

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

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

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

Subdivision 1. Definitions. For purposes of sections 1 to 3, the following terms
have the meanings given:

(1) "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;

(2) "commissioner" means the commissioner of the Pollution Control Agency;

(3) "consumer-based cost recovery system" means a system whereby the costs of
the paint stewardship pilot program are passed on to the consumer through the purchase
price of the product;

(4) "consumer paint stewardship fee" means the fee charged by the retailer or
distributor on each purchase of architectural paint sold in the state;

(5) "manufacturer" means a manufacturer of architectural paint;

(6) "paint stewardship fee" means the fee paid by each manufacturer that covers the
amount of the consumer paint stewardship fee for architectural paint the manufacturer
sells in the state;

(7) "postconsumer paint" means architectural paint not used by the purchaser; and

(8) "retailer" means a person who sells architectural paint at retail.

Subd. 2. 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. 3. **Plan.** (a) By July 1, 2008, manufacturers of architectural paint sold at retail in this state 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 consumer-based cost recovery system must be established to collect a fee assessed on all paint sold in the state to recover from consumers the life cycle costs of environmentally sound reuse or disposal of postconsumer paint. The consumer-based cost recovery system shall fund the pilot stewardship program in the following manner:

(1) all architectural paint manufacturers shall pay a paint stewardship fee based on the amount of architectural paint they sell in the state;

(2) all Minnesota retailers or distributors of architectural paint shall include a consumer paint stewardship fee in the final retail sales price of all architectural paint sold by such retailers or distributors in the state; and

(3) architectural paint manufacturers shall recover the paint stewardship fees by invoicing each of their Minnesota retailers or distributors of the architectural paint, who in turn, shall remit payment for the fees to the architectural paint manufacturer. The funds used by retailers and distributors to pay such invoices shall be derived from the consumer paint stewardship fee 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 fee is established for all paint sold in the state. The assessed consumer paint stewardship fee must be sufficient to recover the costs of the program and shall not exceed \$1 per gallon.

(c) Point-of-purchase material shall be provided to the consumer, in a manner that is designed to ensure that consumers are made aware that a consumer paint stewardship fee has been 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 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.

3.1 Sec. 2. **ANTICOMPETITIVE CONDUCT.**

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

3.7 Sec. 3. **REPORTS.**

3.8 (a) Manufacturers of architectural paint sold at retail in this state must, through a
3.9 representative organization, submit an annual report to the commissioner describing the
3.10 paint stewardship pilot program. At a minimum, the report must contain:

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

3.13 (2) the total cost of implementing the pilot program;

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

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

3.17 (b) By January 1, 2011, the commissioner shall submit a report to the chairs and
3.18 ranking minority members of the committees in the senate and house of representatives
3.19 that have primary jurisdiction over solid waste policy describing the results of the paint
3.20 stewardship pilot program and recommending whether it should be made permanent and
3.21 any modifications to improve the functioning and efficiency of the program.

3.22 Sec. 4. **EXPIRATION.**

3.23 Sections 1 to 3 expire November 30, 2010.

3.24 Sec. 5. **EFFECTIVE DATE.**

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