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**SUBSTITUTE HOUSE BILL 2400**

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**State of Washington**

**52nd Legislature**

**1992 Regular Session**

**By** House Committee on Commerce & Labor (originally sponsored by Representatives Heavey, Day, O'Brien, Wilson and Vance)

Read first time 02/05/92.

1       AN ACT Relating to the education, testing, and licensing of paint  
2 or coating applicators; adding a new chapter to Title 18 RCW; creating  
3 a new section; and prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       NEW SECTION.   **Sec. 1.**       The legislature finds that consumers,  
6 the public, and workers engaged in or exposed to paint or coating  
7 applications or removal face dangers to their lives, health, and safety  
8 because of hazardous materials contained in paints and related  
9 materials.

10       The legislature further finds that educating, testing, and  
11 licensing paint and coating applicators will protect these workers and  
12 the public, providing a safer work and living environment as well as  
13 reduction in air, land, and water pollution caused by improper disposal  
14 of wastes from paints and other coating materials.

1       The legislature recognizes that concerns expressed by the paint or  
2 coating applicator industry, including its associated labor  
3 organizations, the World Health Organization, and environmental and  
4 numerous medical organizations, require a certainty of needed knowledge  
5 and skills that will come from a well-trained and licensed work force.

6       NEW SECTION.   **Sec. 2.**       Unless the context clearly requires  
7 otherwise, the definitions in this section apply throughout this  
8 chapter.

9       (1) "Commission" means the commission appointed by the director to  
10 assist in educating, training, and licensing paint or coating  
11 applicators.

12       (2) "Department" means the department of labor and industries.

13       (3) "Director" means the director of the department or his or her  
14 designee.

15       (4) "Paint or coating application" means the application of a  
16 substance in vaporized, liquid, or particulate form that will adhere to  
17 or coat a surface and generally protect or preserve the surface, or the  
18 removal or treatment of painted or coated surfaces.

19       (5) "Paint or coatings applicator" means a person directly engaged  
20 in painting or coating application, removal, or treatment of painted or  
21 coated surfaces for compensation, including those employees directly  
22 supervising such employees.

23       (6) "Employer" means a natural person, corporation, trust,  
24 unincorporated association or partnership that hires paint or coating  
25 applicators, contracts to provide painting services to other persons,  
26 or both.

27       NEW SECTION.   **Sec. 3.**       A paint or coating applicator shall  
28 obtain a license issued by the department after completing the

1 education, testing, and licensing programs recommended by the  
2 commission and approved by the department. The commission shall guide  
3 the department in developing:

- 4 (1) A license application form;
- 5 (2) Standards for licensing, relicensing, and temporary licensing;
- 6 (3) Rules for revoking a license; and
- 7 (4) A definition of the relationship of training programs to the  
8 licensing program.

9 NEW SECTION. **Sec. 4.** A paint or coating applicator's course  
10 of education shall include an understanding of materials applied,  
11 removed, or treated as they affect the applicator, the workers around  
12 the applicator, the general public, and the environment; methods of  
13 preparation, application, and knowledge of the equipment used in  
14 painting or coating; training in the safe removal and disposal of lead;  
15 understanding of all pertinent federal and state safety laws and  
16 administrative rules; and any additional safety rules required by the  
17 industry.

18 NEW SECTION. **Sec. 5.** The commission shall comprise nine  
19 members:

- 20 (1) Three from organizations or associations whose primary purpose  
21 is to represent employers of paint or coating applicators;
- 22 (2) Three from organizations or associations whose primary purpose  
23 is to represent paint or coating applicators;
- 24 (3) Two representing the painting or coating industry at large; and
- 25 (4) One representing the consumer and the environmental community.

26 The director shall appoint the consumer representative to a three-  
27 year term, and the three paint or coating employee representatives and  
28 the three paint or coating employer representatives to one, two, and

1 three year terms respectively. One at-large industry representative  
2 shall be appointed to a one-year term, and the other to a two-year  
3 term. Subsequent employee, employer, and at-large representatives  
4 shall serve for three years each. The director shall consider  
5 recommendations from paint or coating organizations or associations  
6 whose primary purpose is to represent paint or coating employees and  
7 employers. The director shall strive to make the commission  
8 appointments reflect the demographics of the state and reflect the  
9 make-up of the paint and coatings industry. The director or the  
10 director's designee shall serve on the commission ex officio. Each  
11 member of the commission shall be reimbursed for travel expenses in  
12 accordance with RCW 43.03.050 and 43.03.060 for each day in which the  
13 member is actually engaged in the business of the commission. The  
14 department shall provide staff support to the commission.

15 NEW SECTION. **Sec. 6.** The department shall charge fees for  
16 training and issuance, renewal, and reinstatement of all licenses and  
17 examinations required by this chapter. The department shall set the  
18 fees by rule. The fees shall cover the full cost of administering and  
19 enforcing this chapter and shall include travel, per diem, and  
20 administrative support costs.

21 NEW SECTION. **Sec. 7.** Authorized representatives of the  
22 department shall investigate alleged or apparent violations of this  
23 chapter and upon presentation of credentials may inspect a worksite for  
24 the purpose of determining compliance with this chapter. The  
25 department shall also investigate complaints from an interested party.

26 NEW SECTION. **Sec. 8.** Each day in which a paint or coatings  
27 applicator works without a valid license is a separate infraction.

1 Each worksite at which a painting or coatings applicator works in  
2 violation of this chapter is a separate infraction. Each day in which  
3 an employer employs such person is a separate infraction.

4 NEW SECTION. **Sec. 9.** An authorized representative of the  
5 department may issue a notice of an infraction if a person who is doing  
6 paint or coating application, removal, or treatment to painted or  
7 coated surfaces fails to produce a license issued by the department in  
8 accordance with this chapter. A notice of an infraction issued under  
9 this section must be personally served on the person named in the  
10 notice by an authorized representative of the department.

11 NEW SECTION. **Sec. 10.** The department shall establish monetary  
12 penalties for employee infractions, with the advice of the commission,  
13 not less than:

- 14 (1) For the first offense, a sum of two hundred fifty dollars;
- 15 (2) For the second offense, a sum of five hundred dollars;
- 16 (3) For the third offense, a sum of one thousand dollars;
- 17 (4) For the fourth offense, the license shall be revoked or denied  
18 for a period of not less than one year.

19 NEW SECTION. **Sec. 11.** The department shall establish monetary  
20 penalties for employer infractions, with the advice of the commission,  
21 not less than:

- 22 (1) For the first offense, a sum of two hundred fifty dollars;
- 23 (2) For the second offense, a sum of five hundred dollars;
- 24 (3) For the third offense, a sum of one thousand dollars;
- 25 (4) For the fourth offense, the provisions of section 13 of this  
26 act shall apply.

1        NEW SECTION.    **Sec. 12.**        The supreme court shall prescribe the  
2 form of the notice of an infraction issued under this chapter following  
3 consultation with the department.    To the extent practicable, the  
4 notice of an infraction issued under this chapter must conform to the  
5 notice of traffic infraction prescribed under RCW 46.63.060.    The  
6 department shall, with the assistance of the commission, establish by  
7 rule necessary procedures for handling infractions similar to those  
8 established in chapter 18.106 RCW.

9        NEW SECTION.    **Sec. 13.**        An employer who knowingly or repeatedly  
10 employs an unlicensed paint or coatings applicator is a matter  
11 affecting the public interest for the purpose of applying chapter 19.86  
12 RCW.    The employer's action is not reasonable in relation to the  
13 development and preservation of business.    A violation of the chapter  
14 constitutes an unfair or deceptive act or practice in trade or commerce  
15 for the purpose of applying chapter 19.86 RCW.

16        NEW SECTION.    **Sec. 14.**        The paint and coating applicators  
17 account is created in the custody of the state treasurer.    All receipts  
18 from the fees charged for training, licensing, and examining paint and  
19 coating applicators shall be deposited into the account.    Expenditures  
20 from the account may be used only for the purposes of the commission  
21 and other expenditures approved by the director or the director's  
22 designee.    Only the director or the director's designee may authorize  
23 expenditures from the account.    The account is subject to allotment  
24 procedures under chapter 43.88 RCW, but no appropriation is required  
25 for expenditures.

26        NEW SECTION.    **Sec. 15.**        Sections 2 through 14 of this act shall  
27 constitute a new chapter in Title 18 RCW.