

1 1505-S.E AMS SUTH S2993.3

2 ESHB 1505 - S AMD 000770

3 By Senator Sutherland

4 SCOPE RAISED 4/14/93 - #770, 771, 772 RULED OUT 4/17/93

5 On page 1, line 6, after "unregistered" insert "and unqualified"

6 On page 1, line 11, after "contractors." insert "The department of
7 labor and industries shall also develop and implement a program to
8 educate and provide for competence of contractors involved with
9 hazardous materials."

10 ESHB 1505 - S AMD 000771

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13 On page 7, after line 16, insert the following:

14 "NEW SECTION. **Sec. 12.** Unless the context clearly requires
15 otherwise, the definitions in this section apply throughout sections 12
16 through 24 of this act.

17 (1) "Commission" means the commission appointed by the governor to
18 develop a program to educate, test, and certify paint or coating
19 applicators. The commission shall also advise the department on the
20 application and administration of any regulations applicable to the
21 paint and coating application industry as may be required by federal or
22 state legislative or regulatory actions.

23 (2) "Paint or coating application" means the application of a
24 substance in atomized, liquid, or particulate form that will adhere to
25 or coat a surface and generally protect or preserve the surface, or the
26 removal of paint or coatings. For the purposes of sections 12 through
27 24 of this act, paint and coating application includes applying or
28 removing paints, pigments, extenders, metal primers and metal pigments,
29 clear pigments, binders, thinners, and dryers, primers and sealers, oil
30 paints and enamels, clear coatings, oils, stains, varnishes, lacquers,
31 polyurethanes, chemical and epoxy coatings, emulsions, acrylic
32 coatings, industrial coatings, and other materials commonly used in the
33 paint and coating trade, preparation of surfaces to which paint or

1 coatings will be applied or removed, and cleanup work in connection
2 with painting.

3 (3) "Paint or coating applicator" means a person directly engaged
4 in painting or coating application, removal, or treatment of painted or
5 coated surfaces for compensation, including those employees directly
6 supervising such employees. For the purposes of sections 12 through 24
7 of this act, paint or coating applicator means a person who offers
8 paint or coating application or removal as his or her primary business
9 activity or whose job description or employment activity is primarily
10 that of paint or coating application or removal. A person primarily
11 engaged in roofing, printing, or the application of cosmetics is not
12 considered a paint or coating applicator for the purpose of sections 12
13 through 24 of this act. A person engaged in the buying, selling, or
14 leasing of industrial equipment, including agricultural, logging, or
15 construction equipment, is not considered a paint or coating applicator
16 for the purpose of sections 12 through 24 of this act and is exempted
17 from the requirements of sections 12 through 24 of this act.

18 (4) "Employer" means a natural person, corporation, trust,
19 unincorporated association or partnership that hires paint or coating
20 applicators, contracts to provide painting services to other persons,
21 or both. An employer engaged in the buying, selling, or leasing of
22 industrial equipment, including agricultural, logging, or construction
23 equipment is exempted from the requirements of sections 12 through 24
24 of this act.

25 (5) Employers of twenty-five thousand persons or more are presumed
26 to have existing training programs at least equivalent to those which
27 may be required under sections 12 through 24 of this act and are
28 excluded from the provisions of sections 12 through 24 of this act.

29 NEW SECTION. **Sec. 13.** The commission shall develop and the
30 department shall adopt a program to educate, and test paint and coating
31 applicators in handling hazardous materials applicable to paint or
32 coating application. The program shall include:

- 33 (1) A certification application form;
- 34 (2) Standards for certificates of competency;
- 35 (3) Rules for revoking certificates of competency;
- 36 (4) A definition of the relationship of training programs to the
37 competency certification program;

1 (5) Notification procedures to ensure that painting and coating
2 applicators and employers are notified in a timely manner of the
3 requirements of sections 12 through 24 of this act; and

4 (6) Provisions for certificates of competency for persons who
5 engage solely in a subspecialty of painting and coating application or
6 removal.

7 A paint or coating applicator shall obtain a certificate of
8 competency issued by the department after completing an approved
9 training program.

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

17 It is the intent of the legislature that every effort be made to
18 combine training requirements applicable to the application of paint
19 and coating materials from all departments of state government in order
20 to consolidate and reduce the regulatory burden and reduce the
21 associated costs to the state.

22 NEW SECTION. **Sec. 15.** There is created a painting safety
23 commission comprised of nine members:

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

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

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

32 (4) One representing the consumer.

33 The governor shall appoint the consumer representative to a three-
34 year term, and the three paint or coating employee representatives and
35 the three paint or coating employer representatives to one, two, and
36 three year terms respectively. One at-large industry representative
37 shall be appointed to a one-year term, and the other to a two-year

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

14 NEW SECTION. **Sec. 16.** The department shall certify as meeting the
15 requirements of sections 12 through 24 of this act, training programs
16 of an employer or organization, that meet or exceed the standards
17 established under section 13 of this act.

18 NEW SECTION. **Sec. 17.** The department shall charge fees for
19 training and issuance, renewal, and reinstatement of all certificates
20 of competency and examinations required by sections 12 through 24 of
21 this act. The department shall set the fees by rule. The fees shall
22 cover the full cost of administering and enforcing sections 12 through
23 24 of this act and shall include travel, per diem, and administrative
24 support costs.

25 NEW SECTION. **Sec. 18.** Authorized representatives of the
26 department shall investigate alleged or apparent violations of sections
27 12 through 24 of this act and upon presentation of credentials may
28 inspect a worksite for the purpose of determining compliance with
29 sections 12 through 24 of this act. The department shall also promptly
30 investigate alleged violations of sections 12 through 24 of this act
31 based on a written complaint. The department shall notify the
32 complainant, in writing, within sixty days of the action taken on all
33 the complaints.

34 NEW SECTION. **Sec. 19.** Each day in which a paint or coating
35 applicator works without a valid certificate of competency is a

1 separate infraction. Each worksite at which a painting or coating
2 applicator works in violation of sections 12 through 24 of this act is
3 a separate infraction. Each day in which an employer employs such
4 person is a separate infraction.

5 NEW SECTION. **Sec. 20.** An authorized representative of the
6 department may issue a notice of an infraction if a person who is doing
7 paint or coating application or removal fails to produce a certificate
8 of competency issued by the department in accordance with sections 12
9 through 24 of this act. A notice of an infraction issued under this
10 section must be personally served on the person named in the notice by
11 an authorized representative of the department. However, no penalties
12 may be assessed for notices of infraction issued for one year after the
13 adoption of rules under section 13 of this act.

14 NEW SECTION. **Sec. 21.** The department shall establish monetary
15 penalties for employee infractions, with the advice of the commission,
16 not less than:

- 17 (1) For the first offense, a sum of two hundred fifty dollars;
18 (2) For the second offense, a sum of five hundred dollars;
19 (3) For the third offense and subsequent offenses, a sum of one
20 thousand dollars.

21 NEW SECTION. **Sec. 22.** The department shall establish monetary
22 penalties for employer infractions, with the advice of the commission,
23 not less than:

- 24 (1) For the first offense, a sum of two hundred fifty dollars;
25 (2) For the second offense, a sum of five hundred dollars;
26 (3) For the third offense and subsequent offenses, a sum of one
27 thousand dollars.

28 NEW SECTION. **Sec. 23.** An appeal by an employee or employer of a
29 penalty set out in either section 21 or 22 of this act shall consist of
30 an adjudicative proceeding set out in chapter 34.05 RCW.

31 NEW SECTION. **Sec. 24.** The paint and coating applicators account
32 is created in the custody of the state treasurer. All receipts from
33 fees and fines collected by the department under the authority of
34 sections 12 through 24 of this act shall be deposited into the account.

1 Expenditures from the account may be used only for the purposes of the
2 commission and other expenditures approved by the director or the
3 director's designee. Only the director or the director's designee may
4 authorize expenditures from the account. The account is subject to
5 allotment procedures under chapter 43.88 RCW, but no appropriation is
6 required for expenditures.

7 NEW SECTION. **Sec. 25.** Sections 12 through 24 of this act are each
8 added to chapter 18.27 RCW.

9 NEW SECTION. **Sec. 26.** The director of the department of labor and
10 industries may take such steps as are necessary to ensure that this act
11 is implemented on its effective date.

12 NEW SECTION. **Sec. 27.** If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 remainder of the act or the application of the provision to other
15 persons or circumstances is not affected."

16 **ESHB 1505** - S AMD 000772
17 By Senator Sutherland

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19 On page 1, line 3 of the title, after "18.27.320;" strike the
20 remainder of the title and insert "adding new sections to chapter 18.27
21 RCW; creating new sections; and prescribing penalties."

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