
Environment Committee

HB 1579

Brief Description: Concerning paint stewardship.

Sponsors: Representatives Goodman, Warnick, McCoy, Fey, Liias, Farrell, Ryu, Hunt, Pollet and Moscoso.

Brief Summary of Bill

- Requires producers of architectural paint to participate in a stewardship program approved by the Department of Ecology to manage the end-of-life disposition of leftover paint.
- Prohibits retailers from selling the architectural paint of producers who do not participate in an approved stewardship program.

Hearing Date: 1/15/14

Staff: Jacob Lipson (786-7196).

Background:

Households and businesses use paints for a variety of purposes, including as a way to add color or preservative qualities to the interior and exterior of buildings. Paint may be characterized as either oil-based paints (also called solvent-based paints) or latex-based paints (also called acrylic or water-based paints), depending on the type of liquid solvent into which the paint's coloring pigments are dissolved. Options for the management of leftover architectural paints may include reuse, recycling, use as an energy source, or disposal through solid waste management streams.

Under waste management regulations in Washington, the collection and disposal requirements associated with leftover paint depend on the size of the entity generating the leftover waste. Households and certain small quantity generators that generate less than 220 pounds of dangerous wastes per month are exempt from managing their leftover architectural paints as dangerous wastes. The dangerous wastes generated by households and small quantity generators are referred to as moderate risk wastes (MRW).

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

Household hazardous waste (HHW) and MRW facilities are collection sites which provide for the disposal of dangerous wastes from households or small business or government generators. HHW or MRW facilities, and similar mobile collection services, are operated under the solid waste management plans developed by local governments, and are financed by rates charged for solid waste collection services. HHW and MRW facilities may provide one option for small quantity generators and households to dispose of their leftover architectural paints. However, not all HHW or MRW collection locations and services are necessarily equipped to accept both oil and latex paints, due to the different handling requirements for each type of paint. In addition, some HHW or MRW facilities do not accept any liquid architectural paints for disposal. One permissible disposal option for leftover paint, where available, is voluntary collections coordinated by paint retailers or mobile facilities. A second permissible disposal option is disposal via local solid waste management collection streams. If the disposal is via local solid waste management collection streams, the household or small-quantity generator must dry and solidify the latex-based paint prior to disposal.

Businesses that generate volumes of dangerous waste that exceed exempt levels must manage their leftover oil-based paints and other dangerous wastes to meet heightened storage and handling requirements, and must recycle or dispose of their oil-based paint and other dangerous wastes at a facility specially permitted to handle dangerous wastes. Non-exempt businesses may also need to manage leftover latex-based paints as dangerous wastes, depending on the contents of the latex paint.

Summary of Bill:

Manufacturer and Retailer Responsibilities

Producers of architectural paint are required to participate in an approved stewardship plan. Producers that do not participate in an approved stewardship organization may not sell architectural paint in or into Washington. Architectural paint is defined as interior and exterior architectural paints sold in containers of five gallons or less.

Retailers may not sell the paint of non-compliant producers who do not participate in an approved stewardship organization and plan. Retailers must verify that a producer is listed on the Department of Ecology (Department) website as a compliant producer prior to selling that producer's paint to consumers. Paint retailers may elect to serve as paint collection sites for the stewardship program, but are not required to do so. Architectural paint sold to consumers must be accompanied by information about the end-of-life paint management options offered by the stewardship program.

Paint Stewardship Program

A stewardship organization representing producers is required to submit a stewardship program plan to the Department by January 1, 2015. A stewardship organization must implement the program by July 1, 2015 or within three months of the plan's approval by the Department, whichever comes later.

The plan a stewardship organization submits to the Department must include a description of the operations and management of the stewardship program, including:

- a list of the architectural paint producers and brands participating in the program;
- how the program will collect, transport, and manage the leftover architectural paints;
- the program's funding mechanism;
- the program's goals for reducing leftover architectural paint waste generation, promoting paint reuse and recycling, and other aspects of end-of-life management of leftover paint; and
- the program's statewide system for collecting paint, and the criteria used to select paint collection sites if retailers in the same geographic area want to serve as collection sites.

A stewardship program must collect leftover oil-based and latex-based architectural paints from households and small quantity generators, as well as latex-based paint from regulated generators. Under the stewardship program, architectural paints must be managed using both environmentally and economically sound practices, and must prioritize the following waste management options in descending order: paint reduction, reuse, recycling, energy recovery, and disposal. The stewardship program must also include a process for handling the canisters that contain the leftover paint, with an emphasis on recycling the canisters.

A stewardship program plan must provide reasonably convenient and available statewide collection. The program must use geographic modeling to ensure that distribution of collection sites in rural and urban areas meets certain criteria, including the populations that will be served by collection sites. The stewardship program's collection system must use paint retail stores and existing government-owned MRW infrastructure if it is cost-effective, feasible, and mutually agreeable to do so. Collection sites must be identified in the plan submitted for approval by the Department, and must be operational within the first year of the program.

A stewardship program must develop and distribute informational materials to collection sites, and educational materials to consumers.

Program Funding

The funding of a stewardship program must be based on a uniform assessment levied on each can of architectural paint sold by producers to retailers and distributors. The program may not add an additional fee at the time of leftover paint collection. The per-can assessment on producers must be incorporated into the price of the paint when sold at retail. The assessment must be sufficient to recover, but not exceed, the stewardship program's costs. The per-can assessment on producer sales proposed in a stewardship organization's plan must be reviewed by an independent auditor, who must then recommend an amount to the Department for approval.

An account is created in the state treasury to accept the receipts owed to the Department by stewardship organizations, and may only be used for administering and enforcing the program.

Program Oversight and Compliance Mechanisms

The Department is responsible for reviewing the plan submitted by the stewardship organization within 120 days of receipt, and must approve the plan if it meets the requirements established in statute. Proposed stewardship plans and plan amendments must be made available for at least thirty days of public comment. The Department must also supervise the stewardship organization's implementation of the paint assessment, approve the amount of the paint

assessment, and review the annual reports of stewardship organizations to ensure compliance with program requirements. The Department must maintain a list of paint producers who are compliant with stewardship program participation requirements on its website. The Department's costs in administering and enforcing the stewardship program must be paid by the stewardship organization or organizations.

A civil penalty of up to \$1,000 per day may be imposed by the department for violations of the Act, or up to \$10,000 per day for known, intentional, or negligent violations. Penalties imposed by the Department are appealable to the Pollution Control Hearings Board.

Reporting Requirements and Other Provisions

Beginning in 2016, stewardship organizations must submit an annual report by October 15. The report, made publicly-available online, must include descriptions of the program's paint management methods, the volumes of different types of paint collected by the program, and various costs associated with implementing the program, including an independent financial audit of the program.

Producers and stewardship organizations are granted immunity from state antitrust laws in establishing the stewardship program and in setting the value of the paint assessment.

The Paint Stewardship Program laws are deemed void if a federal paint recycling program is established.

The Public Records Act is amended so as to exempt from public disclosure any proprietary information associated with the program that is in the possession of the Department.

Appropriation: None.

Fiscal Note: Not requested.

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