

FINAL BILL REPORT

SHB 2634

C 94 L 18
Synopsis as Enacted

Brief Description: Concerning the use of antifouling paints on recreational water vessels.

Sponsors: House Committee on Environment (originally sponsored by Representatives Chapman, Graves, Fitzgibbon, Hayes, Tarleton, Hudgins and McBride; by request of Department of Ecology).

Background:

Antifouling Paints.

Metal-based antifouling paints are designed to control the growth of organisms such as algae and barnacles on boats. This growth, known as fouling, creates friction that can decrease a boat's speed and fuel efficiency. Most antifouling hull paints contain a copper biocide. Copper-based antifouling paints are designed to leach copper slowly into the water immediately surrounding a boat's hull.

Paint stripping and painting activities are potential sources of pollution from boatyards. Under the Clean Water Act, National Pollutant Discharge Elimination System permits that are issued to boatyards by the Department of Ecology (Department) contain effluent limitations that restrict the volume and concentration of heavy metals and other pollutants, including copper, that are discharged.

Antifouling Paints Law.

In 2011, Washington enacted legislation for the purpose of phasing out copper-based antifouling paint. Among other things, the 2011 legislation set timelines for the phase-out of copper-based antifouling paint on recreational water vessels, established civil penalties, and directed the Department to provide a report to the Legislature concerning antifouling paint.

The 2011 legislation established the following timelines:

- Beginning January 1, 2018, new recreational water vessels with copper-based antifouling paint may not be sold in the state.
- Beginning January 1, 2020, the sale of antifouling paint containing more than 0.5 percent copper intended for use on recreational water vessels is prohibited.
- Beginning January 1, 2020, antifouling paint containing more than 0.5 percent copper may not be applied to a recreational water vessel.

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.

The 2011 legislation required the Department to study how antifouling paints affect marine organisms and water quality. In addition, the Department was required to survey the manufacturers of antifouling paints to determine the types of antifouling paints available in the state. The Department was required to submit its report to the Legislature by December 31, 2017.

The Department issued its report on antifouling paints in December 2017. Among other findings, the report found that banning copper in antifouling paints may lead to the increase use of other, more toxic biocides. The Department has recommended that the ban on copper paints be delayed until the Department can review additional data on the impacts of alternative biocides in antifouling paint.

Summary:

The effective dates of the following prohibitions are all extended to January 1, 2021:

- prohibition on the sale of new recreational water vessels with copper-based antifouling paint;
- prohibition on the sale of antifouling paint containing more than 0.5 percent copper intended for use on a recreational water vessel; and
- prohibition on the application of antifouling paint containing more than 0.5 percent copper to a recreational water vessel.

Wood boats, which are defined as a recreational water vessel with an external hull constructed entirely of wood planks or sheets, are exempt from the prohibition on the sale of new recreational boats with copper-based antifouling paint and from the prohibition on the application of copper-based antifouling paint to a recreational water vessel.

The Department of Ecology (Department) is required to submit a report to the Legislature by September 30, 2019, that considers the environmental impacts of antifouling paints and their ingredients. The report must include recommendations on safer alternatives, and recommendations as to whether changes to the existing regulation of antifouling paints are needed. The report may also include information about the advantages and disadvantages of using leaching rates as a regulatory standard. The Department may include recommendations regarding the adoption of a leach rate standard but is not required to do so.

In preparing the report, the Department is required to review available scientific studies. Additionally, the Department is required to conduct performance testing, modeling, alternatives assessments, and other scientific studies as appropriate. These studies must address, among other things, the development of possible regulatory standards, such as a leaching rate standard. The Department is also required to consider applicable data concerning the sources of copper in Washington's marinas, including any available information related to upland sources of copper.

Votes on Final Passage:

House	98	0
Senate	49	0

Effective: June 7, 2018
March 15, 2018 (Section 3)