

Home Depot and Lowes sued over Roundup

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STORY AT-A-GLANCE

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- › The retail giants Home Depot and Lowe's are also being hit by glyphosate's health risks, as two proposed class-action lawsuits have been filed over the companies' lack of warnings to their customers
- › Plaintiff James Weeks filed two proposed class-action lawsuits against Home Depot and Lowes, alleging that the retail outlets did not do their duty to warn consumers about cancer and exposure risks when using glyphosate-based products
- › The complaint also alleges that, due to glyphosate's "probable carcinogenic nature," Home Depot was in violation of California's Consumer Legal Remedies Act by not disclosing the cancer risk on the label
- › The warning label on Roundup is also deemed inadequate because it only warns of "moderate eye irritation; this, the complaint notes, gives a false impression that eye irritation is the only risk when using Roundup, when in fact it could potentially cause cancer and other health risks

Pesticide and pharmaceutical giant Bayer is facing approximately 18,400 U.S. lawsuits from individuals alleging that glyphosate, the active ingredient in Roundup herbicide, caused them to develop cancer.¹ The retail giants Home Depot and Lowe's are also being hit by glyphosate's health risks, as two proposed class-action lawsuits have been filed over the companies' lack of warnings to their customers.

The International Agency for Research on Cancer (IARC) determined that glyphosate is a "probable carcinogen" in 2015. In August 2018, jurors ruled Monsanto (which was taken over by Bayer in June 2018) must pay \$289 million in damages to DeWayne "Lee" Johnson, a former school groundskeeper who claimed the company's herbicide Roundup caused his terminal cancer.²

The award was later slashed to \$78 million,³ but it signaled the beginning of a running trend in Roundup cancer lawsuits. The next two verdicts also sided with the plaintiffs, including **a \$2 billion payout in the third case**, which was later slashed to \$20 million, from \$75 million in punitive damages.⁴ Whether or not retailers can be held liable for not warning consumers about this probable carcinogen may soon be determined by the upcoming class-action suits.

Home Depot, Lowes sued over lack of Roundup warnings

Plaintiff James Weeks filed two proposed class-action lawsuits against Home Depot and Lowes, alleging that the retail outlets did not do their duty to warn consumers about cancer and exposure risks when using glyphosate-based products. Retailers are given a safety data sheet (SDS) regarding glyphosate, which states that exposure can occur via inhalation or skin contact. According to Sustainable Pulse, Weeks' complaint states:⁵

"Despite its knowledge of the SDS, defendant does not warn consumers they

may be exposed to glyphosate through inhalation and skin contact.

Defendant further omits proper use instructions, e.g. advising consumers to use a gas mask respirator when using Roundup.”

The complaint also alleges that, due to glyphosate’s “probable carcinogenic nature,” Home Depot was in violation of California’s Consumer Legal Remedies Act by not disclosing the cancer risk on the label.⁶ The warning label on Roundup is also deemed inadequate because it only warns of “moderate eye irritation.”

This, the complaint notes, gives a false impression that eye irritation is the only risk when using Roundup, when in fact it could potentially cause cancer and other health risks. The suit further alleges:^{7,8}

“Roundup’s labeling provides certain warnings, such as, “Keep Out of Reach of Children” and “Caution.” But the only identified hazard identified is that it may cause “moderate eye irritation ...

This warning gives the false impression eye irritation is the only risk posed by Roundup, when in fact, glyphosate is known to have links to cancer ... Defendant thus fails to warn consumers of the potential carcinogenic risks of using Roundup ...

Defendant’s conduct is especially egregious considering it also fails to include proper use instructions for Roundup ... Reasonable consumers, like Plaintiff, who have purchased Roundup would not have done so had they known of its carcinogenic risks, or had Defendant provided a warning on how to minimize these risks.”

The same complaints are echoed in the class-action suit filed against Lowes.^{9,10} As noted by GM Watch, “This court action seems to open up a whole new potential class

of lawsuits involving Bayer's Roundup herbicide. Not only is Bayer being sued by thousands of people who believe **Roundup herbicide** caused their cancer, but now retailers are being sued for selling Roundup without a cancer warning label.”¹¹

They stopped selling treated plants – How about Roundup?

Amid growing concerns that **neonicotinoid pesticides** were involved in rising bee deaths, Home Depot and Lowes joined dozens of retailers who pledged to phase out the use of neonicotinoids on plants and products.¹²

They've continued to offer other toxic products containing glyphosate, however, even as petitions have called for them to stop. Meanwhile, Costco Wholesale Corp., the membership-only warehouse, reportedly pulled Roundup from its shelves in early 2019.

Zen Honeycutt, founder of Moms Across America, began a petition several years ago calling for the superstore to stop selling the product – and it reached more than 153,000 signatures before it was closed.¹³

While no official statement was issued, Honeycutt said she received confirmation by speaking with three people from headquarters. “More than one employee mentioned the lawsuit (Johnson v. Monsanto) for part of the reasoning,” Honeycutt wrote on her blog, referencing the first glyphosate/cancer trial to go to court.

Former NFL player joins 18,400 others suing Monsanto

Merril Hoge, former NFL running back, is one of the plaintiffs suing Bayer, alleging Roundup caused his **Non-Hodgkin lymphoma** (NHL). Hoge's exposure to Roundup began in 1977, when he worked on a farm in Idaho, spraying crops with the chemical.

In addition to causing “physical pain and mental anguish,” Hoge’s suit claims Monsanto was negligent and promoted “false, misleading and untrue” statements regarding Roundup’s safety.¹⁴ As a result, “plaintiff is severely and permanently injured,” the suit alleges.¹⁵ Bayer, meanwhile, continues to defend glyphosate’s safety. On their website, they state:¹⁶

“There is an extensive body of research on glyphosate and Bayer’s glyphosate-based herbicides, including more than 800 rigorous studies submitted to the U.S. Environmental Protection Agency (EPA), and European and other regulators in connection with the registration process, which confirms these products can be used safely and that glyphosate is not carcinogenic.”

In a review published in the Journal of Epidemiology and Community Health, a team of scientists thoroughly reviewed the research behind the IARC’s glyphosate/cancer ruling and compared it to determinations made by the European Food Safety Agency (EFSA), which had found “no consistent positive association” between glyphosate and human cancer. Pointing out “serious flaws” in EFSA’s conclusions, reviewers said:¹⁷

“The most appropriate and scientifically based evaluation of the cancers reported in humans and laboratory animals as well as supportive mechanistic data is that glyphosate is a probable human carcinogen.

On the basis of this conclusion and in the absence of evidence to the contrary, it is reasonable to conclude that glyphosate formulations should also be considered likely human carcinogens ... Specifically addressing the flaws in EFSA’s work, the reviewers added:

“ ... [A]lmost no weight is given to studies from the published literature and there is an over-reliance on non-publicly available industry-provided studies

using a limited set of assays that define the minimum data necessary for the marketing of a pesticide.” The reviewers concluded:

“IARC WG evaluation of probably carcinogenic to humans accurately reflects the results of published scientific literature on glyphosate and, on the face of it, unpublished studies to which EFSA refers.”

Associations between the chemical and rare kidney tumors, genotoxicity and oxidative stress and even DNA damage in the blood of exposed humans were also revealed. Glyphosate is also an endocrine disrupter, which may “affect our body at extremely low levels,” Sue Chaing, the pollution prevention director at the Center for Environmental Health, said in a news release.¹⁸

But industry is working hard to ensure that any science and other evidence not on their side is overlooked, including allegations that Monsanto has long known glyphosate causes cancer and spent decades covering it up.

Bayer continues to use EPA decision to support glyphosate

Allegations that Monsanto colluded with the EPA to hide glyphosate’s toxicity have been churning for years. In 2015, following IARC’s glyphosate cancer ruling, the EPA, rather than taking immediate steps to protect Americans from this probable cancer-causing agent, decided to reassess its position on the chemical and, after doing so, released a paper in October 2015 stating that glyphosate is not likely to be carcinogenic to humans.¹⁹

In April 2016, the EPA posted the report online briefly, before pulling it and claiming it was not yet final and posted by mistake. The paper was signed by Jess Rowland (among other EPA officials), who at the time was the EPA’s deputy division director of the Office of Chemical Safety and Pollution Prevention and chair of the Cancer

Assessment Review Committee (CARC).

Email correspondence showed Rowland helped stop a glyphosate investigation by the Agency for Toxic Substances and Disease Registry (ATSDR), which is part of the U.S. Department of Health and Human Services (HHS), on Monsanto's behalf.

In an email, Monsanto regulatory affairs manager Dan Jenkins recounts a conversation he'd had with Rowland, in which Rowland said, "If I can kill this I should get a medal,"²⁰ referring to the ATSDR investigation, which was put off for years. The final draft conclusion was finally released in April 2019, stating the chemical "is not likely to be carcinogenic to humans."²¹

Bayer is now using this as a part of its defense, stating the decision "reaffirmed that 'glyphosate is not a carcinogen' and that there are 'no risks to public health when glyphosate is used in accordance with its current label.'"²²

Could grocery stores be next?

If retailers like Home Depot and Lowes can be held liable for selling toxic chemicals like Roundup, might grocery stores be next in line to be sued for selling glyphosate-laced foods? In addition to residues found in **genetically engineered (GE) crops** (GE Roundup Ready crops are designed to be doused with Roundup), glyphosate is used as a desiccant, or drying agent, shortly before harvest on many **non-GE grains**, such as oats.

As a result, popular foods among children, like breakfast cereal and oatmeal, may be among the most glyphosate-contaminated foods on the market, and could be **driving up exposures** in this vulnerable population.

In testing done by Friends of the Earth (FOE), 100% of oat cereal samples tested

positive for residues of glyphosate.²³ For the study, 132 samples of house brands were tested from more than 30 U.S. stores in 15 states. Residues of glyphosate and other pesticides – neonicotinoids and organophosphates – were found.

The average level of glyphosate in cereal samples was 360 parts per billion (ppb), which FOE noted is more than twice the level set by Environmental Working Group (EWG) scientists for lifetime cancer risk in children. Some of the cereal samples contained residues as high as 931 ppb.

EWG has also commissioned glyphosate testing on oat-based cereal and snack products and found it in all 21 products tested. All but four of them came in higher than EWG's benchmark for lifetime cancer risk in children.²⁴

Stop spraying glyphosate in your backyard

Given the escalating legal actions facing glyphosate, and the continued verdicts siding with the plaintiffs that glyphosate is, indeed, implicated in NHL, it may only be a matter of time before stores are forced to take glyphosate-based products off their shelves. But you don't need to wait until that moment occurs to take action to protect your health. Stop using glyphosate-based chemicals in your backyard and garden immediately.

Further, if you want to avoid glyphosate in your food, choose organic or biodynamically grown foods, which are not genetically engineered nor sprayed with glyphosate as a desiccant. You can help to prompt change by reaching out to the companies that make your food.

Let them know that you prefer foods without glyphosate residues – and are prepared to switch brands if necessary to find them. You can also reach out to stores like Home Depot and Lowes and ask them to remove these probable carcinogens from their

store shelves.

If you're curious how much glyphosate is in your body, the Health Research Institute (HRI) in Iowa developed the [glyphosate urine test kit](#), which will allow you to determine your own exposure to this toxic herbicide.

Ordering this kit automatically allows you to participate in the study and help HRI better understand the extent of glyphosate exposure and contamination. In a few weeks, you will receive your results, along with information on how your results compare with others and what to do to help reduce your exposure.

We are providing these kits to you at no profit in order for you to participate in this environmental study. HRI is also in the process of doing hair testing for glyphosate, which is a better test for long-term exposure.