

Testimony
of the
American Coatings Association
in Support of
House Bill #5122
House Environment Committee

March 1, 2010

Chairmen and members of the Committee – thank you for the opportunity to speak in support of Senate Bill #5122 – An Act to Establish a Paint Stewardship Pilot Program. I am David Darling, Director of Environmental Affairs with the American Coatings Association (ACA). ACA is a voluntary, nonprofit trade association working to advance the needs of the paint and coatings industry and the professionals who work in it. The organization represents paint and coatings manufacturers, raw materials suppliers, distributors, and technical professionals. ACA serves as an advocate and ally for members on legislative, regulatory and judicial issues, and provides forums for the advancement and promotion of the industry through educational and professional development services.

ACA and the paint industry are committed to finding a viable solution to the issue of post-consumer paint, which is often the number one product, by volume and cost, coming into Hazardous Household Waste (HHW) programs. This legislation will enable the paint manufacturing industry to develop and implement a post-consumer paint management system for the collection, reuse, recycling, and proper disposal of this paint. As you may be aware, the impetus for the pilot program derives from a several year multi-stakeholder dialogue on the issue, entitled the “Paint Product Stewardship Initiative.” ACA, along with various interested stakeholders, including the Connecticut Department of Environmental Protection, spent over 5 years discussing the issue and ideas for solutions. In 2007, a Memorandum of Understanding was signed by the PPSI parties for the express purpose of developing a nationally coordinated system for the management of post-consumer paint using a product stewardship approach. A product stewardship approach is one where all participants involved in the life cycle of a product take a shared responsibility for its production, sale, use and end-of-life management. While the ultimate goal of the dialogue is a nationally coordinated system, the paint industry needed one state to pilot a program before trying to bring it to all the rest of the Country. This pilot is currently underway in the State of Oregon, ACA having successfully passed legislation in Oregon in 2009. Senate Bill 5122 is based on the Oregon legislation.

Legislation is necessary for industry to embark on this endeavor and this bill has a number of key elements that would allow us to commence. The most important of these elements is the need for a level playing field among all producers and retailers and the need for a sustainable financing system engaging the consumer. Unless all manufacturers and retailers participate in the program, and participate in a uniform manner, this type of program could lead to competitive advantages and disadvantages within the industry and among producers and retailers. In addition, when it comes to financing a system such as this, competitors can not agree on the “price of products or services” even for a good cause, without running afoul of anti-trust regulations. Thus, this bill ensures a sustainable financing system for the program, where all architectural paint manufacturers selling in CT will fund the program through an assessment added to their current price of paint. This assessment will be uniform and will then be passed down through wholesale and retail sales of paint in the state in order to ensure competitive disadvantages, particularly to state manufacturers and retailers do not occur. This assessment will be used to fund paint collection, reuse, recycling and disposal activities – not only in the areas that are now being serviced, but in additional underserviced areas of the state as well. Thus, consumers who did not have access to

these programs, or who had to pay additional fees for such services will now be entitled to use the program. That means that consumers will now have more places to take left-over paint and that contractors will now have the opportunity to drop off left-over paint for recycling and proper disposal without having to pay a fee at the point of collection. This is very important in a state like CT, which has very few places to drop-off latex paint for recycling and proper disposal – latex paint being 80% of the paint sold today. And this nominal fee will not only cover new paint sold, but all the legacy paint already in consumer basements and garages.

Finally, the assessment will go towards consumer education and outreach for the program as well as administrative costs. Consumer education is paramount in this type of program, as paint is a consumable product. Manufacturers do not produce paint to be thrown away – it is not inherently recyclable – they produce it to be used up and in order to work towards a goal of post-consumer paint waste minimization, the consumer must be engaged. Thus, the bill mandates that consumers be informed that funding for the operation of the paint stewardship program has been added to the purchase price of all architectural paint sold in the state. In addition, to further ensure fairness and consumer protection, the bill specifies that the assessment funding the program must be approved by CT DEP and must be sufficient to only cover, but not exceed the costs of the program.

The program as proposed in this legislation has worked well in Canada for over a decade and is widely accepted by paint manufacturers, paint retailers, government agencies, environmental groups and consumers in that Country. In fact, ACA has been working closely with Product Care, the major paint stewardship organization in Canada, in order to bring their successful program to the United States.

With this legislation and the Oregon pilot, we hope to prove that the Canadian program can be replicated in the US. We believe that paint companies are in a better position than government to determine and manage paint for its reuse and recycling. We also believe that paint companies are in a better position than government to teach consumers the value of purchasing paint responsibly as well as the value of proper storage, and the reuse and recycling of unwanted or leftover purchases. We also believe that by “privatizing” collection, recycling and disposal of paint, industry has an incentive to work toward constantly improving efficiencies – leading to a lowering of the costs of the program, which often can not be done under government run programs. In fact, the Canadian program the legislation is modeled after has been able to reduce the costs of their program over time and thus, has reduced the paint assessment amount as well. Finally, we believe a paint industry-led and funded program will relieve a considerable financial burden on state and local governments, who currently fund these programs.

ACA has worked with the CT DEP, as well as CT’s local waste authorities and HHW programs and have some substitute language for the bill – most notably, supporters would like to change the bill to make sure it is a permanent program, not a pilot – the pilot is in Oregon this year; a requirement that the plan submitted to the DEP specifically addressing coordination with the current HHW infrastructure; and to remove the \$.35 per container cap that is in the current bill version since the cost of the program and final assessment rate can not be determined ahead of time. The substitute language will be submitted at the Committee hearing. With these changes, ACA support passage of HB 5122 and I thank you in advance for your consideration.