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**SUBSTITUTE HOUSE BILL 2634**

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**State of Washington**

**65th Legislature**

**2018 Regular Session**

**By** House Environment (originally sponsored by Representatives Chapman, Graves, Fitzgibbon, Hayes, Tarleton, Hudgins, and McBride; by request of Department of Ecology)

READ FIRST TIME 02/01/18.

1 AN ACT Relating to antifouling paints on recreational water  
2 vessels; amending RCW 70.300.005, 70.300.010, and 70.300.020;  
3 creating a new section; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 70.300.005 and 2011 c 248 s 1 are each amended to  
6 read as follows:

7 Antifouling paints and coatings are necessary for the proper  
8 performance and preservation of boats and other marine craft.  
9 However, many of these substances contain copper, biocides, and other  
10 chemicals that are toxic to many aquatic organisms, including salmon.  
11 The legislature intends to phase out the use of copper-based and  
12 other antifouling paints and coatings that pose an undue threat to  
13 the environment when used on recreational water vessels. The  
14 legislature also intends to encourage the development of safer  
15 alternatives to traditional antifouling paints and coatings.

16 **Sec. 2.** RCW 70.300.010 and 2011 c 248 s 2 are each amended to  
17 read as follows:

18 The definitions in this section apply throughout this chapter  
19 unless the context clearly requires otherwise.

20 (1) "Department" means the department of ecology.

1 (2) "Director" means the director of the department of ecology.

2 (3)(a) "Recreational water vessel" means any vessel that is no  
3 more than sixty-five feet in length and is: (i) Manufactured or used  
4 primarily for pleasure; or (ii) leased, rented, or chartered by a  
5 person for the pleasure of that person.

6 (b) "Recreational water vessel" does not include a vessel that is  
7 subject to United States coast guard inspection and that: (i) Is  
8 engaged in commercial use; or (ii) carries paying passengers.

9 (4) "Wood boat" means a recreational water vessel with an  
10 external hull surface entirely constructed of wood planks or sheets.  
11 A vessel with a wood hull sheathed in a nonwood material, such as  
12 fiberglass, is not a "wood boat" for purposes of this chapter.

13 **Sec. 3.** RCW 70.300.020 and 2011 c 248 s 3 are each amended to  
14 read as follows:

15 (1) Beginning January 1, (~~(2018)~~) 2021, no manufacturer,  
16 wholesaler, retailer, or distributor may sell or offer for sale in  
17 this state any new recreational water vessel manufactured on or after  
18 January 1, (~~(2018)~~) 2021, with antifouling paint containing copper.  
19 This restriction does not apply to wood boats.

20 (2) Beginning January 1, (~~(2020, no)~~) 2021, antifouling paint  
21 that is intended for use on a recreational water vessel and that  
22 contains more than 0.5 percent copper may not be offered for sale in  
23 this state.

24 (3) Beginning January 1, (~~(2020, no)~~) 2021, antifouling paint  
25 containing more than 0.5 percent copper may not be applied to a  
26 recreational water vessel in this state. This restriction does not  
27 apply to wood boats.

28 NEW SECTION. **Sec. 4.** (1) By September 30, 2019, the department  
29 of ecology is directed to report to the legislature regarding the  
30 environmental impacts of antifouling paints and their ingredients,  
31 whether antifouling paints or their ingredients are causing  
32 environmental harm, safer alternatives to antifouling paints or  
33 ingredients found in antifouling paints, and recommendations as to  
34 whether changes to the existing regulation of antifouling paints are  
35 needed. The report may also include information about the advantages  
36 and disadvantages of using leaching rates as a regulatory standard.  
37 The department of ecology may include recommendations regarding the  
38 adoption of a leach rate standard but is not required to do so. The

1 department of ecology shall specifically consider any new science  
2 with regard to the bioavailability and toxicity of antifouling  
3 ingredients, specifically including but not limited to copper and  
4 other biocides.

5 (2) In developing the report and recommendations in subsection  
6 (1) of this section, the department of ecology is directed to review  
7 risk assessments, scientific studies, and other relevant analyses  
8 regarding antifouling paints and coatings and their ingredients,  
9 including their environmental impacts and availability in Washington.  
10 The department of ecology shall consult with other affected state  
11 agencies and relevant stakeholders as appropriate.

12 (3) In developing the report and recommendations in subsection  
13 (1) of this section, the department of ecology is directed to conduct  
14 performance testing, modeling, alternatives assessments, and other  
15 related scientific studies as needed or appropriate. This subsection  
16 specifically includes, but is not limited to, Washington specific  
17 studies to inform regulatory standards for antifouling paints and  
18 coatings and their ingredients, such as a leaching standard.

19 (4) In developing the report and recommendations in subsection  
20 (1) of this section, the department of ecology is directed to  
21 consider any applicable data or other scientific information  
22 available about the sources of copper in Washington's marinas,  
23 including any available information related to upland sources of  
24 copper. This information may be included in the report, if  
25 appropriate.

26 (5) For the purposes of this section, "leach" or "leaching" means  
27 the release of antifouling chemicals from paint, coatings, or other  
28 substances.

29 NEW SECTION. **Sec. 5.** Section 3 of this act is necessary for the  
30 immediate preservation of the public peace, health, or safety, or  
31 support of the state government and its existing public institutions,  
32 and takes effect immediately.

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