

SENATE BILL REPORT

SB 6145

As Reported by Senate Committee On:
Environment, February 3, 2012

Title: An act relating to paint stewardship.

Brief Description: Developing a paint stewardship program.

Sponsors: Senators Chase, Swecker, Nelson, Rolfes, Fraser, Keiser and Kline.

Brief History:

Committee Activity: Environment: 1/24/12, 2/03/12 [DPS-WM, DNP].

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6145 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Chase, Fraser and Pridemore.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Minority Member; Honeyford, Morton and Sheldon.

Staff: Diane Smith (786-7410)

Background: Paints are mixtures of pigments for color, resins for binding power, and other additives to make paints easier to apply, faster-drying, or resistant to mold and mildew. These ingredients are dissolved in either water or organic solvents. Although solvent-based paints, also called oil-based, are much more hazardous than water-based paints, also called acrylic or latex, many water-based paints contain some solvents.

Oil-based paint can be used for fuel blending. Latex paint can be made into recycled content paint; PLP which is a raw material used in cement manufacture; or PWP which is a biomass fuel product. The can that holds paint is also recyclable. Some county household hazardous waste (HHW) facilities will collect usable paint to combine and resell or give away to residents. Disposal of paint in the trash or down storm or sewer drains can contaminate drinking water and ocean water.

Summary of Bill (Recommended Substitute): No architectural paint may be sold in Washington unless the producer or stewardship organization is implementing an approved

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paint stewardship program (Program) plan (Plan.) By January 2014, the producer or organization must submit a Plan to the Department of Ecology (DOE) for the implementation of a Program. By July 1, 2014, or three months after approval of the Plan, whichever occurs first, the Plan must be implemented.

A stewardship organization is a corporation or other legal entity created by producers to implement the Program. The stewardship organization submits the Plan to DOE which must approve or deny the Plan within 120 days. The Plan must meet certain requirements in order to be approved. Among these requirements is a funding scheme by which producers remit to the stewardship organization the stewardship assessment for each container of paint the producer sells in this state. The Plan must establish a uniform stewardship assessment for all paint sold in this state. The assessment must be approved by DOE and any surplus put back into the Program. No fee may be charged at the time of collection of leftover paint. The first annual fee is collect by June 30, 2013.

Other requirements for the Plan are a description of how the Program will provide for statewide collection. As a minimum, statewide permanent collection sites must be operational on the program's starting date and located within a 15 mile radius of all populations centers and one site must be provided for every 30,000 people in each county. The plan must also establish performance goals; describe how the post-consumer paint will be managed, following the state's waste management hierarchy; list the processors that will be used, and describe educational and outreach efforts.

DOE enforces the chapter by means of adoption of administrative rules, imposition of an annual administrative fee sufficient to cover the DOE's full costs and assessment of penalties. Penalties range from \$1,000 per day per violation to \$10,000 per day per violation. An account is created in the state treasury in which to deposit all monies received from producers and stewardship organizations.

DOE must post a list of producers and brands that are covered by an approved plan on its web site. Wholesalers and retailers must monitor this site.

Immunity is provided from state antitrust, restraint of trade, and unfair trade practices laws for the limited purpose of establishing and operating a Program.

Beginning October 1, 2015, and annually thereafter, the producer or stewardship organization must submit a report to DOE. Proprietary information in the report is exempt from public disclosure.

The decisions made by DOE are appealed to the Pollution Control Hearings Board.

EFFECT OF CHANGES MADE BY ENVIRONMENT COMMITTEE (Recommended Substitute): The original bill is reorganized and edited for clarity. Environmentally sound management practices apply to leftover paint from collection through final disposition. Recycling does not include energy recovery. In order to be approved by DOE, a stewardship plan must list the processors it will use. As a minimum, statewide permanent collection sites must be operational on the program's starting date and located within a 15 mile radius of all populations centers and one site must be provided for every 30,000 people in each county.

Existing governmental programs for management of hazardous waste are referenced in the proposed substitute. How and when DOE establishes its annual administrative fee are clarified in more detail. Opportunity for public review and comment is provided. DOE must estimate the annual fee for the period July 1 through June 30 and notify the stewardship organization by April 1 of the prior fiscal year. The first annual fee is collected by June 30, 2013.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: It costs local governments to manage paint waste. It is labor-intensive and expensive. This bill levels the playing field and provides a sustainable financing mechanism. The fee on each container of paint will also cover legacy paint. This bill is modeled on the successful Oregon pilot project. Paint is generally recycled into paint, cement additives and fuel. Boosting recycling serves the bottom line of small business. Leftover paint is a huge problem with painting contractors. The current recycling efforts are inadequate. Producer responsibility is appropriate. Clarity is desired for adequate service to rural and urban areas.

OTHER: The convenience standards are not specific enough. The environmental protections need to be strengthened. The bill is silent on the costs of collection. The fiscal impact is not in the Governor's budget. Large generators are managed as hazardous waste. Latex paint has been reformulated so that it is no longer hazardous.

Persons Testifying: PRO: Senator Chase, prime sponsor; Alison Keane, American Coatings Assn.; Margaret Shield, Local Hazardous Waste Management Program, King County; Tim Bendokas, Western WA Signatory, Painting Contractors' Assn.; Rick Gilbert, Kitsap County.

OTHER: Suellen Mele, Zero Waste WA; Laurie Davies, DOE.