

SENATE BILL REPORT

SB 6145

As of February 7, 2012

Title: An act relating to paint stewardship.

Brief Description: Developing a paint stewardship program.

Sponsors: Senators Chase, Swecker, Nelson, Rolfes, Fraser, Keiser and Kline.

Brief History:

Committee Activity: Environment: 1/24/12, 2/03/12 [DPS-WM, DNP].
Ways & Means: 2/06/12.

SENATE COMMITTEE ON ENVIRONMENT

Majority Report: That Substitute Senate Bill No. 6145 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Nelson, Chair; Rolfes, Vice Chair; Chase, Fraser and Pridemore.

Minority Report: Do not pass.

Signed by Senators Ericksen, Ranking Minority Member; Honeyford, Morton and Sheldon.

Staff: Diane Smith (786-7410)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Michael Bezanson (786-7449)

Background: Under current law, local governments regulate and manage local moderate risk waste facilities such as county hazardous waste houses. These facilities allow households to dispose of hazardous household substances in a manner consistent with state and local solid waste regulations. Household paint waste is considered by the Department of Ecology (Ecology) to be a hazardous household substance.

Product stewardship is a program that aims to reduce the health, safety, and environmental impact of products through the product's life. The program's concept may require manufacturers, retailers, or consumers to pay for the recycling or disposal of the product. The E-Cycle Washington program is an example of a product stewardship program where

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electronics manufacturers are required to pay for the recycling of an electronic product at the end of its life. Electronic manufacturers include the costs of recycling their products into the product cost.

Summary of Bill (Recommended Substitute): A Product Stewardship Program for architectural paint is established. Paint producers and retailers will no longer be permitted to sell or offer for sale architectural paint unless the paint producer is participating in an approved paint stewardship program. The producer must participate in this program through membership in a stewardship organization.

A stewardship organization representing producers must submit a plan for the implementation of a stewardship program to Ecology for approval by January 1, 2014. Ecology has 120 days to approve the plan. The plan must:

- describe the statewide collection system including how the program will be reasonably convenient and available;
- describe how the program will process paint waste;
- demonstrate sufficient funding and show that the funding mechanism is equitable and sustainable;
- establish goals to reduce paint waste;
- describe how leftover paint will be managed using environmentally sound management practices in an economically sound manner;
- describe the process for managing architectural paint containers; and
- describe education and outreach efforts to promote the paint stewardship program.

The stewardship organization must promote the paint stewardship program and provide consumers and retailers with educational and informational materials.

Statewide permanent collection sites must be located within a 15 mile radius of all population centers and one site must be provided for every 30,000 people in each county. The program must utilize the existing government-owned moderate-risk waste infrastructure and paint retail stores as collection sites where cost-effective, reasonably feasible, and mutually agreeable.

Producers or stewardship organizations are required to implement their approved paint product stewardship plan within three months of approval from Ecology, or by July 1, 2014, whichever comes first.

A stewardship organization must pay an annual administrative fee in an amount sufficient to cover only Ecology's cost of administering and enforcing a stewardship program. Ecology must determine its cost each April, beginning in 2013, and collect the annual fee by June 30. Ecology may assess civil penalties on any person that violates the provisions of this act in an amount of up to \$1,000 dollars per violation per day or up to \$10,000 dollars per day for any person that intentionally, knowingly, or negligently violates the provisions of the act.

The Paint Product Stewardship Account is created as an appropriated account. All receipts related to the paint stewardship program must be deposited into the account.

Ecology must post a list of producers and brands that are covered by an approved plan on its website. Wholesalers and retailers must monitor this site.

The stewardship organization is granted immunity from state antitrust, restraint of trade, and unfair trade practices laws for the limited purpose of establishing and operating a program.

Beginning October 1, 2015, and annually thereafter, the producer or stewardship organization must submit a report to Ecology. Proprietary information in the report is exempt from public disclosure.

The decisions made by Ecology can be appealed to the Pollution Control Hearings Board.

EFFECT OF CHANGES MADE BY ENVIRONMENT COMMITTEE (Recommended Substitute): The original bill is reorganized and edited for clarity. Environmentally sound management practices apply to leftover paint from collection through final disposition. Recycling does not include energy recovery. In order to be approved by Ecology, a stewardship plan must list the processors it will use. As a minimum, statewide permanent collection sites must be operational on the program's starting date and located within a 15 mile radius of all populations centers and one site must be provided for every 30,000 people in each county. Existing governmental programs for management of hazardous waste are referenced in the proposed substitute. How and when Ecology establishes its annual administrative fee are clarified in more detail. Opportunity for public review and comment is provided. Ecology must estimate the annual fee for the period July 1 through June 30 and notify the stewardship organization by April 1 of the prior fiscal year. The first annual fee is collected by June 30, 2013.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony on Original Bill (Environment): PRO: It costs local governments to manage paint waste. It is labor-intensive and expensive. This bill levels the playing field and provides a sustainable financing mechanism. The fee on each container of paint will also cover legacy paint. This bill is modeled on the successful Oregon pilot project. Paint is generally recycled into paint, cement additives and fuel. Boosting recycling serves the bottom line of small business. Leftover paint is a huge problem with painting contractors. The current recycling efforts are inadequate. Producer responsibility is appropriate. Clarity is desired for adequate service to rural and urban areas.

OTHER: The convenience standards are not specific enough. The environmental protections need to be strengthened. The bill is silent on the costs of collection. The fiscal impact is not in the Governor's budget. Large generators are managed as hazardous waste. Latex paint has been reformulated so that it is no longer hazardous.

Persons Testifying (Environment): PRO: Senator Chase, prime sponsor; Alison Keane, American Coatings Assn.; Margaret Shield, Local Hazardous Waste Management Program, King County; Tim Bendokas, Western WA Signatory, Painting Contractors' Assn.; Rick Gilbert, Kitsap County.

OTHER: Suellen Mele, Zero Waste WA; Laurie Davies, Ecology.

Staff Summary of Public Testimony on Substitute (Ways & Means): PRO: The program is designed to be self-supporting. The assessment that is collected will cover Ecology's staff and management. For local governments, paint can represent a large portion of their waste stream. Paint waste is labor-intensive and expensive to manage. The bill should help boost recycling levels locally and help reduce local government costs.

CON: Local governments have jurisdiction over waste issues and we see this as a duplication of efforts. Oregon's program did not have the success that it was designed to accomplish in the first year. The costs and fees were higher than anticipated and much of the paint ended up in a landfill.

Persons Testifying (Ways & Means): PRO: Laurie Davies, Ecology; Rick Gilbert, Kitsap County; Lauren Cole, Local Hazardous Waste Management Program in King County; Kyle Woodring, American Coatings Assn.

CON: Vicki Christophersen, WA Refuse & Recycling Assn.