
SUBSTITUTE SENATE BILL 5412

State of Washington

53rd Legislature

1993 Regular Session

By Senate Committee on Labor & Commerce (originally sponsored by Senators Prentice, Fraser, Sutherland and Moore)

Read first time 03/03/93.

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.

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

1 to consolidate and reduce the regulatory burden and reduce the
2 associated costs to the state.

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

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

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 atomized, liquid, or particulate form that will adhere to
17 or coat a surface and generally protect or preserve the surface, or the
18 removal of paint or coatings. For the purposes of this chapter, paint
19 and coating application includes applying or removing paints, pigments,
20 extenders, metal primers and metal pigments, clear pigments, binders,
21 thinners, and dryers, primers and sealers, oil paints and enamels,
22 clear coatings, oils, stains, varnishes, lacquers, polyurethanes,
23 chemical and epoxy coatings, emulsions, acrylic coatings, industrial
24 coatings, and other materials commonly used in the paint and coating
25 trade, preparation of surfaces to which paint or coatings will be
26 applied or removed, and cleanup work in connection with painting.

27 (5) "Paint or coating applicator" means a person directly engaged
28 in painting or coating application, removal, or treatment of painted or
29 coated surfaces for compensation, including those employees directly
30 supervising such employees. For the purposes of this chapter, paint or
31 coating applicator means a person who offers paint or coating
32 application or removal as his or her primary business activity or whose
33 job description or employment activity is primarily that of paint or
34 coating application or removal. A person primarily engaged in roofing,
35 printing, or the application of cosmetics is not considered a paint or
36 coating applicator for the purpose of this chapter. A person engaged
37 in the buying, selling, or leasing of industrial equipment, including
38 agricultural, logging, or construction equipment, or a self-employed

1 house painter who is twenty-five years of age or younger is not
2 considered a paint or coating applicator for the purpose of this
3 chapter and is exempted from the requirements of this chapter.

4 (6) "Employer" means a natural person, corporation, trust,
5 unincorporated association or partnership that hires paint or coating
6 applicators, contracts to provide painting services to other persons,
7 or both. An employer engaged in the buying, selling, or leasing of
8 industrial equipment, including agricultural, logging, or construction
9 equipment is exempted from the requirements of this chapter.

10 (7) Employers of twenty-five thousand persons or more are presumed
11 to have existing training programs at least equivalent to those which
12 may be required under this chapter and are excluded from the provisions
13 of this chapter.

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

18 (1) A certification application form;

19 (2) Standards for certifying, recertifying, and temporary
20 certification;

21 (3) Rules for revoking a certification;

22 (4) A definition of the relationship of training programs to the
23 certification program;

24 (5) Notification procedures to ensure that painting and coating
25 applicators and employers are notified in a timely manner of the
26 requirements of this chapter; and

27 (6) Provisions for certification for persons who engage solely in
28 a subspecialty of painting and coating application or removal.

29 A paint or coating applicator shall obtain a certification issued
30 by the department after completing an approved training program.

31 NEW SECTION. **Sec. 4.** A paint or coating applicator's course of
32 education shall include an understanding of materials applied, removed,
33 or treated as they affect the applicator, the workers around the
34 applicator, the general public, and the environment; methods of
35 preparation, handling, and knowledge of the equipment used in painting
36 or coating; and understanding of all pertinent federal and state safety
37 laws and administrative rules.

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

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

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

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

10 (4) One representing the consumer.

11 The governor shall appoint the consumer representative to a three-
12 year term, and the three paint or coating employee representatives and
13 the three paint or coating employer representatives to one, two, and
14 three year terms respectively. One at-large industry representative
15 shall be appointed to a one-year term, and the other to a two-year
16 term. Subsequent employee, employer, and at-large representatives
17 shall serve for three years each. The governor shall consider
18 recommendations from paint or coating organizations or associations
19 whose primary purpose is to represent paint or coating employees and
20 employers. The governor shall strive to make the commission
21 appointments reflect the demographics of the state and reflect the
22 make-up of the paint and coating industry. The director or the
23 director's designee shall serve on the commission as an ex officio,
24 nonvoting member. Each member of the commission shall be reimbursed
25 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for
26 each day in which the member is actually engaged in the business of the
27 commission. The department shall provide staff support to the
28 commission.

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

33 NEW SECTION. **Sec. 7.** (1) The department shall charge fees for
34 training and issuance, renewal, and reinstatement of all certifications
35 and examinations required by this chapter. The department shall set
36 the fees by rule. The fees shall cover the full cost of administering

1 and enforcing this chapter and shall include travel, per diem, and
2 administrative support costs.

3 (2) The department shall by rule adopt an interim certification
4 program. The program shall require all paint or coating applicators to
5 possess an interim certificate by January 1, 1994. The fee for the
6 interim certificate shall be adopted by rule by the department at no
7 more than twenty-five dollars. The interim certificate shall be valid
8 for one year after the date the department adopts rules to create the
9 program under section 3 of this act.

10 (3) After January 1, 1994, a licensed contractor or corporation
11 shall not employ a paint or coating applicator who does not possess an
12 interim certificate created under subsection (2) of this section.

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

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

25 NEW SECTION. **Sec. 10.** An authorized representative of the
26 department may issue a notice of an infraction if a person who is doing
27 paint or coating application or removal fails to produce a
28 certification issued by the department in accordance with this chapter.
29 A notice of an infraction issued under this section must be personally
30 served on the person named in the notice by an authorized
31 representative of the department. However, no penalties may be
32 assessed for notices of infraction issued for one year after the
33 adoption of rules under section 3 of this act.

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

- 4 (1) For the first offense, a sum of two hundred fifty dollars;
- 5 (2) For the second offense, a sum of five hundred dollars;
- 6 (3) For the third offense and subsequent offenses, a sum of one
7 thousand dollars.

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

- 11 (1) For the first offense, a sum of two hundred fifty dollars;
- 12 (2) For the second offense, a sum of five hundred dollars;
- 13 (3) For the third offense and subsequent offenses, a sum of one
14 thousand dollars.

15 NEW SECTION. **Sec. 13.** An appeal by an employee or employer of a
16 penalty set out in either section 11 or 12 of this act shall consist of
17 an adjudicative proceeding set out in chapter 34.05 RCW.

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

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

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