

A bill for an act
relating to solid waste; establishing a pilot program to collect and process used
paint; requiring reports; appropriating money.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **PAINT STEWARDSHIP PILOT PROGRAM.**

Subdivision 1. **Purpose.** The purpose of the paint stewardship pilot program
established under this section is to allow paint manufacturers to develop and implement
a program to collect, transport, and process postconsumer paint to reduce the costs and
environmental impacts of the disposal of postconsumer paint in Minnesota.

Subd. 2. **Definitions.** For purposes of sections 1 to 3, the following terms have
the meanings given.

(a) "Architectural paint" means interior and exterior architectural coatings, including
paints and stains purchased for commercial or homeowner use, but does not include
architectural coatings purchased for industrial or original equipment manufacturer use.

(b) "Commissioner" means the commissioner of the Pollution Control Agency.

(c) "Cost recovery system" means a system whereby the costs of the paint
stewardship pilot program are included in the final purchase price of the product.

(d) "Consumer paint stewardship assessment" means the amount charged by the
retailer or distributor on each purchase of architectural paint sold in containers of one
quart or larger.

(e) "Distributor" means a company that has a contractual relationship with one or
more manufacturers to market and sell architectural paint to retailers.

(f) "Manufacturer" means a manufacturer of architectural paint.

(g) "Paint stewardship assessment" means the amount paid by each manufacturer that is equal to the amount of the consumer paint stewardship assessment for architectural paint the manufacturer sells.

(h) "Postconsumer paint" means architectural paint not used by the purchaser.

(i) "Representative organization" means the nonprofit organization created by the manufacturers to implement the paint stewardship pilot program described in subdivision 3.

(j) "Retailer" means a person who sells architectural paint at retail.

Subd. 3. **Plan.** (a) Starting July 1, 2008, manufacturers of architectural paint sold at retail must, through a representative organization, implement a pilot stewardship program to undertake responsibility for the development and implementation of strategies to reduce the generation of postconsumer paint, promote the reuse of postconsumer paint, and collect, transport, and process the end-of-life management of postconsumer paint. A cost recovery system must be established to collect an assessment on all architectural paint sold to recover from consumers the cost of collecting, storing, transporting and reusing or disposing of postconsumer paint in an environmentally sound fashion. The cost recovery system shall fund the pilot stewardship program in the following manner:

(1) each architectural paint manufacturer shall remit a paint stewardship assessment to the representative organization implementing the paint stewardship pilot program based on the amount of architectural paint it sells in this state;

(2) each Minnesota retailer or distributor of architectural paint shall include a consumer paint stewardship assessment in the price of all architectural paint it sells; and

(3) an architectural paint manufacturer shall recover the paint stewardship assessments by invoicing each of its Minnesota retailers or distributors of architectural paint, who shall remit payment for the assessments to the architectural paint manufacturer. The funds used by retailers and distributors to pay the invoices shall be derived from the consumer paint stewardship assessment attached to the sale of architectural paints by retailers and distributors.

(b) To ensure that the consumer cost recovery mechanism is equitable and sustainable, a uniform consumer paint stewardship assessment is established for all architectural paint sold. The consumer paint stewardship assessment must be reviewed by the commissioner and must be sufficient to recover, but not exceed, the costs of the paint stewardship pilot program and shall not exceed \$.40 per container. Any assessments collected that exceed the cost of the program, as reported in the audit required under section 3, must be remitted by the representative organization to the commissioner of the Pollution Control Agency, who shall deposit the assessments in the environmental fund.

Assessments deposited in the environmental fund are appropriated to the commissioner of the Pollution Control Agency for distribution to counties to conduct household hazardous waste activities.

(c) Material shall be provided to the consumer by the manufacturer or representative of the manufacturer in a manner designed to ensure that consumers are made aware that a consumer paint stewardship assessment is included in the final sales price of the architectural paint.

Subd. 4. **Nonpublic data.** Data reported to the commissioner by a manufacturer or organization of manufacturers is classified as nonpublic data, as defined in Minnesota Statutes, section 13.02, subdivision 9, except that the commissioner may release the data in summary form in which individual manufacturers, distributors, or retailers are not identified and from which neither their identities nor any other characteristics that could uniquely identify an individual manufacturer or retailer is ascertainable.

Sec. 2. **CONDUCT AUTHORIZED.**

A manufacturer or organization of manufacturers that organizes collection, transport, and processing of postconsumer paint under section 1 may engage in anticompetitive conduct only to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability for the conduct under state laws relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce.

Sec. 3. **REPORTS.**

(a) Beginning July 1, 2009, and each year thereafter, manufacturers of architectural paint sold at retail in this state must, through a representative organization, submit a report to the commissioner describing the paint stewardship pilot program. At a minimum, the report must contain:

(1) a description of methods used to collect, transport, and process postconsumer paint in all regions of Minnesota;

(2) the total cost of implementing the pilot program as determined by an independent financial audit funded from the paint stewardship assessment;

(3) an evaluation of how the pilot program's funding mechanism operated;

(4) examples of educational materials that were provided to consumers of architectural paint and an evaluation of those methods;

(5) an analysis of the environmental costs and benefits of collecting and recycling latex paint;

4.1 (6) an evaluation of the feasibility of donating usable postconsumer paint to
4.2 charitable organizations, nonprofit organizations, and K-12 schools; and

4.3 (7) an evaluation of possible rebates of or exemptions from the consumer paint
4.4 stewardship assessment for educational institutions or volunteer community improvement
4.5 programs.

4.6 (b) By January 15, 2010, the commissioner shall submit a report to the chairs and
4.7 ranking minority members of the committees in the senate and house of representatives
4.8 that have primary jurisdiction over solid waste policy describing the results of the paint
4.9 stewardship pilot program and recommending whether it should be made permanent
4.10 and any modifications to improve the functioning and efficiency of the program. The
4.11 report shall include an analysis of the potential costs avoided by state and local units
4.12 of government as a result of the program.

4.13 Sec. 4. **EXPIRATION.**

4.14 Sections 1 to 3 expire June 30, 2010.

4.15 Sec. 5. **EFFECTIVE DATE.**

4.16 Sections 1 to 4 are effective the day following final enactment.