

1.1 CONFERENCE COMMITTEE REPORT ON S.F. No. 477

1.2 A bill for an act

1.3 relating to solid waste; requiring a pilot program to be implemented by paint
1.4 manufacturers to recycle paint; amending Minnesota Statutes 2008, section
1.5 13.7411, subdivision 3; proposing coding for new law in Minnesota Statutes,
1.6 chapter 115A.

1.7 May 14, 2009

1.8 The Honorable James P. Metzen
1.9 President of the Senate

1.10 The Honorable Margaret Anderson Kelliher
1.11 Speaker of the House of Representatives

1.12 We, the undersigned conferees for S.F. No. 477 report that we have agreed upon the
1.13 items in dispute and recommend as follows:

1.14 That the House recede from its amendments and that S.F. No. 477 be further
1.15 amended as follows:

1.16 Delete everything after the enacting clause and insert:

1.17 "Section 1. Minnesota Statutes 2008, section 13.7411, subdivision 3, is amended to
1.18 read:

1.19 Subd. 3. **Pollution Control Agency.** (a) Information held by the commissioner of
1.20 the Pollution Control Agency that is trade secret or sales information is governed by
1.21 section 115A.06, subdivision 13.

1.22 (b) Data submitted to the commissioner by paint manufacturers or their
1.23 representative organization under section 115A.1333 are classified under that section.

1.24 Sec. 2. **[115A.1331] PAINT STEWARDSHIP PILOT PROGRAM.**

1.25 Subdivision 1. Definitions. (a) For purposes of sections 115A.1331 to 115A.1333,
1.26 the following terms have the meanings given.

1.27 (b) "Architectural paint" means interior and exterior architectural coatings sold in
1.28 containers of one quart or more, including paints and stains purchased for commercial

2.1 or homeowner use, but does not include architectural coatings purchased for industrial
2.2 or original equipment manufacturer use.

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

2.5 (d) "Manufacturer" means a manufacturer of architectural paint.

2.6 (e) "Paint stewardship assessment" means the amount included in the purchase
2.7 price of architectural paint sold in Minnesota to implement the paint stewardship pilot
2.8 program described in subdivision 2.

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

2.10 (g) "Representative organization" means the nonprofit organization created by the
2.11 manufacturers to implement the paint stewardship pilot program described in subdivision
2.12 2.

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

2.14 Subd. 2. **Pilot program.** (a) Beginning September 1, 2009, manufacturers of
2.15 architectural paint sold at retail must, through a representative organization, implement a
2.16 statewide paint stewardship pilot program that minimizes public sector involvement in
2.17 the management of postconsumer paint by reducing its generation, promoting its reuse
2.18 and recycling, and negotiating and executing agreements to collect, transport, and process
2.19 postconsumer paint for end-of-life management in an environmentally sound fashion. In
2.20 developing the pilot program, manufacturers of architectural paint must consult with and
2.21 consider the views of representatives of the Solid Waste Management Coordinating Board,
2.22 the Association of Minnesota Counties, the Solid Waste Administrators Association, and
2.23 household hazardous waste programs administered in both rural and metropolitan counties.
2.24 The pilot program must include a funding mechanism whereby each architectural paint
2.25 manufacturer remits to the representative organization payment of the paint stewardship
2.26 assessment for each container of architectural paint it sells in this state. The paint
2.27 stewardship assessment must be included in the cost of all architectural paint sold to
2.28 Minnesota retailers and distributors, and each Minnesota retailer or distributor must
2.29 include the assessment in the purchase price of all architectural paint sold in this state.

2.30 (b) To ensure that the funding mechanism is equitable and sustainable, a uniform
2.31 paint stewardship assessment must be established for all architectural paint sold. The paint
2.32 stewardship assessment may not exceed \$0.35 per container of architectural paint. The
2.33 paint stewardship assessment must be reviewed by the commissioner and must not exceed
2.34 the costs of the paint stewardship pilot program.

2.35 (c) Paint manufacturers or their representative organization shall provide Minnesota
2.36 consumers with educational materials regarding the paint stewardship assessment and the

3.1 paint stewardship pilot program in a manner designed to ensure that consumers are made
3.2 aware that a provision for the operation of a paint stewardship program is included in the
3.3 purchase price of all architectural paint sold in the state.

3.4 (d) Paint retailers may participate in the pilot program as paint collection points
3.5 on a voluntary basis.

3.6 **Sec. 3. [115A.1332] CONDUCT AUTHORIZED.**

3.7 A manufacturer or organization of manufacturers that organizes collection, transport,
3.8 and processing of postconsumer paint under section 115A.1331 is immune from liability
3.9 for the conduct under state laws relating to antitrust, restraint of trade, unfair trade
3.10 practices, and other regulation of trade or commerce only to the extent that the conduct is
3.11 necessary to plan and implement its chosen organized collection or recycling system.

3.12 **Sec. 4. [115A.1333] REPORTS.**

3.13 (a) On October 15, 2010, manufacturers of architectural paint sold at retail in this
3.14 state must, through a representative organization, submit a report to the commissioner
3.15 describing the paint stewardship pilot program. At a minimum, the report must contain:

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

3.18 (2) the volume of postconsumer paint collected in all regions of Minnesota;

3.19 (3) the volume of postconsumer paint collected in Minnesota by method of
3.20 disposition, including reuse, recycling, and other methods of processing;

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

3.23 (5) an evaluation of the operation of the program's funding mechanism;

3.24 (6) samples of educational materials provided to consumers of architectural paint
3.25 and an evaluation of the methods used to disseminate those materials; and

3.26 (7) an analysis of the environmental costs and benefits of collecting and recycling
3.27 latex paint.

3.28 (b) Data reported to the commissioner by a manufacturer or the representative
3.29 organization of manufacturers is classified as nonpublic data, as defined in section 13.02,
3.30 subdivision 9, except that the commissioner may release the data in summary form
3.31 in which individual manufacturers, distributors, or retailers are not identified and from
3.32 which neither their identities nor any other characteristics that could uniquely identify
3.33 an individual manufacturer or retailer are ascertainable.

3.34 (c) By January 15, 2012, the commissioner shall submit a report to the chairs and
3.35 ranking minority members of the committees in the senate and house of representatives
3.36 that have primary jurisdiction over solid waste policy describing the results of the

4.1 paint stewardship pilot program and recommending whether it should be made
4.2 permanent and any modifications to improve its functioning and efficiency. In preparing
4.3 the report, the commissioner must consult with representatives of the Solid Waste
4.4 Management Coordinating Board, the Association of Minnesota Counties, the Solid Waste
4.5 Administrators Association, and household hazardous waste programs administered in
4.6 both rural and metropolitan counties, and must include their views in the report. The
4.7 report must include an estimate of the savings to state and local units of government
4.8 compared with the costs of the program.

4.9 Sec. 5. **[115A.1334] EXPIRATION.**

4.10 Sections 115A.1331 to 115A.1334 expire June 30, 2012.

4.11 Sec. 6. **EFFECTIVE DATE.**

4.12 Sections 1 to 5 are effective the day following final enactment."

4.13 Delete the title and insert:

4.14 "A bill for an act

4.15 relating to solid waste; requiring a pilot program to be implemented by paint
4.16 manufacturers to recycle paint; amending Minnesota Statutes 2008, section
4.17 13.7411, subdivision 3; proposing coding for new law in Minnesota Statutes,
4.18 chapter 115A."

5.1 We request the adoption of this report and repassage of the bill.

5.2 Senate Conferees: (Signed)

5.3
5.4 John Doll

.....
Linda Higgins

5.5
5.6 David Hann

5.7 House Conferees: (Signed)

5.8
5.9 Brita Sailer

.....
Steve Simon

5.10
5.11 Denny McNamara