

Testimony before the House Committee on Natural Resources
5/23/18

1. Good morning Members of the Committee on Natural Resources.
2. I thank you for this opportunity to meet and share several concerns with you that is becoming a serious attack on the operational welfare of our business.
3. In a manner of introductions, name is Dennis Stanek. My son-in-law Eric Nault, who is unable to be present because of our late spring is out spraying at this very moment. Eric is the president and owner of Nault's Green Lawn. My wife and I, like many parents, helped Eric and our daughter get started and serve as a silent partner, although Eric would indicate, not so silent.
4. As a general frame of reference, my personal background is Education. I spent 42 ½ years in education as a teacher, HS principal, school superintendent in three different school districts and assistant professor of school administration masters program at NMU. I hold undergraduate and graduate degrees from NMU, MSU and Western. Presently, I'm completing my 8th year on the Delta Co. road commission and 5th year as a board member of the road commission self-insurance pool, MCRCSIP.
5. Our company's name is Nault's Green Lawn Liquid Fertilizer Inc. located in the south central portion of the Upper Peninsula.
6. We are a small company, employing 5 persons. Eric and one other employee are honorably discharged army veterans, a third is an honorably discharged marine veteran, a fourth employee works with physical limitations due to issues with narcolepsy, but will not go on total disability and our fifth is a young man beginning his working career.
7. The work is seasonal, thus as a company we work very hard to make our company an enjoyable place to work, and offer a compensation package so our employees will return to us every year.
8. Several other companies in the Upper Peninsula offer the same services we do, thus creating stringent competition. We look at every avenue to save money to be returned back into the business, provide safe and consumer friendly services to our customers, while abiding by the rules and regulations as established by the state and federal government.,
9. I am here to render support for SB 542. Presently there is a situation that

is costing in excess of 70-90 additional hours office time because of the interpretations to the Dept. of Ag Rule 637, specifically Rule 285.637.5.

10. As a former teacher, Jr. /Sr. High school principal and superintendent, I am all about rules. Where I run into problems with them is when they interfere with accomplishing justifiable ends. In this case, the regulation allows for unnecessary and very cumbersome requirements to us the business owner.

At this time I would like to make a few comments as to why SB 542 is necessary.

- Michigan is the only state, besides Florida that imposes the restrictions addressed in Regulation 637. We are not Florida.

I would like to reference more of the specifics in Regulation 637, R. 285.637.5 Please reference Exhibit 1, which I have provided for you in case you are not familiar with the Regulation, starting in the middle of page 5.

R. 285.637.5 Registry of persons requiring notification.....

Rule 5 (1) *...due to a verifiable medically documented condition...*

Question: Is scientific/medical testing performed to determine the condition or is the diagnosis determined after simple discussion with the patient? We as patients ask our physicians to recommend tests, medications, advice, stipulations to benefit us, the doctor's customer. Often times, they will do what we ask.

Question: Was the testing performed, specific to the products applied to lawns or were tests general in nature? We have never been requested to provide the name or type of application by any doctor.

Rule 5 (1) *...on a property adjacent to their primary residences.*

Question: Adjacent? Normally, as a former English teacher, I would define adjacent as properties directly connected to the primary residence. In a couple of minutes I will share with you our problem with the Rule as related to the term adjacent.

Rule 5 (1) *...who is licensed to practice medicine.*

Question: Practice any type of medicine? Does all doctors have the necessary knowledge in the testing of allergies or medical condition?

Rule 5 (b) *Any recommended additional distance notification deemed necessary and substantiated by the physician.* **VERY IMPORTANT**

Question: How does the physician substantiate what the necessary additional distance should be? Patient's word? Does he/she visit the site? Again, we have not had a request for any information regarding names of products, chemical contents, and applications procedures.

In essence, this is the crux of our problem.

Owners of this company are not contesting that certain circumstances and/or conditions of safety need to be implemented in order to preserve the best life style possible. But there needs to be a certain amount of logic and common sense applied when developing, implementing and enforcing these rules.

In this case, just how far an "additional distance" is reasonable? The complainant has extended the "distance" to nearly five (5) blocks from her residence. (*see Exhibit 2 map*) She has literally followed our trucks to the application location or moves about her area and locates the "lawn application" placards. She then takes down their names and addresses and submits this information to the Department, unbeknownst to them. We have gone from 103 names in 2017 to 146 in 2018, an increase of 43 listings in one year. Approximately 6% of the state's registry list is located within this 5 block area. What would be of concern to me, is my **loss of privacy**. My name could now be on a governmental listing without my approval or knowledge.

The application does not float or drift even a few feet when applied properly. The treatment is applied as a thoroughly dissolved liquid. If not thoroughly liquefied, our nozzles would continuously be clogged. The product now is actually heavier than water. The liquid is not a mist, it is referenced as a droplet, again heavier than water. The treatment is applied at a 45 degree angle to the ground and does not drift. There is a possibility of a few inches of splatter. If there was drift, customers would be lost due to desired delicate vegetation which would be destroyed. Neighbors would be complaining that they have vegetation being destroyed by our product. The need to have the distance extended beyond what is reference to as adjacent, is totally unnecessary. Great concern is applied with regards to training, certification, wind conditions, etc.

Anyone here could purchase weed killers or fertilizers from Home Depot, Lowes, Menards, a feed mill, etc. and apply the material in any shape or manner, on any type of day or within any weather conditions and not be held responsible. When using granule applications, drift is very likely.

In closing, we believe some of the language is vague, unfair and unenforceable. This year thus far, over hours will have been spent in notifications, registry reviews and discussions with the complainant. We don't see it getting any better unless some of the above concerns are addressed legislatively. SB 542, we believe creates a level playing field.

Please allow me to share a brief story. During the 2017 season, a young employee was completing his application for a customer in the 5 block aforementioned neighborhood. As he was putting away his equipment, a neighbor walked over and requested an estimate for spraying his lawn. The area was measured, price quote was given and accepted, and lawn was sprayed. Now, the registrant was already notified, but because she was not given 24 hours' notice of the new customer, right next door, we were reported to the Department. This result was a \$500 fine.

Thank you for your time. Any questions?