is absolutely essential to protecting our small businesses and maintaining their positive impact on our economy. I am hopeful that this legislation will help small and seasonal businesses find enough workers to keep their doors open."

The Save Our Small and Seasonal Businesses Act, signed into law by President Bush in May 2005, exempted returning seasonal workers from counting against the national cap of 66,000 people, created new anti-fraud provisions and ensured a fair allocation of H-2B visas among spring and summer employees.

However, the Department of Home-



"I have been fighting for years to help businesses and workers wade through the unfair procedures of the H-2B visa process. They can count on me to keep fighting," said Senator Mikulski.

land Security already announced that the cap has already been reached for the rest of this year. Without the Mikulski-Warner exemption, these businesses would have no way to bring in staff.

ServiceMaster agrees to \$4.5B buyout

DOWNERS GROVE, IL — Lawn care service and pest control provider ServiceMaster Co. bowed to shareholder pressure March 19, and agreed to be bought by an investment group lead by private equity firm Clayton, Dubilier & Rice Inc. in a cash deal valued at \$4.5 billion.

The owner of TruGreen Lawn Care, Terminix pest control and Merry Maids cleaning service, announced the deal nearly five months after the Downers Grove company announced it was exploring strategic alternatives.

Clayton Dubilier officials said there were no immediate plans to split up the company.

The buyout group will also assume about \$1.02 billion in debt, bringing the

total value of the sale up to \$5.5 billion. Under terms of the agreement, ServiceMaster stockholders will receive \$15.625 in cash for each outstanding share.

The deal represents a premium of roughly 31% above ServiceMaster's closing stock price of \$11.90 on Nov. 27, the last trading day before the company said it would explore strategic alternatives.

ServiceMaster's board has approved the acquisition. Its stockholders will vote on the transaction at a special meeting expected to be held in the second quarter. ServiceMaster agreed to pay a \$100 million termination fee if the deal collapses. Three class-action lawsuits were filed against ServiceMaster by stockholders opposed to the acquisition after the

deal was announced, alleging inadequate and unfair pricing of publicly owned shares of ServiceMaster stock.

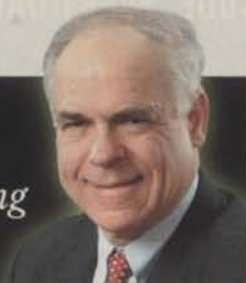
"The board's support is based on the conviction that this transaction will deliver value to shareholders that is superior to what the company could achieve under its current business plan," J. Patrick Spainhour, ServiceMaster's chairman and chief executive, said in a statement.

Once the deal is complete, Clayton operating partner George W. Tamke will become ServiceMaster's chairman, replacing Spainhour, who will stay on as ServiceMaster's chief executive.

In 2006, ServiceMaster had 32,000 employees and a network of 5,500 company-owned and franchise locations.

In the Know

LEGALLY Speaking



BY KENNETH D. MORRIS, ESQ., L.L.C.

Q Should my employees sign a "code of conduct" prior to employment? What should be included in it, and how will it protect me?

A It does not matter what it is called, but it is a good idea to have employees sign at least a confidentiality agreement agreeing to keep company information proprietary both during and after employment. However, covenants not to compete with your company if they leave may be problematic to enforce. Being able to enforce them will depend on their length, their geographic scope, and the industries, or businesses, in which they are precluded from working. No court will enforce an overly restrictive non-compete covenant if it unreasonably prevents an employee from earning a livelihood forever. In the absence of a specific employment contract, the "code of conduct" should also contain a statement requiring an employee to acknowledge that the employment relationship is an employment "at will," is not for any definite period, and may be terminated at any time by the employer or the employee.

Kenneth D. Morris, a Philadelphia-based attorney with more than 30 years corporate and law firm experience, offers information on industry legal issues in each issue of LM. Contact him via www.kennmorrislaw.com.

Note: The above should not be interpreted as offering legal advice in any jurisdiction where such practice is not authorized. Engage competent counsel familiar with your jurisdiction when legal issues arise.



ValleyCrest managers build California park in one day

LOS ANGELES — ValleyCrest Landscape gathered more than 150 managers and executives from across the nation to participate in a corporate philanthropy project — building a new park in Sylmar, CA, in one day and offering much-needed green space to the children and families of this San Fernando Valley community.

Furthering the community of Sylmar's recent revitalization efforts, ValleyCrest donated cutting edge design talent, plants, material and labor to design and build the park.

ValleyCrest managers, who were unaware of the project until they arrived for their annual meeting, built the park in a day. It is estimated that their efforts saved the city and taxpayers more than \$500,000.

"As a business resident of the San Fernando Valley for the past six decades, we thought this was the perfect location to donate our time and resources and build the



The new park, designed by ValleyCrest Design Group, will offer local residents green space for recreation, including a playground, picnic area, soccer field, barbeques and more.

residents of Sylmar their new park," said ValleyCrest President Richard Sperber.

"It is inspiring to see what can be accomplished in one day. This is an incredible example of a company and its employees stepping up, reaching out and making a difference in the lives of local residents," said California State Senator Alex Padilla.

OPEI: Commercial power equipment sales sluggish

OLD TOWN ALEXANDRIA, VA — Shipments of commercial turf care products continued to drop in the first quarter of model year (MY) 2007 (Sept. – Dec. 2006). Intermediate walkers declined 16.5%, compared with the first quarter of MY 2006, and commercial riders, which were flat from MY 2005 to MY 2006, skidded 29.3% for the first quarter. Expansion of only 1.5% is

forecast for intermediate walkers for MY 2008, while riders will experience a double-digit upsurge for MY 2008 of 14.2%, according to mid-

March news release from the Outdoor Power Equipment Institute (OPEI).

Things weren't much better for consumer sales, said the release.

Shipments of walk behind powered mowers fell 7.2% in the first quarter of MY 2007, compared with the same period a year earlier. This was a sharper reduction than the 6.1% drop for all of MY 2006. Changes in quarterly growth are expected to turn positive at the beginning of the 2008 model year (August 2007).

Consumer rider shipments fared even worse during this first quarter, with front engine lawn tractors falling 17.8% for the first quarter of MY 2007, and riding garden tractors sliding by 38.2%.

Hand-held blower shipments are forecast to increase by 2.2% in 2008, rebounding from a projected decrease in shipments of 2.4% in 2007. Shipments growth of 3.4% for 2007 is expected for backpack blowers with an additional increase of 5.2% for 2008.

However forecasts estimate that a rebound in the housing market will happen

at the end of this year. This rebound is expected to help boost shipments of consumer and commercial turf products.

While these statistics provide

some indication of the state of the turf and landscape power equipment market, not all suppliers are members of OPEI or report sales figures to it.



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Circle 116

Canadian pesticide opponents ready for spring push

TORONTO, ONTARIO, CANADA — Several environmental, public health and medical organizations are turning up the heat on Ontario provincial lawmakers to ban what they refer to as the aesthetic use of pesticides.

They're redoubling their efforts this spring because it's an election year there. They're aggressively courting candidates to come out against the so-called cosmetic use of pesticides to demonstrate their awareness and support of environmental issues. They claim that, even if pesticide use is suspected of causing health problems (and most of the activist groups go beyond that), why risk it?

Representatives from at least five activist organizations met with provincial ministry officials in February to plead for a province-wide ban similar to the one in place in neighboring Quebec province. They claimed that a recent poll showed that 71% of Ontario residents support a ban.

Industry associations representing lawn care product end users insist the anti-pesticide crusade is misguided and has no basis in fact.


The call for a province-wide Ontario ban on urban pesticides for use on lawns and gardens should be considered in the context of the facts and not misinformation, said Lorne Hepworth, president of CropLife Canada and the Urban Pest Management Council of Canada.

Public policy should be based on sound science. A province-wide pesticide bylaw would remove, without any proper scientific foundation, the benefits provided by the science-based Health Canada regulation of pest control products. "Placing additional burden of regulation on provincial or municipal authorities is unreasonable and unnecessary," said Hepworth. "Local and even provincial governments are not equipped to properly assess complex products on a detailed health or

environmental scientific basis, so a total ban becomes a default position. Banning pesticides is not only unnecessary, but also costly to enforce and provides little additional public health benefits."


The agitation against lawn care products remains high in communities across Canada. To date, more than 120 towns and cities have restricted or banned the use of pesticides for "cosmetic purposes."

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Circle 119

In the Know

PLANET reports continued growth in Green Industry

HERNDON, VA — In honor of National Lawn Care Month in April, the Professional Landcare Network (PLANET) celebrates by announcing the Green Industry's growth.

As baby boomers age, and with more than 30 million acres of lawn across the United States, rapidly increasing numbers of homeowners are turning to professionals to care for their lawns and landscapes.

"Americans realize the importance of well-cared for lawns," states PLANET's President Jim Martin. "In addition to being beautiful, lawns have a positive impact on our environment. They trap dust and dirt in the atmosphere and convert large amounts of carbon dioxide to oxygen. Lawns also provide a natural filtering system for rainwater as it soaks into the ground. Additionally, healthy lawns provide a cooling effect in summer months, which saves on energy costs."

In 2004, PLANET conducted a national Harris Survey that reported that homeowners spent \$11.6 billion on their lawns in 2003, up 12% from 2002. These

Realtors report that homes with beautiful lawns and landscape can increase property values 15% to 20%.

same homeowners projected that they'd spend even more on their lawns in 2004. Consumers realize that healthy lawns play an important role in home sales and they have a huge impact on "curb appeal."

Realtors report that homes with beautiful lawns and landscape can increase property values 15% to 20%, and that homeowners can realize returns on their investment of 100% to 200%. Lawn care companies also provide a large number of jobs across the United States.

"Homeowners can be proactive in April by putting together a lawn care program, with their lawn care professional, that ensures their lawns will be healthy and beautiful throughout the year," Martin suggests. "It's important to maintain and even increase property values."



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Circle 120

People & companies



The **Toro Co.** has named **Scott Cornwell** national sales manager for its Toro

Dingo compact utility loader product line.

Hunter Industries added **Rafael Rodriguez** to its growing roster of international sales representatives. Rodriguez will handle distributor, contractor, municipal and specifier duties throughout Mexico.

AquaScape owner and CEO **Greg Wittstock** was inducted

into the Chicago Area Entrepreneurship Hall of Fame.

Jerry Corbett has joined **Quali-Pro** as technical services manager.



Lebanon, OH-based **Fecon** named **Ted Christian** national sales manager.

Cal Poly's College of Agriculture, Food, and Environmental Sciences has named **John Peterson** to head the Horticulture and Crop Science Department.



Steve Newton has been named executive vice president of the **Southern Nursery Association**.



Tremendous Landscape Co. of Plainfield, IL, promoted **Eric Tharp** to vice president of

Operations.

Profile Products announced **Jeff Langner** as its executive marketing assistant.















Ric J. Hendricks and **Dennis R. Anderson** have been promoted to principals of **NUVIS**, a landscape architecture and planning firm headquartered in Costa Mesa, CA. Previously senior associates, Hendricks manages NUVIS, office in San Ramon, CA, and Anderson manages the firm's Las Vegas office.







Venture Products recently appointed **Kevin Holland** Ventrac national sales manager.

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Turbo TeeJet® Induction 	---	Excellent		Turbo TwinJet® 	Excellent	Excellent	
AIC TeeJet® 	Good	Excellent		XP BoomJet® 	---	Very Good	

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 -  Fine
 -  Medium
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 -  Very Coarse
 -  Extremely Coarse
- (Droplet-size categories may vary with nozzle capacity, spray angle and spray pressure.)



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Circle 121