Washington State
House of Representatives
Office of Program Research

BILL ANALYSIS

Environment & Energy Committee

SSB 5494

Brief Description: Protecting Washington communities from lead-based paint.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Kauffman, Nobles, Saldaña, Salomon, Shewmake, Stanford, Trudeau and Valdez; by request of Department of Commerce).

Brief Summary of Substitute Bill

- Requires the Department of Commerce to administer and enforce a state Renovation, Repair, and Painting Program under the same requirements and authorizations as for the Lead-Based Paint Activities Program.
- Modifies provisions related to funding, fees, and inspections and enforcement for these programs.

Hearing Date: 3/13/25

Staff: Megan McPhaden (786-7114).

Background:

Federal Lead-Based Paint Activities and Renovation Requirements.
Lead was commonly used in paint until it was banned for residential use in 1978. According to the US Environmental Protection Agency (EPA), the major source of lead exposure is from lead-contaminated house dust. A major contributor to lead-contaminated dust is deteriorated or disturbed lead-based paint.

There are various federal laws and regulations related to lead in paint, including the Lead-Based Paint Poisoning Prevention Act and the Residential Lead-Based Paint Hazard Reduction Act of 1992. The EPA regulates lead-based paint hazards and allows states and tribal governments to

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operate Lead-Based Paint Activities (LBPA) and Renovation, Repair, and Painting (RRP) Programs with authorization from the EPA in lieu of a federal program. The EPA's Lead RRP Rule applies to certain residential and childcare buildings.

Department of Commerce Lead-Based Paint Activities Program.
The Department of Commerce (Commerce) administers and enforces the state's LBPA Program. Commerce is required to adopt rules to implement the LBPA Program, which includes certifying abatement workers, firms, inspectors, and risk assessors, as well as establishing procedures and requirements for accrediting training providers. Commerce's certification of individuals must ensure that individuals are trained by an accredited training program and have appropriate qualifications before becoming certified by the state. Commerce may delegate or enter into an agreement with local governments or private entities to implement components of the state program.

The LBPA Program must equal, but not exceed, federal requirements for lead and any rules adopted by Commerce must be consistent with federal laws, regulations, and requirements related to LBPA.

Program Subject to Federal Funding.
Commerce's duties under this program are subject to sufficient federal funding for the purpose of the program. If the Director of Commerce (Director) determines sufficient federal funding has not been provided, Commerce must cease efforts on its LBPA Program.

Inspections and Enforcement.
As part of the LBPA Program, the Director or the Director's designee may inspect LBPA training facilities, take samples at accredited or certified businesses, and inspect business records. Inspections are authorized at reasonable times, and when feasible, there should be 24-hour notification prior to inspection. Where violations may occur, the inspections must be with the consent of the facility's owner and, when feasible, must be at least 48-hours after notification. Accredited training programs, firms, or individuals certified by Commerce that deny access for such inspections are subject to deaccreditation or decertification.

Commerce must adopt rules to establish an enforcement response policy that includes authority to apply criminal sanctions or other criminal authority using existing state law.

Before receiving federal lead-based paint abatement funding, facility owners must be notified by any entity providing these federal funds that an inspection may be conducted. If an owner does not wish to have an inspection conducted, the owner is not eligible for this federal funding.

A person convicted of violating lead-based paint requirements is guilty of a misdemeanor.

Fees.
Commerce collects a fee of $25 for a five-year renovation, and a three-year abatement, certification, and recertification. Commerce certifies lead-based paint firms, inspectors, project

developers, risk assessors, supervisors, abatement workers, renovators, and dust sampling technicians. Commerce also collects a $200 fee for the accreditation of lead-based paint training programs.

Commerce Renovation, Repair and Painting Program.
Commerce administers a RRP Program through rule for certain residential buildings and child-occupied facilities, such as daycares, preschools, and elementary schools.

Summary of Bill:

State Renovation, Repair, and Painting Program Established in Statute.
Commerce must establish rules as well as administer and enforce a training, certification, and accreditation program, as established in state law in 2010 and as authorized by federal laws. The state RRP Program requires all renovation activities on pre-1978 residential or child-occupied facilities to be done by certified renovation firms that use certified renovators or people trained by certified renovators. Renovation activities must be directed by certified renovators. Renovation activities must meet work practice standards established by Commerce.

Lead-Based Paint Activities and Renovation, Repair and Painting Programs.
The applicable requirements and authorizations for the LBPA Program apply to the RRP Program.

The Programs must be at least as protective as related federal requirements.

Funding.
The requirement that Commerce cease its efforts if federal funding is not sufficient is removed. Commerce may cease its efforts due to insufficient funds, and Commerce's duties related to these Programs are still subject to sufficient funding.

Inspections and Enforcement.
The authorizations providing for 24-hour and 48-hour notices before inspections by Commerce is removed. The stipulation that an owner who does not wish to have an inspection of their facility is not eligible for lead-based paint abatement funding is removed.

Commerce's enforcement response for these Programs is modified so that the enforcement policy must include authority to refer for possible imposition of criminal sanctions or exercise of other criminal or civil authority.

The provision that a person convicted of violating lead-based paint requirements is guilty of a misdemeanor is removed and replaced with a provision that a person found to commit fraud or intentionally violating program requirements may be convicted of a misdemeanor.

Commerce must establish an appeals process for violations of the requirements of these Programs consistent with the Administrative Procedures Act.

Entities certified by Commerce under the Programs may be subject to other enforcement actions, in addition to the existing enforcement actions of deaccreditation and decertification for denying access for inspections.

Commerce may not issue a penalty if the EPA has already taken enforcement action for the same violation.

Fees.
The statutorily established fee of $25 for certification and recertification of lead paint firms, inspectors, project developers, risk assessors, supervisors, abatement workers, renovators, and dust sampling technicians is removed. The $200 fee for accreditation of lead-based paint training programs is removed. Commerce must prescribe and adopt by rule, fees sufficient to cover the costs of implementing the LBPA and RRP Programs. All receipts of fees and penalties must be deposited into the Lead Paint Account.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.