



General Assembly

January Session, 2011

Raised Bill No. 828

LCO No. 2527

02527_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

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 five gallons or less. Architectural paint
5 does not include industrial, original equipment or specialty coatings.

6 (2) "Distributor" means a company that has a contractual
7 relationship with one or more producers to market and sell
8 architectural paint to retailers in this state.

9 (3) "Environmentally sound management practices" means
10 procedures for the collection, storage, transportation, reuse, recycling
11 and disposal of architectural paint, to be implemented by the
12 representative organization or such representative organization's
13 contracted partners to ensure compliance with all applicable federal,
14 state and local laws, regulations and ordinances and the protection of
15 human health and the environment. Environmentally sound

16 management practices include, but are not limited to, record keeping,
17 the tracking and documenting of the fate of postconsumer paint in and
18 outside of this state, and environmental liability coverage for
19 professional services and for the operations of the contractors working
20 on behalf of the representative organization.

21 (4) "Energy recovery" means the process by which all or a portion of
22 solid waste materials are processed or combusted in order to utilize the
23 heat content or other forms of energy derived from such solid waste
24 materials.

25 (5) "Paint stewardship assessment" means the amount added to the
26 purchase price of architectural paint sold in this state that is necessary
27 to cover the cost of collecting, transporting and processing
28 postconsumer paint by the representative organization pursuant to the
29 paint stewardship program.

30 (6) "Postconsumer paint" means architectural paint that is not used
31 and that is no longer wanted by a purchaser of architectural paint.

32 (7) "Producer" means a manufacturer of architectural paint who
33 sells, offers for sale, distributes or contracts to distribute architectural
34 paint in this state.

35 (8) "Recycling" means any process by which discarded products,
36 components and by-products are transformed into new, usable or
37 marketable materials in a manner in which the original products may
38 lose their identity. "Recycling" does not include energy recovery.

39 (9) "Retailer" means any person who offers architectural paint for
40 sale at retail in this state.

41 (10) "Reuse" means the return of a product into the economic stream
42 for use in the same kind of application as the product was originally
43 intended to be used, without a change in the product's identity.

44 (11) "Commissioner" means the Commissioner of Environmental

45 Protection.

46 (12) "Sell" or "sale" means any transfer of title for consideration
47 including, but not limited to, remote sales conducted through sales
48 outlets, catalogues, the Internet or any other similar electronic means.

49 (13) "Representative organization" means the nonprofit organization
50 created by producers to implement the paint stewardship program
51 described in section 2 of this act.

52 (14) "Department" means the Department of Environmental
53 Protection.

54 Sec. 2. (NEW) (*Effective from passage*) (a) (1) On or before March 1,
55 2013, each producer shall join the representative organization and such
56 representative organization shall submit a plan for the establishment
57 of a paint stewardship program described in this subdivision to the
58 commissioner for approval. Such paint stewardship program shall: (A)
59 Minimize public sector involvement in the management of
60 postconsumer paint by: (i) Reducing the generation of postconsumer
61 paint, (ii) promoting the reuse and recycling of postconsumer paint,
62 and (iii) negotiating and executing agreements to collect, transport,
63 reuse, recycle, burn for energy recovery and dispose of postconsumer
64 paint using environmentally sound management practices; (B) provide
65 for convenient and available state-wide collection of postconsumer
66 paint that, at a minimum, provides for collection rates and convenience
67 equal to, or greater than, the collection programs available to
68 consumers prior to such paint stewardship program; (C) propose a
69 paint stewardship assessment; and (D) include a funding mechanism
70 that requires each producer who participates in the representative
71 organization to remit to the representative organization payment of
72 the paint stewardship assessment for each container of architectural
73 paint such producer sells in this state.

74 (2) The plan submitted pursuant to subdivision (1) of this subsection
75 shall: (A) Identify each producer participating in the paint stewardship

76 program and the brands of architectural paint sold in this state covered
77 by the program; and (B) address the coordination of the paint
78 stewardship program with existing household hazardous waste
79 collection infrastructure, as much as is reasonably feasible and
80 mutually agreeable.

81 (3) The commissioner may approve the plan for the establishment of
82 a paint stewardship program that meets the requirements of
83 subdivisions (1) and (2) of this subsection. Not later than two months
84 after submission of the plan pursuant to this subsection, the
85 commissioner shall make a determination whether or not to approve
86 the plan.

87 (4) Not later than two months after the date the plan is approved
88 pursuant to subdivision (3) of this subsection, the representative
89 organization shall implement the paint stewardship program.

90 (b) (1) On or before March 1, 2013, and every two years thereafter,
91 the representative organization shall propose a uniform paint
92 stewardship assessment for all architectural paint sold in this state.
93 Such proposed paint stewardship assessment shall be reviewed by an
94 independent auditor to assure that such assessment does not exceed
95 the costs of the paint stewardship program described in subsection (a)
96 of this section and such independent auditor shall recommend an
97 amount for such paint stewardship assessment to the department. The
98 department shall be responsible for the approval of such paint
99 stewardship assessment. Such independent auditor shall be selected by
100 the department and the department shall be responsible for the review
101 of the work product of such independent auditor, including, but not
102 limited to, the review of such auditor's assessment of the bid and
103 purchase procedures utilized by the representative organization to
104 implement such program. The department may terminate the services
105 of any such independent auditor. Not less than once every five years,
106 the department shall select a different independent auditor to perform
107 the duties described in this subdivision and subdivision (4) of

108 subsection (h) of this section. The cost of any work performed by such
109 independent auditor pursuant to the provisions of this subdivision and
110 subdivision (4) of subsection (h) of this section shall be funded by the
111 paint stewardship assessment.

112 (2) On and after the date of implementation of the paint stewardship
113 program pursuant to subdivision (4) of subsection (a) of this section,
114 the paint stewardship assessment, as established pursuant to
115 subdivision (1) of this subsection, shall be added to the cost of all
116 architectural paint sold to retailers and distributors in this state by each
117 producer. On and after such implementation date, each retailer or
118 distributor, as applicable, shall add the amount of such paint
119 stewardship assessment to the purchase price of all architectural paint
120 sold in this state.

121 (c) Any retailer may participate, on a voluntary basis, as a paint
122 collection point pursuant to such paint stewardship program and in
123 accordance with any applicable provision of law or regulation.

124 (d) Each producer and the representative organization shall be
125 immune from liability for any claim of a violation of antitrust law or
126 unfair trade practice if such conduct is a violation of antitrust law, to
127 the extent such producer or representative organization is exercising
128 authority pursuant to the provisions of this section.

129 (e) Not later than the implementation date of the paint stewardship
130 program, the department shall list the names of participating
131 producers and the brands of architectural paint covered by such paint
132 stewardship program on its web site.

133 (f) (1) On and after the implementation date of the paint
134 stewardship program, no producer, distributor or retailer shall sell or
135 offer for sale architectural paint to any person in this state if the
136 producer of such architectural paint is not a member of the
137 representative organization.

138 (2) No retailer or distributor shall be found to be in violation of the
139 provisions of subdivision (1) of this subsection if, on the date the
140 architectural paint was ordered from the producer or its agent, the
141 producer or the subject brand of architectural paint was listed on the
142 department's web site in accordance with the provisions of subsection
143 (e) of this section.

144 (3) The commissioner may seek civil enforcement of the provisions
145 of this subsection pursuant to chapter 439 of the general statutes.

146 (g) Producers or the representative organization shall provide
147 consumers with educational materials regarding the paint stewardship
148 assessment and paint stewardship program. Such materials shall
149 include, but not be limited to, information regarding available end-of-
150 life management options for architectural paint offered through the
151 paint stewardship program and information that notifies consumers
152 that a charge for the operation of such paint stewardship program is
153 included in the purchase price of all architectural paint sold in this
154 state.

155 (h) On or before August 15, 2014, and annually thereafter, the
156 representative organization shall submit a report to the Commissioner
157 of Environmental Protection that details the paint stewardship
158 program. Such report shall include, but not be limited to: (1) A
159 description of the methods used to collect, transport and process
160 postconsumer paint in this state; (2) the volume of postconsumer paint
161 collected in this state; (3) the volume and type of postconsumer paint
162 collected in this state by method of disposition, including reuse,
163 recycling and other methods of processing; (4) the total cost of
164 implementing the program, as determined by an independent financial
165 audit, as performed by the independent auditor described in
166 subdivision (1) of subsection (b) of this section and funded by the paint
167 stewardship assessment; (5) an evaluation of the operation of the
168 program's funding mechanism; and (6) samples of educational
169 materials provided to consumers of architectural paint and an

170 evaluation of the methods used to disseminate such materials.

171 (i) Not later than January 15, 2015, and biennially thereafter, the
172 Commissioner of Environmental Protection shall submit, in accordance
173 with section 11-4a of the general statutes, a report to the joint standing
174 committee of the General Assembly having cognizance of matters
175 relating to the environment that describes the results of the paint
176 stewardship program and recommends modifications to improve the
177 functioning and efficiency of such program, as necessary.

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

Statement of Purpose:

To establish a paint stewardship program that provides for the collection and postconsumer recycling and disposal of unwanted paint containers.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]