

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.

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

(d) "Consumer paint stewardship fee" means the fee charged by the retailer or
distributor on each purchase of architectural paint sold in the state.

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

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

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

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

(i) "Retailer" means a person who sells architectural paint at retail in this state.

2.1 Subd. 2. **Purpose.** The purpose of the paint stewardship pilot program established
2.2 under this section is to allow paint manufacturers to develop and implement a program to
2.3 collect, transport, and process postconsumer paint to reduce the costs and environmental
2.4 impacts of the disposal of postconsumer paint in Minnesota.

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

2.15 (1) each architectural paint manufacturer shall pay a paint stewardship fee to the
2.16 representative organization implementing the paint stewardship pilot program based on
2.17 the amount of architectural paint it sells in this state;

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

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

2.25 (b) To ensure that the consumer cost recovery mechanism is equitable and
2.26 sustainable, a uniform consumer paint stewardship fee is established for all architectural
2.27 paint sold in this state. The assessed consumer paint stewardship fee must be reviewed by
2.28 the commissioner and must be sufficient to recover the costs of the program and shall not
2.29 exceed \$.30 per gallon or per container.

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

2.33 (d) The commissioner of the Pollution Control Agency may appoint an independent
2.34 auditor to review the paint stewardship pilot program.

2.35 (e) Architectural paint purchased by a public or private educational institution, for
2.36 painting a building used primarily for educational or related administrative activities, is

exempt from the paint stewardship fee established under this subdivision. The educational institution shall provide documentation, as required by the commissioner, as to the use of the paint. Retailers and distributors shall retain the documentation of the amount of paint sold exempt under this paragraph, and this paint will be excluded from calculating the fee and remittances under paragraph (a), clauses (1) and (3).

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.

Subd. 5. **Exemption.** Architectural paint used in, including paint donated for, the Metro Paint-A-Thon sponsored by the Greater Minneapolis Council of Churches is not subject to the consumer paint stewardship fee.

Sec. 2. **ANTICOMPETITIVE CONDUCT.**

A manufacturer or organization of manufacturers that organizes collection, transport, and processing of postconsumer paint under section 1 may engage in anticompetitive conduct to the extent necessary to plan and implement its chosen organized collection or recycling system and is immune from liability 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;

(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; and

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

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

4.8 Sec. 4. **EXPIRATION.**

4.9 Sections 1 to 3 expire January 31, 2011.

4.10 Sec. 5. **EFFECTIVE DATE.**

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