



Sen. Linda Holmes

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1 AMENDMENT TO SENATE BILL 1705

2 AMENDMENT NO. _____. Amend Senate Bill 1705 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the Paint
5 Stewardship Act.

6 Section 5. Definitions.

7 "Agency" means the Illinois Environmental Protection
8 Agency.

9 "Architectural paint" means interior and exterior
10 architectural coatings sold in containers of 5 gallons or less.

11 "Architectural paint" does not include adhesives and coatings
12 recommended by the manufacturer or importer solely for shop
13 applications or solely for application to non-stationary
14 objects, such as airplanes, ships, boats, automobiles,
15 railcars, equipment, and machinery. "Architectural paint" does
16 not include any coating not considered an architectural paint

1 under the USEPA's Architectural and Industrial Maintenance
2 Coatings Rule.

3 "Director" means the Director of the Illinois
4 Environmental Protection Agency.

5 "Distributor" means a company that has a contractual
6 relationship with one or more producers to market and sell
7 architectural paint to retailers in this State.

8 "Environmentally sound management practices" means
9 procedures for the collection, storage, transportation, reuse,
10 recycling, and disposal of architectural paint, to be
11 implemented by the representative organization or that
12 organization's contracted partners to ensure (i) compliance
13 with all applicable federal, State, and local laws,
14 regulations, and ordinances and (ii) the protection of human
15 health and the environment. Environmentally sound management
16 practices include, but are not limited to, record-keeping, the
17 tracking and documenting of the fate of post-consumer paint
18 inside and outside of this State, and environmental liability
19 coverage for professional services and the operations of the
20 contractors working on behalf of the representative
21 organization.

22 "Fund" means the Solid Waste Management Fund.

23 "Industrial maintenance coating" means a high performance
24 architectural coating, including primers, sealers,
25 undercoaters, intermediate coats, and topcoats formulated and
26 recommended for application to substrates and labeled under the

1 USEPA's Architectural and Industrial Maintenance Coatings Rule
2 as, "for industrial use only", "for professional use only",
3 "not for residential use", or "not intended for residential
4 use".

5 "Paint stewardship assessment" means the amount added to
6 the purchase price of architectural paint sold in this State
7 that is necessary to cover the cost of collecting,
8 transporting, and processing post-consumer paint by the
9 representative organization pursuant to the paint stewardship
10 program.

11 "Post-consumer paint" means architectural paint that is
12 not used by a purchaser of architectural paint.

13 "Producer" means a manufacturer of architectural paint who
14 sells, offers for sale, distributes, or contracts to distribute
15 architectural paint in this State.

16 "Recycling, reclamation, or reuse" means a method,
17 technique, or process designed to remove any contaminant from
18 waste to render the waste reusable, or any process by which
19 materials that would otherwise be disposed of or discarded are
20 collected, separated, or processed and returned to the economic
21 mainstream in the form of raw materials or products.

22 "Representative organization" means the nonprofit
23 organization created by producers to implement the paint
24 stewardship program described in Section 10 of this Act.

25 "Retailer" means any person who offers architectural paint
26 for sale at retail in this State.

1 "Sell" or "sale" means any transfer of title for
2 consideration, including, but not limited to, remote sales
3 conducted through sales outlets, catalogues, the Internet, or
4 any other similar electronic means.

5 "Shop application" means that a coating is applied to a
6 product or a component of a product in a factory, shop, or
7 other structure as part of a manufacturing, production, or
8 repairing process.

9 Section 10. Paint stewardship program.

10 (a) On or before March 1, 2015, each producer shall join
11 the representative organization, and the representative
12 organization shall submit a plan for the establishment of the
13 paint stewardship program described in this Section to the
14 Director. The paint stewardship program shall:

15 (1) minimize public sector involvement in the
16 management of post-consumer paint by: (A) reducing the
17 generation of post-consumer paint, (B) promoting the reuse
18 and recycling of post-consumer paint, and (C) negotiating
19 and executing agreements to collect, transport, reuse,
20 recycle, burn for energy recovery, and dispose of
21 post-consumer paint using environmentally sound management
22 practices;

23 (2) provide for convenient and available Statewide
24 collection of post-consumer paint that, at a minimum,
25 provides for collection rates and levels of convenience

1 that are equal to, or greater than, those provided by the
2 collection programs available to consumers before the
3 implementation of the paint stewardship program;

4 (3) propose a paint stewardship assessment;

5 (4) include a funding mechanism that requires each
6 producer who participates in the representative
7 organization to remit to the representative organization
8 payment of the paint stewardship assessment for each
9 container of architectural paint the producer sells in this
10 State;

11 (5) describe how the program provides for reasonably
12 convenient and available Statewide collection of leftover
13 paint from covered entities in urban and rural areas of the
14 State, including island communities; and

15 (6) use geographic information modeling to determine
16 the number and distribution of collection sites for the
17 following criteria: 90% of Illinois residents shall have a
18 permanent collection site within 15 miles by road; and one
19 additional permanent site shall be established for every
20 30,000 residents of a population center distributed to
21 provide convenient access in high traffic areas.

22 The representative organization shall maintain a Statewide
23 list of producers and post up to date collection locations on
24 its website.

25 (b) The plan shall identify each producer participating in
26 the paint stewardship program and the brands of architectural

1 paint sold in this State covered by the program, and it shall
2 address the coordination of the paint stewardship program with
3 existing household hazardous waste collection infrastructure,
4 as much as is reasonably feasible and mutually agreeable.

5 (c) Not later than 3 months after submission of the plan,
6 the Director shall determine whether the plan satisfies the
7 requirements of this Act.

8 (d) Not later than 3 months after the date the plan is
9 approved pursuant to subsection (c), the representative
10 organization shall implement the paint stewardship program.

11 (e) Any retailer may participate, on a voluntary basis and
12 in accordance with any applicable provision of law or
13 regulation, as a paint collection point.

14 (f) Not later than the implementation date of the paint
15 stewardship program, the Agency shall list the names of
16 participating producers and the brands of architectural paint
17 covered by the paint stewardship program on its website.

18 (g) Upon submission of the paint stewardship plan required
19 by this Section, each representative organization shall pay to
20 the Agency a fee of \$10,000, which the Agency shall deposit
21 into the Solid Waste Management Fund. Upon approval of a paint
22 stewardship program, the representative organization shall
23 also pay to the Agency an annual fee of \$20,000, which the
24 Agency shall deposit into the Fund.

25 (h) The Agency shall review the paint stewardship program
26 plans it receives for completeness and shall notify the

1 representative organization in writing if a plan is incomplete.
2 Within 30 days after receiving a notification of incompleteness
3 from the Agency, the representative organization shall submit
4 to the Agency a plan that contains all of the required
5 information. A new plan or amendment is required to be
6 submitted to the Department for approval when:

7 (1) there is a change to the amount of the assessment;

8 (2) there is an addition to the products covered under
9 the program; or

10 (3) there is a revision of the product stewardship
11 organization's goals.

12 Section 15. Paint stewardship assessment.

13 (a) On or before March 1, 2015, the representative
14 organization shall propose a uniform paint stewardship
15 assessment for all architectural paint sold in this State. An
16 independent auditor shall review the proposed paint
17 stewardship assessment to ensure that it does not exceed the
18 costs of maintaining the paint stewardship program, and the
19 auditor shall recommend an amount for the paint stewardship
20 assessment to the Agency.

21 (b) On and after the date of implementation of the paint
22 stewardship program, the paint stewardship assessment shall be
23 added to the cost of all architectural paint sold to retailers
24 and distributors in this State by each producer. On and after
25 the implementation date, each retailer or distributor, as

1 applicable, shall add the amount of the paint stewardship
2 assessment to the purchase price of all architectural paint
3 sold in this State.

4 Section 20. State-action antitrust exemption. Each
5 producer and the representative organization shall be immune
6 from liability for any claim of a violation of antitrust law or
7 unfair trade practice if the conduct is a violation of
8 antitrust law, to the extent the producer or representative
9 organization is exercising authority pursuant to the
10 provisions of this Act.

11 Section 25. Enforcement.

12 (a) On and after the implementation date of the paint
13 stewardship program, no producer, distributor, or retailer
14 shall sell or offer for sale architectural paint to any person
15 in this State if the producer of the architectural paint is not
16 a member of the representative organization.

17 (b) No retailer or distributor shall be found to be in
18 violation of the provisions of subsection (a) if, on the date
19 the architectural paint was ordered from the producer or its
20 agent, the producer or the subject brand of architectural paint
21 was listed on the Agency's website in accordance with the
22 provisions of subsection (f) of Section 10.

23 (c) The Attorney General or State's Attorney may request,
24 and the Court may impose, after providing notice and

1 opportunity to be heard, a civil penalty in the amount of \$500
2 a day against any person who violates the terms of this Act.

3 (d) Nothing in this Act prohibits a retailer or distributor
4 from selling their inventory of architectural paint existing on
5 the effective date of this Act.

6 (e) The penalties provided for in this Section may be
7 recovered in a civil action brought in the name of the people
8 of the State of Illinois by the State's Attorney of the county
9 in which the violation occurred or by the Attorney General. Any
10 funds collected under this Section in an action in which the
11 Attorney General has prevailed shall be deposited in the
12 Environmental Protection Trust Fund, to be used in accordance
13 with the provisions of the Environmental Trust Fund Act.

14 Section 30. Consumer education. Producers or the
15 representative organization shall provide consumers with
16 educational materials regarding the paint stewardship
17 assessment and paint stewardship program. Those materials
18 shall include, but not be limited to, information regarding
19 available end-of-life management options for architectural
20 paint offered through the paint stewardship program and
21 information that notifies consumers that a charge for the
22 operation of the paint stewardship program is included in the
23 purchase price of all architectural paint sold in this State.

24 Section 35. Report to the Environmental Protection Agency.

1 On or before October 15, 2016, and annually thereafter, the
2 representative organization shall submit a report to the
3 Director that details the paint stewardship program. The report
4 shall include, but not be limited to: (1) a description of the
5 methods used to collect, transport, and process post-consumer
6 paint in this State; (2) the volume of post-consumer paint
7 collected in this State; (3) the volume and type of
8 post-consumer paint collected in this State by method of
9 disposition, including reuse, recycling, and other methods of
10 processing; (4) the total cost of implementing the program, as
11 determined by an independent financial audit, as performed by
12 the independent auditor; (5) samples of educational materials
13 provided to consumers of architectural paint and an evaluation
14 of the methods used to disseminate those materials; and (6) a
15 list of collection locations. The Agency may post copies of the
16 plan and annual reports on its website.

17 Section 99. Effective date. This Act takes effect January
18 1, 2015."