

SENATE BILL REPORT

SB 6333

As Reported by Senate Committee On:
Energy, Environment & Technology, January 23, 2018

Title: An act relating to antifouling paints on recreational water vessels.

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

Sponsors: Senators Ranker, Chase, Sheldon, Hobbs, Rivers, Short and Saldaña; by request of Department of Ecology.

Brief History:

Committee Activity: Energy, Environment & Technology: 1/23/18 [DPS-WM].

Brief Summary of First Substitute Bill

- Delays the implementation of antifouling paint restrictions on recreational water vessels until 2021.
- Provides an exemption for wood boats.
- Requires the Department of Ecology (Ecology) to submit a report to the Legislature by September 30, 2019.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TECHNOLOGY

Majority Report: That Substitute Senate Bill No. 6333 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Ericksen, Ranking Member; Brown, Hawkins, Hobbs, McCoy, Ranker, Sheldon and Wellman.

Staff: Angela Kleis (786-7469)

Background: Antifouling Paints. Aquatic antifouling paints are used to help prevent the growth of aquatic organisms such as barnacles and algae on water vessel hulls. Most antifouling paints on recreational water vessels use copper to reduce the growth. Research has shown that copper is highly toxic to aquatic life.

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.

Antifouling Paint Legislation. In 2011, the Legislature restricted the use of antifouling paint on recreational water vessels in Washington as follows:

- new recreational water vessels with antifouling paint containing copper may not be sold after January 1, 2018;
- antifouling paint that is intended for use on a recreational water vessel and contains more than 0.5 percent copper may not be offered for sale beginning January 1, 2020; and
- antifouling paint containing more than 0.5 percent copper may not be applied to a recreational water vessel beginning January 1, 2020.

Ecology was required to survey the types of antifouling paints sold in Washington, study how antifouling paints affect marine life and water quality, and report its findings to the Legislature by December 31, 2017.

2017 Report Recommendations. According to Ecology's 2017 Report to the Legislature on non-copper Antifouling Paints for Recreational Vessels in Washington, the current data is not sufficient to show that non-copper antifouling paints are less harmful to marine environments than antifouling paints that contain copper. Due to the lack of available data, Ecology recommended delaying the restrictions on antifouling paints containing copper to allow for further study.

Summary of Bill (First Substitute): The implementation of antifouling paint restrictions on recreational water vessels is delayed until 2021.

Wood boats are exempt from the antifouling paint restrictions. Wood boat means a recreational water vessel with an external hull surface entirely constructed of wood planks or sheets.

Ecology must submit a report to the Legislature by September 30, 2019, that includes the following:

- environmental impacts of antifouling paints and their ingredients;
- safer alternatives to antifouling paints or ingredients found in antifouling paints; and
- recommendations as to whether changes to the existing regulation of antifouling paints is needed.

In developing the report and recommendations, Ecology must:

- review risk assessments, scientific studies, and other relevant analyses;
- conduct performance testing, modeling, alternative assessments, and other related scientific studies; and
- consider any applicable data or other scientific information about the sources of copper in Washington's marinas.

EFFECT OF CHANGES MADE BY ENERGY, ENVIRONMENT & TECHNOLOGY COMMITTEE (First Substitute):

- Removes the requirement that Ecology include recommendations about using leaching rates as a regulatory standard in the report to the Legislature.

Appropriation: None.

Fiscal Note: Available.

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

Effective Date: The bill contains an emergency clause and takes effect immediately.

Staff Summary of Public Testimony on Draft Bill: *The committee recommended a different version of the bill than what was heard.* PRO: Since 2011, we have found that copper alternatives are not better for the environment than copper. By delaying the implementation date, the industry and the agency will have more time to work together to find a solution that is best for our marine environment. An exemption is provided for wood boats because wood boats are susceptible to a special boring worm and copper is the only effective treatment.

OTHER: We are in general support of the bill but have concerns with the language requiring Ecology to develop leaching rates as a regulatory standard. This approach focuses on copper leaching off of boats in marinas, but does not necessarily address the boatyard upland impacts. We will provide amendatory language.

Persons Testifying: PRO: Senator Kevin Ranker, Prime Sponsor; Darin Rice, Department of Ecology; Darcy Nonemacher, Washington Environmental Council; Peter Schrappen, Northwest Marine Trades Association; Barry Kellems, Integral Consulting Inc., Principal Engineer.

OTHER: Bruce Wishart, Puget Soundkeeper.

Persons Signed In To Testify But Not Testifying: PRO: Mark Johnson, Washington Retail Association; Tony Bulpin, NMTA.