



House of Representatives

General Assembly

File No. 96

February Session, 2010

Substitute House Bill No. 5122

House of Representatives, March 23, 2010

The Committee on Environment reported through REP. ROY, R. of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT ESTABLISHING A PAINT STEWARDSHIP PROGRAM.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For purposes of this section
2 and section 2 of this act:

3 (1) "Architectural paint" means interior and exterior architectural
4 coatings sold in containers of one quart or more, including paints and
5 stains purchased for commercial or homeowner use. Architectural
6 paint does not include architectural coatings purchased for industrial
7 or original equipment manufacturer use.

8 (2) "Distributor" means a company that has a contractual
9 relationship with one or more manufacturers to market and sell
10 architectural paint to retailers.

11 (3) "Manufacturer" means a manufacturer of architectural paint.

12 (4) "Paint stewardship assessment" means the charge included in the

13 purchase price of architectural paint sold in this state to implement the
14 paint stewardship program described in section 2 of this act.

15 (5) "Postconsumer paint" means architectural paint not used by the
16 purchaser.

17 (6) "Representative organization" means the nonprofit organization
18 created by manufacturers to implement the paint stewardship
19 program described in section 2 of this act.

20 (7) "Retailer" means a person who sells architectural paint at retail.

21 Sec. 2. (NEW) (*Effective from passage*) (a) On or before September 1,
22 2011, manufacturers of architectural paint sold at retail in this state
23 shall jointly establish and implement, through a representative
24 organization, a state-wide paint stewardship program that minimizes
25 public sector involvement in the management of postconsumer paint
26 by reducing its generation, promoting its reuse and recycling, and
27 negotiating and executing agreements to collect, transport and process
28 postconsumer paint for end-of-life management in an environmentally
29 sound fashion. Such program shall reasonably make use of any
30 existing household hazardous waste collection programs in this state.

31 (b) (1) A paint stewardship assessment, as established pursuant to
32 subdivision (3) of this subsection, shall be included in the cost of all
33 architectural paint sold to retailers and distributors in this state. Each
34 such retailer or distributor shall include such assessment in the
35 purchase price of all architectural paint sold in this state.

36 (2) Such paint stewardship program shall include a funding
37 mechanism that allows each architectural paint manufacturer to remit
38 to the representative organization payment of a paint stewardship
39 assessment for each container of architectural paint it sells in this state.

40 (3) The representative organization shall establish a uniform paint
41 stewardship assessment for all architectural paint sold in this state. The
42 amount of such paint stewardship assessment shall be reviewed by the
43 Commissioner of Environmental Protection to assure that such

44 assessment does not exceed the costs of the paint stewardship
45 program.

46 (c) Paint manufacturers or the representative organization described
47 in subsection (a) of this section shall provide consumers with
48 educational materials regarding the paint stewardship assessment and
49 paint stewardship program. Such materials shall include, but not be
50 limited to, information that notifies consumers that a charge for the
51 operation of such paint stewardship program is included in the
52 purchase price of all architectural paint sold in this state.

53 (d) Paint retailers may participate as paint collection points
54 pursuant to such paint stewardship program on a voluntary basis.

55 (e) Any manufacturer or the representative organization that
56 organizes the collection, transport and processing of postconsumer
57 paint, in accordance with the paint stewardship program described in
58 subsection (a) of this section, shall be immune from liability for any
59 claim of a violation of antitrust, restraint of trade or unfair trade
60 practice provided such organizing, transporting or processing, as
61 applicable, is necessary to implement such program.

62 (f) On or before October 15, 2012, the representative organization
63 shall submit a report to the Commissioner of Environmental Protection
64 that details such paint stewardship program. Such report shall include,
65 but not be limited to: (1) A description of the methods used to collect,
66 transport and process postconsumer paint in this state; (2) the volume
67 of postconsumer paint collected in this state; (3) the volume of
68 postconsumer paint collected in this state by method of disposition,
69 including reuse, recycling and other methods of processing; (4) the
70 total cost of implementing such program, as determined by an
71 independent financial audit funded from the paint stewardship
72 assessment; (5) an evaluation of the operation of the program's funding
73 mechanism; (6) samples of educational materials provided to
74 consumers of architectural paint and an evaluation of the methods
75 used to disseminate such materials; and (7) an analysis of the
76 environmental costs and benefits of collecting and recycling latex

77 paint. Any data contained in such report shall not be subject to
 78 disclosure pursuant to chapter 14 of the general statutes provided the
 79 Commissioner of Environmental Protection may release a summary
 80 form of such data that does not identify individual manufacturers,
 81 distributors or retailers, or any other characteristics that could
 82 uniquely identify an individual manufacturer, distributor or retailer.

83 (g) Not later than January 15, 2013, the Commissioner of
 84 Environmental Protection shall submit, in accordance with section 11-
 85 4a of the general statutes, a report to the joint standing committee of
 86 the General Assembly having cognizance of matters relating to the
 87 environment that describes the results of the paint stewardship
 88 program and recommends any suggested modifications to improve the
 89 functioning and efficiency of the program.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section

ENV *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact:

Municipalities	Effect	FY 11 \$	FY 12 \$
Various Municipalities	Savings	See Below	See Below

Explanation

The bill requires that certain paint manufacturers establish and implement a postconsumer paint recycling program by September 1, 2011. Currently, municipalities are responsible for the disposal of oil-based paint through household hazardous waste (HHW) collections (approximately 155 of the state's municipalities participate in HHW programs). It is estimated that municipalities who operate HHW programs collectively spend over \$500,000 annually to dispose of oil-based paint.

Since the disposal of oil-based paint would be covered by the manufacturer recycling program under the bill's provisions, those municipalities operating HHW programs may collectively realize savings of over \$500,000 annually. Individual savings would vary by municipality, depending on HHW costs and the amount of oil-based paint recycled.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation and the amount of oil-based paint recycled.

OLR Bill Analysis**sHB 5122*****AN ACT ESTABLISHING A PAINT STEWARDSHIP PROGRAM.*****SUMMARY:**

This bill creates a “paint stewardship” program for the management of unwanted architectural paint in the state. It defines “Architectural paint” as interior and exterior architectural coating sold in one quart or larger containers, including paints and stains purchased for commercial or homeowner use. The program is funded through an assessment on each container of such paint sold in the state.

Under the bill, the paint industry is responsible for managing the program through the establishment of a paint stewardship representative organization. This organization must administer collecting, transporting, and processing the paint. The bill provides immunity from liability to any manufacturer or the representative organization involved in organizing the stewardship program activities.

The bill establishes reporting requirements related to the program.

EFFECTIVE DATE: Upon passage

PAINT STEWARDSHIP PROGRAM***Program Establishment and Purposes***

By September 1, 2011, the bill requires manufacturers of architectural paint sold at retail in Connecticut to jointly establish a statewide paint stewardship program. The program must be established through a nonprofit organization created by the manufacturers that minimizes public sector involvement in managing postconsumer paint by (1) reducing its generation; (2) promoting its reuse and recycling; and (3) negotiating and executing agreements to

collect, transport, and process such paint for environmentally sound “end-of-life” management. “Postconsumer paint” means architectural paint not used by the consumer.

The program must reasonably make use of any existing household hazardous waste collection programs in the state. Paint retailers can participate as collection points for the program on a voluntary basis.

Program Funding; Assessment

The bill requires the representative organization to establish a uniform assessment for all architectural paint sold in the state. This assessment becomes part of the cost of all architectural paint manufacturers sell to state retailers and distributors. And these entities in turn must include the assessment in the price they charge consumers. The assessment amount must be reviewed by the Department of Environmental Protection (DEP) to assure that it does not exceed program costs.

The program must also have a funding mechanism allowing each manufacturer to remit to the representative organization assessment payments for each paint container it sells.

Consumer Information

The bill requires paint manufacturers or the representative organization to give consumers educational materials on the program and assessment. This must include information notifying the consumer that a charge to operate the program is included in the paint’s purchase price.

Liability Protection

Under the bill, any manufacturer or the representative organization that organizes the collection, transportation, and processing of postconsumer paint under the stewardship program is immune from liability for any claims of antitrust, restraint of trade, or unfair trade practice violation if such organizing, transporting, or processing are necessary to implement the program.

Reports

By October 15, 2012, the bill requires the representative organization to report to DEP on the program. The report must include:

1. a description of the methods used to collect, transport, and process postconsumer paint in the state;
2. the volume of this paint by method of disposition, including reuse, recycling, and other processing methods;
3. the total cost of implementing the program, as determined by an independent financial audit funded by the paint stewardship assessments;
4. an evaluation of the program's funding mechanism;
5. samples of educational materials provided to consumers and an evaluation of the methods used to disseminate them; and
6. an analysis of the environmental costs and benefits of collecting and recycling latex paint.

Any data contained in such report is not subject to disclosure under the freedom of information act. But the DEP commissioner can release the data in summary form if it does not identify individual manufacturers, distributors, or retailers or any other characteristics that could uniquely identify them.

By January 15, 2013, DEP must submit a report to the Environment Committee on program results and any recommendations for improving it.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 26 Nay 3 (03/05/2010)