


Councilmember Mary M. Cheh

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A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To require producers of architectural paint sold in the District to establish and implement a paint stewardship program in the District.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this act may be cited as the "Paint Stewardship Act of 2014".

Sec. 2. Definitions.

For the purposes of this section, the term:

(1) "Architectural paint" means interior and exterior architectural coatings sold in containers of five gallons or less and does not mean industrial, original equipment, or specialty coatings.

(2) "Distributor" means a company that has a contractual relationship with one or more producers to market and sell architectural paint to retailers in the District.

(3) "Environmentally sound management practices" means procedures for the collection, storage, transportation, reuse, recycling, and disposal of architectural paint, to be implemented by the producer, stewardship organization, or their contracted partners to ensure compliance with all applicable federal and District laws and regulations and protection of human health and the environment. Such procedures shall address adequate record keeping, tracking, and documenting the fate of materials, and adequate environmental liability coverage for professional services and for the operations of the contractors working on behalf of the producer organization.

1 (4) "Paint stewardship assessment" means the amount added to the purchase price of
2 architectural paint sold in the state necessary to cover the paint stewardship program's cost of
3 collecting, transporting, and processing the postconsumer paint statewide.

4 (5) "Postconsumer paint" means architectural paint not used and no longer wanted by a
5 purchaser.

6 (6) "Producer" means a manufacturer of architectural paint who sells, offers for sale, or
7 distributes that paint in the state under the producer's own name or brand.

8 (7) "Recycling" means any process by which discarded products, components, and by-
9 products are transformed into new usable or marketable materials in a manner in which the
10 original products may lose their identity but does not include energy recovery or energy
11 generation by means of incineration or combustion of discarded products, components, and by-
12 products with or without other waste products.

13 (8) "Retailer" means any person that offers architectural paint for sale at retail in the
14 state.

15 (9) "Reuse" means the return of a product into the economic stream for use in the same
16 kind of application as originally intended, without a change in the product's identity.

17 (10) "Representative organization" means the nonprofit organization created by
18 producers to implement the paint stewardship plan established in section 3 of this act.

19 (11) "Sell" or "sale" means any transfer of title for consideration including remote sales
20 conducted through sales outlets, catalogues, or electronic means.

21 Sec. 3. Producer paint stewardship plan required.

22 (a) By April 1, 2016, a producer of architectural paint sold at retail in the District, or a
23 representative organization in which they are a member, shall submit a plan for the establishment

1 of a paint stewardship program to the Mayor for approval. The plan shall:

2 (1) Minimize District involvement in the management of postconsumer paint by
3 reducing its generation, promoting its reuse and recycling, and implementing agreements to
4 collect, transport, reuse, recycle, and dispose of postconsumer paint using environmentally sound
5 management practices;

6 (2) Provide for convenient and available collection of post-consumer architectural
7 paint that, at a minimum, provides for collection rates and convenience equal to or greater than
8 the collection programs available to consumers prior to the paint stewardship program; and
9 addresses coordination of the architectural paint stewardship program with existing household
10 hazardous waste collection infrastructure; and

11 (3) Identify each producer participating in the program and the brands of
12 architectural paint sold in the state covered by the program.

13 (4) Demonstrate sufficient funding for the architectural paint stewardship program
14 as described in the plan, including a funding mechanism for securing and dispersing funds to
15 cover administrative, operational, and capital costs, including the assessment of charges on
16 architectural paint sold by producers in the District. The funding mechanism shall provide for an
17 architectural paint stewardship assessment for each container of architectural paint sold in the
18 District by producers and the assessment shall be remitted to the stewardship organization, if
19 applicable.

20 (b)(1) A paint stewardship assessment established in accordance with subparagraph (2) of
21 this subsection shall be added to the cost of all architectural paint sold to retailers and distributors
22 in the District. Retailers and distributors shall add the assessment to the purchase price of all
23 architectural paint sold in the District.

1 (2) The architectural paint stewardship assessment shall be approved by the
2 Mayor as part of the plan, and shall be sufficient to recover, but not exceed, the cost of the
3 architectural paint stewardship program. The plan shall require that any surplus funds be put
4 back into the program to reduce the costs of the program, including the assessment amount.

5 (c) Beginning July 1, 2016, or three months after the plan is approved by the Mayor, a
6 producer or representative organization subject to this act shall begin implementing the plan.

7 (d) Beginning July 1, 2016, a producer shall not sell or offer for sale architectural paint to
8 any person in the District unless the producer of the paint brand or a representative organization
9 of which the producer is a member is implementing an approved paint stewardship program plan
10 as required by this section.

11 (e) A producer or representative organization shall provide consumers in the District
12 educational materials regarding the paint stewardship assessment and paint stewardship program,
13 including information regarding available end-of-life management options for architectural paint
14 offered through the paint stewardship program and information notifying consumers that a
15 charge for the operation of the program is included in the purchase price of all architectural paint
16 sold in the state.

17 (f) On or before July 1, 2017, and biennially thereafter, a producer or representative
18 organization shall submit a report to the Mayor that includes:

19 (1) A description of the methods used to collect, transport, and process
20 postconsumer paint in the District;

21 (2) The total volume and type of postconsumer paint collected in the District and
22 the volume by method of disposition;

23 (3) The total cost of implementing the program, as determined by an independent

1 financial audit funded from the paint stewardship assessment; and

2 (4) Samples of educational information provided to consumers of architectural
3 paint and a description of how it is distributed.

4 Sec. 4. Retailer obligations.

5 (a) Beginning January 1, 2017, a retailer shall not sell or offer for sale architectural paint
6 to any person in the District unless, on the date the paint was ordered from the producer or its
7 agent, the producer or the paint brand is listed on the Mayor's website as implementing or
8 participating in an approved paint stewardship plan.

9 (b) Paint retailers may participate as paint collection points pursuant to a paint
10 stewardship program on a voluntary basis.

11 Sec. 4. Agency responsibilities

12 (a) The Mayor shall review and determine whether to approve a paint stewardship
13 program plan submitted under section 2 within 90 days of its submission.

14 (b) Within 30 days of approving a paint stewardship program plan, the Mayor shall list
15 the producers and brands implementing or participating in it on its website.

16 Sec. 5. Immunity from liability; Confidential information

17 (a) No producer or representative organization shall be prosecuted, held liable, or subject
18 to penalties or damages under D.C. Official Code § 28-4501, *et seq.*, for actions conducted in
19 accordance with this subtitle.

20 (b) Financial, production, or sales data reported to the Mayor by a producer or
21 representative organization shall not be subject to disclosure provided that the Mayor may
22 release a summary form of such data that does not disclose individual producer information.

23 Sec. 6. Rules; enforcement.

1 (a)(1) They Mayor, pursuant to Title I of the District of Columbia Administrative
2 Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code section 2-501 *et*
3 *seq.*), may issue rules to implement the provisions of this subtitle.

4 (b) They Mayor may establish civil penalties or fines to enforce the provisions of this act
5 and any regulations promulgated pursuant to this act.

6 Sec. 8. Fiscal impact statement.

7 The Council adopts the fiscal impact statement in the committee report as the fiscal
8 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
9 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

10 Sec. 9. Effective date.

11 This act shall take effect following approval by the Mayor (or in the event of veto by the
12 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
13 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
14 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
15 Columbia.