

2 **ESB 5280** - H AMD TO CL COMM AMD 000439 SCOPE AND OBJECT 4-17-93
3 (5280.E AMH CL KELJ 1)
4 By Representative Dorn and others

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6 On page 2, after line 1 of the amendment, insert the following:

7 "NEW SECTION. **Sec. 2.** Unless the context clearly requires
8 otherwise, the definitions in this section apply throughout sections 2
9 through 14 of this act.

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

16 (2) "Paint or coating application" means the application of a
17 substance in atomized, liquid, or particulate form that will adhere to
18 or coat a surface and generally protect or preserve the surface, or the
19 removal of paint or coatings. For the purposes of sections 2 through
20 14 of this act, paint and coating application includes applying or
21 removing paints, pigments, extenders, metal primers and metal pigments,
22 clear pigments, binders, thinners, and dryers, primers and sealers, oil
23 paints and enamels, clear coatings, oils, stains, varnishes, lacquers,
24 polyurethanes, chemical and epoxy coatings, emulsions, acrylic
25 coatings, industrial coatings, and other materials commonly used in the
26 paint and coating trade, preparation of surfaces to which paint or
27 coatings will be applied or removed, and cleanup work in connection
28 with painting.

29 (3) "Paint or coating applicator" means a person directly engaged
30 in painting or coating application, removal, or treatment of painted or
31 coated surfaces for compensation, including those employees directly
32 supervising such employees. For the purposes of sections 2 through 14
33 of this act, paint or coating applicator means a person who offers
34 paint or coating application or removal as his or her primary business
35 activity or whose job description or employment activity is primarily
36 that of paint or coating application or removal. A person primarily
37 engaged in roofing, printing, or the application of cosmetics is not

1 considered a paint or coating applicator for the purpose of sections 2
2 through 14 of this act. A person engaged in the buying, selling, or
3 leasing of industrial equipment, including agricultural, logging, or
4 construction equipment, is not considered a paint or coating applicator
5 for the purpose of sections 2 through 14 of this act and is exempted
6 from the requirements of sections 2 through 14 of this act.

7 (4) "Employer" means a natural person, corporation, trust,
8 unincorporated association or partnership that hires paint or coating
9 applicators, contracts to provide painting services to other persons,
10 or both. An employer engaged in the buying, selling, or leasing of
11 industrial equipment, including agricultural, logging, or construction
12 equipment is exempted from the requirements of sections 2 through 14 of
13 this act.

14 (5) Employers of twenty-five thousand persons or more are presumed
15 to have existing training programs at least equivalent to those which
16 may be required under sections 2 through 14 of this act and are
17 excluded from the provisions of sections 2 through 14 of this act.

18 NEW SECTION. **Sec. 3.** The commission shall develop and the
19 department shall adopt a program to educate, and test paint and coating
20 applicators in handling hazardous materials applicable to paint or
21 coating application. The program shall include:

- 22 (1) A certification application form;
- 23 (2) Standards for certificates of competency;
- 24 (3) Rules for revoking certificates of competency;
- 25 (4) A definition of the relationship of training programs to the
26 competency certification program;
- 27 (5) Notification procedures to ensure that painting and coating
28 applicators and employers are notified in a timely manner of the
29 requirements of sections 2 through 14 of this act; and
- 30 (6) Provisions for certificates of competency for persons who
31 engage solely in a subspecialty of painting and coating application or
32 removal.

33 A paint or coating applicator shall obtain a certificate of
34 competency issued by the department after completing an approved
35 training program.

36 NEW SECTION. **Sec. 4.** A paint or coating applicator's course of
37 education shall include an understanding of materials applied, removed,

1 or treated as they affect the applicator, the workers around the
2 applicator, the general public, and the environment; methods of
3 preparation, handling, and knowledge of the equipment used in painting
4 or coating; and understanding of all pertinent federal and state safety
5 laws and administrative rules.

6 It is the intent of the legislature that every effort be made to
7 combine training requirements applicable to the application of paint
8 and coating materials from all departments of state government in order
9 to consolidate and reduce the regulatory burden and reduce the
10 associated costs to the state.

11 NEW SECTION. **Sec. 5.** There is created a painting safety
12 commission comprised of nine members:

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

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

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

21 (4) One representing the consumer.

22 The governor shall appoint the consumer representative to a three-
23 year term, and the three paint or coating employee representatives and
24 the three paint or coating employer representatives to one, two, and
25 three year terms respectively. One at-large industry representative
26 shall be appointed to a one-year term, and the other to a two-year
27 term. Subsequent employee, employer, and at-large representatives
28 shall serve for three years each. The governor shall consider
29 recommendations from paint or coating organizations or associations
30 whose primary purpose is to represent paint or coating employees and
31 employers. The governor shall strive to make the commission
32 appointments reflect the demographics of the state and reflect the
33 make-up of the paint and coating industry. The director or the
34 director's designee shall serve on the commission as an ex officio,
35 nonvoting member. Each member of the commission shall be reimbursed
36 for travel expenses in accordance with RCW 43.03.050 and 43.03.060 for
37 each day in which the member is actually engaged in the business of the

1 commission. The department shall provide staff support to the
2 commission.

3 NEW SECTION. **Sec. 6.** The department shall certify as meeting the
4 requirements of sections 2 through 14 of this act, training programs of
5 an employer or organization, that meet or exceed the standards
6 established under section 3 of this act.

7 NEW SECTION. **Sec. 7.** The department shall charge fees for
8 training and issuance, renewal, and reinstatement of all certificates
9 of competency and examinations required by sections 2 through 14 of
10 this act. The department shall set the fees by rule. The fees shall
11 cover the full cost of administering and enforcing sections 2 through
12 14 of this act and shall include travel, per diem, and administrative
13 support costs.

14 NEW SECTION. **Sec. 8.** Authorized representatives of the department
15 shall investigate alleged or apparent violations of sections 2 through
16 14 of this act and upon presentation of credentials may inspect a
17 worksite for the purpose of determining compliance with sections 2
18 through 14 of this act. The department shall also promptly investigate
19 alleged violations of sections 2 through 14 of this act based on a
20 written complaint. The department shall notify the complainant, in
21 writing, within sixty days of the action taken on all the complaints.

22 NEW SECTION. **Sec. 9.** Each day in which a paint or coating
23 applicator works without a valid certificate of competency is a
24 separate infraction. Each worksite at which a painting or coating
25 applicator works in violation of sections 2 through 14 of this act is
26 a separate infraction. Each day in which an employer employs such
27 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 or removal fails to produce a certificate
31 of competency issued by the department in accordance with sections 2
32 through 14 of this act. A notice of an infraction issued under this
33 section must be personally served on the person named in the notice by
34 an authorized representative of the department. However, no penalties

1 may be assessed for notices of infraction issued for one year after the
2 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.** An appeal by an employee or employer of a
18 penalty set out in either section 11 or 12 of this act shall consist of
19 an adjudicative proceeding set out in chapter 34.05 RCW.

20 NEW SECTION. **Sec. 14.** The paint and coating applicators account
21 is created in the custody of the state treasurer. All receipts from
22 fees and fines collected by the department under the authority of
23 sections 2 through 14 of this act shall be deposited into the account.
24 Expenditures from the account may be used only for the purposes of the
25 commission and other expenditures approved by the director or the
26 director's designee. Only the director or the director's designee may
27 authorize expenditures from the account. The account is subject to
28 allotment procedures under chapter 43.88 RCW, but no appropriation is
29 required for expenditures.

30 NEW SECTION. **Sec. 15.** Sections 2 through 14 of this act are each
31 added to chapter 18.27 RCW.

1 NEW SECTION. **Sec. 16.** The director of the department of labor and
2 industries may take such steps as are necessary to ensure that this act
3 is implemented on its effective date.

4 NEW SECTION. **Sec. 17.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected."

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