SENATE BILL REPORT
SSB 5494

As Passed Senate, March 7, 2025

Title: An act relating to lead-based paint program capacity improvements.

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 History:

Committee Activity: Environment, Energy & Technology: 2/11/25, 2/18/25 [DP-WM, w/oRec].

Ways & Means: 2/24/25, 2/28/25 [DPS, DNP, w/oRec].

Floor Activity: Passed Senate: 3/7/25, 31-18.

Brief Summary of First Substitute Bill

- Authorizes the Department of Commerce to administer and enforce a state Renovation, Repair, and Painting Program for lead-based paint.
- Modifies fee authority for the Renovation, Repair, and Painting Program to allow fees to be established by rule.

SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators Shewmake, Chair; Slatter, Vice Chair; Dhingra, Liias, Lovelett, Ramos and Wellman.

Minority Report: That it be referred without recommendation.

Signed by Senators Boehnke, Ranking Member; Harris, MacEwen and Short.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Staff: Alicia Kinne-Clawson (786-7407)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5494 be substituted therefor, and the substitute bill do pass.

Signed by Senators Robinson, Chair; Stanford, Vice Chair, Operating; Trudeau, Vice Chair, Capital; Frame, Vice Chair, Finance; Gildon, Ranking Member, Operating; Torres, Assistant Ranking Member, Operating; Dozier, Assistant Ranking Member, Capital; Boehnke, Cleveland, Conway, Dhingra, Hansen, Hasegawa, Kauffman, Pedersen, Riccelli, Saldaña, Wagoner, Warnick, Wellman and Wilson, C..

Minority Report: Do not pass.

Signed by Senator Schoesler, Ranking Member, Capital.

Minority Report: That it be referred without recommendation.

Signed by Senators Braun and Muzzall.

Staff: Trevor Press (786-7446)

Background: Lead was commonly used in paint until it was banned for residential use in 1978. Exposure to lead can be highly toxic, especially to children. Ingesting or breathing dust from lead-based paint is the most common form of lead exposure. Dust is released by the deterioration of paint and can occur during remodeling activities.

In 1992, Congress passed the Residential Lead-Based Paint Hazard Reduction Act. Under this law, the U.S. Environmental Protection Agency (EPA) and other federal agencies developed a national program to prevent and reduce lead-based paint exposure and hazards. This law allows states and tribal governments to operate the Lead-Based Paint Activities (LBPA) and Renovation, Repair, and Painting (RPP) programs with authorization from the EPA and receive federal funding.

In 2004, the state implemented the LBPA Program. In 2011, the state implemented the RPP Program. The Department of Commerce (Commerce) administers and enforces the state-based RRP Program, and the RPP Program receives federal funding.

The LBPA and RPP Programs provides work practice standards for lead-based paint activities; requires certification and training of paint professionals and firms working with lead-based paint; and provides accreditation of trainers who offer training courses that lead to certification. Lead-based paint activities include inspections to identify lead-based paint, risk assessments to find lead-based paint hazards, and abatement activity designed to permanently remove lead-based paint hazards. Renovation activities include renovation, repair, and painting work on pre-1978 homes or child-occupied facilities where lead-based paint may be present and disturbed.

Commerce collects a flat fee of $30 for a five-year renovation, and a three-year abatement, certification, and recertification. Commerce certifies lead 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.

Summary of First Substitute Bill: Commerce must administer and enforce a state RRP Program, as authorized by the Toxic Substances Control Act. The state RRP Program requires that all renovation activities on pre-1978 residential or child-occupied facilities must be performed by certified renovation firms using certified renovators or individuals trained by certified renovators. All renovation firms must meet the minimum practice standards established by Commerce.

Commerce is required to administer and enforce a state RPP Program for training and certification, and training program accreditation as authorized by the EPA. Commerce may delegate or enter into agreements with other state agencies, local governments, or private entities for implementation of the RPP Program.

Statutory authority for adopting rules to administer the Lead-Based Paint Activities Program is expanded to include renovation activities consistent with administration of the RRP Program. The state RRP Program must be at least as protective as federal requirements.

Commerce must prescribe and adopt by rule fees sufficient to cover the costs of implementing the RRP Program.

Commerce may not issue a penalty for violations of the provisions of the lead-based paint program if the EPA has already taken enforcement action for the same violation.

Consistent with the Administrative Procedures Act, Commerce must establish an appeals process for violations of this act.

The requirement that Commerce administer and enforce a state program for worker training and certification, and training program accreditation and instead codifies many of those provisions under the RRP Program is repealed. The statutory established fees of $25 for certification and recertification of lead paint firms, inspectors, project developers, risk assessors, supervisors abatement workers, renovators, and dust sampling technicians is repealed. The $200 fee for accreditation of lead paint training programs is repealed.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology): PRO: Lead exposure remains a preventable, but persistent public health issue, especially for children and families in older homes. More than 1.5 million homes in Washington were built before 1978 when lead paint was banned. Exposure most often occurs through lead dust released as paint deteriorates and flakes and during renovations. As a result, the federal government created two programs: one for abatement and hazard reduction and one for reducing hazards during renovation. The state codified the abatement one but not the renovation program. This bill addresses that gap. The bill allows stronger oversight while allowing flexibility. This is a program Commerce is already managing and it is way more efficient and user friendly keeping it here then returning it to the EPA. If it goes back to the federal, standard costs for compliance will be higher. Commerce is doing an outstanding job managing this and it would be taking a step back to let the EPA do it. Each year Commerce certifies about 2000 contractors and responds to 4000 requests for compliance assistance. We also conduct inspections and follow up on complaints. Our goal is to help contractors meet compliance through support rather than penalization. We've had this program since 2010 but our statute has not been updated to reflect it. Washington has taken a radically different approach from neighboring states. They explain and educate contractors about what needs to be done. Washington has been very successful at keeping the fees low. They've brought in more people to get certified than almost any other state.

CON: We don't think Commerce is well suited to the enforcement piece of this legislation and would recommend looking at a different agency. We are concerned what enforcement can do to the cost of owning a business and the cost for a house.

Persons Testifying (Environment, Energy & Technology): PRO: Senator Claudia Kauffman, Prime Sponsor; Jamie Switras, Now Environmental; Steven Hoff, Crosswall Training/LeadClasses.com; Heather Trim, Zero Waste Washington; Katie Meehan, Department of Commerce; Jennifer Caraway, Department of Commerce.

CON: Andrea Smiley, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology): No one.

Staff Summary of Public Testimony on Original Bill (Ways & Means): *The committee recommended a different version of the bill than what was heard.* PRO: This bill is important to maintain Washington's Lead-Based Paint Program, which protects communities, especially children, from lead exposure. This bill updates state statutes to avoid losing federal funding and helps prevent higher EPA fees. It also allows the Department of Commerce to set its fee schedule, aiming for financial sustainability. The bill

does not create new programs or enforcement, but strengthens the existing structure and ensures public health priorities are upheld. These programs are successful in protecting residents while working efficiently with contractors.

CON: There is a potential for double fees and fines from both the EPA and the Department of Commerce. Statutory protections should be added to prevent this.

Persons Testifying (Ways & Means): PRO: Katie Meehan, Dept. of Commerce; Steven Hoff, LeadClasses.com.

CON: Andrea Smiley, Building Industry Association of Washington.

Persons Signed In To Testify But Not Testifying (Ways & Means): No one.