
SENATE BILL 5412

State of Washington **53rd Legislature** **1993 Regular Session**

By Senators Prentice, Fraser, Sutherland and Moore

Read first time 01/27/93. Referred to Committee on Labor & Commerce.

1 AN ACT Relating to the education and certification of paint or
2 coating applicators; adding a new chapter to Title 18 RCW; creating a
3 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 materials
6 inherent to the application and removal of paint and coatings present
7 potential dangers to the environment, the public, and workers using the
8 materials and that the dangers can be substantially reduced or
9 eliminated through proper education and training of workers handling
10 the materials.

11 The legislature further finds that substantial benefits including
12 reduction in air, land, and water pollution, reductions in health risks
13 to the general public and improved workplace safety can be obtained at
14 minimal cost by the training; and, that the public has a right to
15 certainty that workers handling the common potentially hazardous
16 materials are properly and thoroughly trained.

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

4 (1) "Commission" means the commission appointed by the governor to
5 develop a program to educate, test, and certify paint or coating
6 applicators. The commission shall also advise the department on the
7 application and administration of any regulations applicable to the
8 paint and coating application industry as may be required by federal or
9 state legislative or regulatory actions.

10 (2) "Department" means the department of ecology.

11 (3) "Director" means the director of the department or his or her
12 designee.

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

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

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

25 NEW SECTION. **Sec. 3.** The commission shall develop and the
26 department shall adopt a program to educate, test, and certify paint
27 and coating applicators in handling hazardous materials applicable to
28 paint or coating application. The program shall include:

29 (1) A certification application form;

30 (2) Standards for certifying, recertifying, and temporary
31 certification;

32 (3) Rules for revoking a certification;

33 (4) A definition of the relationship of training programs to the
34 certification program; and

35 (5) Notification procedures to ensure that painting and coating
36 applicators and employers are notified in a timely manner of the
37 requirements of this chapter.

1 A paint or coating applicator shall obtain a certification issued
2 by the department after completing an approved training program.
3 Employees who do not apply paint or coatings as their primary
4 employment responsibility and who are not employed by businesses whose
5 primary activity is painting and coating application are exempt from
6 the provisions of this chapter.

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

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

16 (1) Three from organizations or associations whose primary purpose
17 is to represent employers of paint or coating applicators. Every
18 effort shall be made to ensure that at least one member in this
19 category represents employers of ten or fewer paint or coating
20 applicators on an annual full-time equivalent basis;

21 (2) Three from organizations or associations whose primary purpose
22 is to represent paint or coating applicators;

23 (3) Two representing the painting or coating industry at large; and

24 (4) One representing the consumer.

25 The governor shall appoint the consumer representative to a three-
26 year term, and the three paint or coating employee representatives and
27 the three paint or coating employer representatives to one, two, and
28 three year terms respectively. One at-large industry representative
29 shall be appointed to a one-year term, and the other to a two-year
30 term. Subsequent employee, employer, and at-large representatives
31 shall serve for three years each. The governor shall consider
32 recommendations from paint or coating organizations or associations
33 whose primary purpose is to represent paint or coating employees and
34 employers. The governor shall strive to make the commission
35 appointments reflect the demographics of the state and reflect the
36 make-up of the paint and coating industry. The director or the
37 director's designee shall serve on the commission as an ex officio,

1 nonvoting member. Each member of the commission shall be reimbursed
2 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for
3 each day in which the member is actually engaged in the business of the
4 commission. The department shall provide staff support to the
5 commission.

6 NEW SECTION. **Sec. 6.** The department shall certify as meeting the
7 requirements of this chapter, training programs of an employer or
8 organization, that meet or exceed the standards established under
9 section 3 of this act.

10 NEW SECTION. **Sec. 7.** The department shall charge fees for
11 training and issuance, renewal, and reinstatement of all certifications
12 and examinations required by this chapter. The department shall set
13 the fees by rule. The fees shall cover the full cost of administering
14 and enforcing this chapter and shall include travel, per diem, and
15 administrative support costs.

16 NEW SECTION. **Sec. 8.** Authorized representatives of the department
17 shall investigate alleged or apparent violations of this chapter and
18 upon presentation of credentials may inspect a worksite for the purpose
19 of determining compliance with this chapter. The department shall also
20 promptly investigate alleged violations of this chapter based on a
21 written complaint. The department shall notify the complainant, in
22 writing, within sixty days of the action taken on all the complaints.

23 NEW SECTION. **Sec. 9.** Each day in which a paint or coating
24 applicator works without a valid certification is a separate
25 infraction. Each worksite at which a painting or coating applicator
26 works in violation of this chapter is a separate infraction. Each day
27 in which an employer employs such person is a separate infraction.

28 NEW SECTION. **Sec. 10.** An authorized representative of the
29 department may issue a notice of an infraction if a person who is doing
30 paint or coating application, removal, or treatment to painted or
31 coated surfaces fails to produce a certification issued by the
32 department in accordance with this chapter. A notice of an infraction
33 issued under this section must be personally served on the person named
34 in the notice by an authorized representative of the department.

1 However, no penalties may be assessed for notices of infraction issued
2 for one year after the adoption of rules under section 3 of this act.

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

6 (1) For the first offense, a sum of two hundred fifty dollars;

7 (2) For the second offense, a sum of five hundred dollars;

8 (3) For the third offense and subsequent offenses, a sum of one
9 thousand dollars.

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

13 (1) For the first offense, a sum of two hundred fifty dollars;

14 (2) For the second offense, a sum of five hundred dollars;

15 (3) For the third offense and subsequent offenses, a sum of one
16 thousand dollars.

17 NEW SECTION. **Sec. 13.** The supreme court shall prescribe the form
18 of the notice of an infraction issued under this chapter following
19 consultation with the department. To the extent practicable, the
20 notice of an infraction issued under this chapter must conform to the
21 notice of traffic infraction prescribed under RCW 46.63.060. The
22 department shall, with the assistance of the commission, establish by
23 rule necessary procedures for handling infractions similar to those
24 established in chapter 18.106 RCW.

25 NEW SECTION. **Sec. 14.** The paint and coating applicators account
26 is created in the custody of the state treasurer. All receipts from
27 the fees charged for training, certifying, and examining paint and
28 coating applicators and fines collected under the authority of this
29 chapter shall be deposited into the account. Expenditures from the
30 account may be used only for the purposes of the commission and other
31 expenditures approved by the director or the director's designee. Only
32 the director or the director's designee may authorize expenditures from
33 the account. The account is subject to allotment procedures under
34 chapter 43.88 RCW, but no appropriation is required for expenditures.

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

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