

**101ST GENERAL ASSEMBLY****State of Illinois****2019 and 2020****SB2954**

Introduced 2/4/2020, by Sen. Laura Fine

SYNOPSIS AS INTRODUCED:

New Act

Creates the Coal Tar Sealant Disclosure Act. Requires specified persons and entities, public schools and public school districts, and State agencies to disclose the use of a coal tar-based sealant or high polycyclic aromatic hydrocarbon sealant product. Requires public schools or public school districts and State agencies to post, for a minimum of 10 years after application, signage regarding the dangers such use poses. Provides requirements for disclosures made and signage posted under the Act. Requires persons or entities to provide information regarding alternative sealant upon request and public schools or public school districts and the State to seek an asphalt-based sealant when distributing any request for proposals. Requires public schools or public school districts and State agencies to determine whether specified benefits of alternative products outweigh the cost, and if so to use them. On or before January 1, 2021, requires the Department of Public Health to adopt rules for prescribed procedures and standards to be used in assessing acceptable levels of high polycyclic aromatic hydrocarbon content of pavement seals on properties covered under the Act. Provides that the Department, in consultation with the State Board of Education, shall conduct outreach to public schools and public school districts regarding coal tar-based sealant and high polycyclic aromatic hydrocarbon product. Provides that units of local government shall adopt ordinances providing for the enforcement of the Act. Provides that a person or entity who commits a violation of the Act shall be subject to a civil penalty of not less than \$1,000 nor more than \$10,000 and that each incidence of violation shall be deemed a separate offense. Contains other provisions.

LRB101 16431 CPF 68809 b

FISCAL NOTE ACT
MAY APPLY**A BILL FOR**

1 AN ACT concerning safety.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Coal
5 Tar Sealant Disclosure Act.

6 Section 5. Definitions. In this Act:

7 "Coal tar-based sealant or high polycyclic aromatic
8 hydrocarbon sealant product" means a pavement sealant material
9 containing coal tar or a high polycyclic aromatic hydrocarbon
10 content greater than 0.1% by weight.

11 "Department" means the Department of Public Health.

12 "Safety data sheet" means a document describing the
13 properties and methods of the handling and use of a substance,
14 compound, or mixture and containing the following information
15 with respect to the substance, compound, or mixture:

16 (1) The chemical name, common name, trade name, and the
17 identity used on the label.

18 (2) Physical and chemical characteristics, including,
19 but not limited to, vapor pressure and flash point.

20 (3) Physical hazards, including the potential for
21 fire, explosion, or reactivity.

22 (4) Known acute and chronic health effects of exposure,
23 including, but not limited to, signs and symptoms of

1 exposure, based on substantial scientific evidence.

2 (5) The known primary route of exposure.

3 (6) The permissible exposure limit for those toxic
4 substances for which the federal Occupational Safety and
5 Health Administration has adopted a permissible exposure
6 limit.

7 (7) Precautions for safe handling and use.

8 (8) Recommended engineering controls.

9 (9) Recommended work practices.

10 (10) Recommended personal protective equipment.

11 (11) Procedures for emergencies, first aid, and
12 cleanup of leaks and spills.

13 (12) The date of preparation of the safety data sheet
14 and any changes to it.

15 (13) The name, address, and telephone number of the
16 employer, manufacturer, importer, or supplier who prepares
17 the safety data sheet.

18 Section 10. Coal tar sealant disclosure; contractors.

19 (a) A commercial applicator, contractor, residential or
20 commercial developer, or any other person applying pavement
21 sealant product to any public or private property in the State
22 of Illinois shall disclose the use of a coal-tar based sealant
23 product or high polycyclic aromatic hydrocarbon sealant
24 product to the customer for whom it is applied.

25 (b) The disclosure provided under subsection (a) must

1 include the health hazards associated with coal tar-based
2 sealant product or high polycyclic aromatic hydrocarbon
3 sealant product as outlined in the appropriate safety data
4 sheet. The disclosure must be given and made readily available
5 to customers in at least one of the following forms:

6 (1) A post on the commercial applicator's,
7 contractor's, developer's, or person's website.

8 (2) A message sent to the commercial applicator's,
9 contractor's, developer's, or person's list of email
10 recipients.

11 (3) An electronic or physical copy of the commercial
12 applicator's, contractor's, developer's, or person's
13 newsletter.

14 (c) A person or vendor who sells or offers to sell coal
15 tar-based sealant or high polycyclic aromatic hydrocarbon
16 sealant product shall post special signage conspicuously along
17 the shelf or area where the product is available for sale. The
18 signage must advise customers and employees of the health
19 hazards associated with coal tar-based sealant or high
20 polycyclic aromatic hydrocarbon sealant product as outlined in
21 the appropriate safety data sheet.

22 (d) A person or vendor who sells or offers to sell coal
23 tar-based sealant or high polycyclic aromatic hydrocarbon
24 sealant product must provide a copy of the appropriate safety
25 data sheet to an employee or customer at the point of sale.

26 (e) A commercial applicator, contractor, residential or

1 commercial developer, or any other person applying coal
2 tar-based sealant product or high polycyclic aromatic
3 hydrocarbon sealant product, or a person or vendor who sells or
4 offers to sell coal tar-based sealant or high polycyclic
5 aromatic hydrocarbon sealant product, must provide information
6 about alternative sealant products upon request.

7 (f) A unit of local government shall adopt an ordinance
8 providing for enforcement of this Act and oversee distribution
9 of disclosure materials under this Section and enforcement of
10 the ordinance.

11 (g) On or before January 1, 2021, the Department shall
12 adopt rules for the prescribed procedures and standards to be
13 used in assessing acceptable levels of high polycyclic aromatic
14 hydrocarbon content of a pavement sealant product applied to
15 public or private property. The rules shall, at a minimum,
16 include provisions regarding testing parameters and the
17 notification of testing results by the Department to a unit of
18 local government.

19 Section 15. Coal tar sealant disclosure; public schools.

20 (a) A public school or public school district seeking to
21 hire a commercial applicator, contractor, residential or
22 commercial developer, or any other person to apply coal
23 tar-based sealant product or high polycyclic aromatic
24 hydrocarbon sealant product to the public school's or public
25 school district facility's grounds shall provide a disclosure

1 statement to students, parents of students, staff, and faculty
2 of the school or district facility. The disclosure shall
3 include:

4 (1) a statement of the public school's or public school
5 district's intent to hire a commercial applicator,
6 contractor, developer, or person that may apply coal
7 tar-based sealant product or high polycyclic aromatic
8 hydrocarbon sealant product to the public school or public
9 school district's grounds;

10 (2) the health hazards associated with coal tar-based
11 sealant product or high polycyclic aromatic hydrocarbon
12 sealant product, as outlined in the appropriate safety data
13 sheet; and

14 (3) a copy of the appropriate safety data sheet.

15 (b) The disclosure shall be made available to students,
16 parents of students, faculty, and staff via the public school's
17 or public school district's website, list of email recipients,
18 and electronic and physical hardcopy of the public school's or
19 public school district's newsletter. Disclosure shall be made
20 at least 90 days before the signing of a contract or agreement
21 with a commercial applicator, contractor, developer, or person
22 who intends to apply coal tar-based sealant product or high
23 polycyclic aromatic hydrocarbon sealant product to the public
24 school's or public school district's grounds.

25 (c) If the public school or public school district serves a
26 significant proportion of non-English speaking students, the

1 disclosure shall contain the information required under
2 paragraphs (1) and (2) of subsection (a) in the appropriate
3 languages and a telephone number or address where students,
4 parents of students, faculty, and staff may contact the public
5 school or public school district to obtain a translated copy of
6 the disclosure or to request assistance in the appropriate
7 language.

8 (d) A disclosure provided under this Section shall be
9 annually recorded and reported to the Department and the
10 Department of Children and Family Services.

11 (e) A public school or public school district that applies
12 coal tar-based sealant product or high polycyclic aromatic
13 hydrocarbon sealant product to the public school's or public
14 school district's grounds shall post signage on the site of
15 application for, at a minimum, 10 years after each application.
16 The signage shall include a notice of coal tar-based sealant
17 product or high polycyclic aromatic hydrocarbon sealant
18 product application and the health hazards associated with it,
19 as outlined in the appropriate safety data sheet.

20 (f) Notwithstanding any provision of this Act or any other
21 law to the contrary, a public school or public school district
22 that undertakes a pavement engineering project requiring the
23 use of a coal tar-based sealant product or high polycyclic
24 aromatic hydrocarbon sealant product for pavement
25 engineering-related use shall request a base bid with an
26 alternative for asphalt-based or latex-based sealant product

1 as a part of the engineering project. The public school or
2 public school district shall consider whether asphalt-based or
3 latex-based sealant product should be used for the project
4 based upon costs and the benefits to public health and safety
5 and shall incorporate asphalt-based or latex-based sealant
6 product into the project if the cost of using asphalt based or
7 latex based sealant product is equal to or less than the cost
8 of using coal tar-based sealant product or high polycyclic
9 aromatic hydrocarbon sealant product.

10 (g) The Department, in consultation with the State Board of
11 Education, shall conduct outreach to public schools and public
12 school districts to provide guidance for compliance with the
13 provisions of this Act.

14 (h) On or before January 1, 2021, the Department and the
15 State Board of Education shall post on their websites guidance
16 on screening for coal tar-based sealant product or high
17 polycyclic aromatic hydrocarbon sealant product, requirements
18 for a request for proposals, and requirements for disclosure.

19 (i) On or before January 1, 2021, the Department shall
20 adopt rules for the prescribed procedures and standards to be
21 used in assessing acceptable levels of high polycyclic aromatic
22 hydrocarbon content of a pavement seal applied to the property
23 of a public school or public school district that serves grades
24 kindergarten through 12. The rules shall, at a minimum, include
25 provisions regarding testing parameters and the notification
26 of screening results.

1 Section 20. Coal tar sealant disclosure; State property.

2 (a) A State agency seeking to hire or contract with a
3 commercial applicator, contractor, residential or commercial
4 developer, or any other person or entity for the application of
5 any coal tar-based or other high polycyclic aromatic
6 hydrocarbon content sealant product to any driveway, parking
7 lot, or other surface on State property shall disclose such to
8 the public.

9 (b) A State agency that hires a commercial applicator,
10 contractor, or any other person to apply coal tar-based sealant
11 or high polycyclic aromatic hydrocarbon sealant product on
12 State property shall post signage on the site of application
13 for, at a minimum, 10 years after each application. The signage
14 shall include a notice of coal tar-based sealant product or
15 high polycyclic aromatic hydrocarbon sealant product
16 application and the health hazards associated with it, as
17 outlined in the appropriate safety data sheet.

18 (c) Notwithstanding any provision of this Act or any other
19 law to the contrary, a State agency that undertakes a pavement
20 engineering project requiring the use of a coal tar-based
21 sealant or high polycyclic aromatic hydrocarbon sealant
22 product for pavement engineering-related use shall request a
23 base bid with an alternative for asphalt-based or latex-based
24 sealant product as a part of the project. The State agency
25 shall consider whether asphalt-based or latex-based sealant

1 product should be used for the project based upon the costs
2 involved and shall incorporate asphalt-based or latex-based
3 sealant product into a pavement engineering project if the cost
4 of using asphalt-based or latex-based sealant product is equal
5 to or less than the coal tar-based sealant or high polycyclic
6 aromatic hydrocarbon sealant product.

7 (d) On or before January 1, 2021, the Department shall
8 adopt rules for the procedures and standards to be used in
9 assessing acceptable levels of high polycyclic aromatic
10 hydrocarbon content of a pavement seal applied to any State
11 agency property. The rules shall, at a minimum, include
12 provisions regarding testing parameters and the notification
13 of screening results.

14 Section 25. Violations. A person or entity who commits a
15 violation of this Act shall be subject to a civil penalty of
16 not less than \$1,000 nor more than \$10,000. Each incidence of
17 violation shall be deemed a separate offense.