
HOUSE BILL 1785

State of Washington 62nd Legislature 2011 Regular Session

By Representatives Upthegrove and Hudgins

Read first time 02/02/11. Referred to Committee on Environment.

1 AN ACT Relating to limiting the use of certain antifouling paints;
2 adding a new chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The legislature finds that antifouling paint
5 active ingredients include multiple pesticides that leach from vessel
6 hulls to prevent biofouling. Traditional antifouling paint contains
7 copper-based compounds that are used as the primary pesticide. The
8 legislature finds that copper-based compounds are acutely toxic to a
9 wide variety of terrestrial and marine organisms and are a persistent
10 contaminant with the potential for significant impacts on nontarget
11 organisms. Therefore, the legislature intends to phase out the use of
12 copper-based antifouling paints used on recreational water vessels.

13 NEW SECTION. **Sec. 2.** The definitions in this section apply
14 throughout this chapter unless the context clearly requires otherwise.

15 (1) "Alternative antifouling paint" means a pesticide, adjuvant,
16 solvent, resin, or pigment containing coating or compound applied to
17 the submerged portion of a recreational water vessel's hull to prevent

1 growth of marine organisms. Alternative antifouling paints must use
2 active ingredients other than copper-based pesticides to control
3 biofouling.

4 (2) "Antifouling paint" means a pesticide, adjuvant, solvent,
5 resin, or pigment containing copper coating or a copper-based compound
6 applied to the submerged portion of a recreational water vessel's hull
7 to prevent growth of marine organisms.

8 (3) "Department" means the department of ecology.

9 (4) "Recreational water vessel" means a watercraft intended for use
10 on the water for recreational purposes that is sixty-five feet in
11 length or less and includes chartered recreational watercraft.

12 NEW SECTION. **Sec. 3.** Beginning January 1, 2017, no manufacturer,
13 wholesaler, retailer, or distributor may sell or offer for sale in this
14 state any new recreational water vessel with antifouling paint
15 containing copper.

16 NEW SECTION. **Sec. 4.** Beginning January 1, 2027, no manufacturer,
17 wholesaler, retailer, or distributor may sell or offer for sale in this
18 state any new or used recreational water vessel with antifouling paint
19 containing copper.

20 NEW SECTION. **Sec. 5.** (1) The department shall enforce the
21 requirements of this chapter.

22 (2) Enforcement of this chapter by the department must rely on
23 notification and information exchange between the department and
24 manufacturers, wholesalers, retailers, and distributors of recreational
25 water vessels. The department shall issue one warning letter by
26 certified mail to a manufacturer, wholesaler, distributor, or retailer
27 that sells or offers for sale a recreational water vessel with
28 antifouling paint in violation of this chapter. The department shall
29 offer information or other appropriate assistance regarding compliance
30 with this chapter. Once a warning letter has been issued to a
31 manufacturer, wholesaler, retailer, or distributor for violations under
32 subsection (3) of this section, the department need not provide warning
33 letters for subsequent violations by that manufacturer, wholesaler,
34 retailer, or distributor. If compliance is not achieved, the
35 department may assess penalties under this section.

1 (3) A recreational water vessel manufacturer, wholesaler, retailer,
2 or distributor that violates this chapter is subject to a civil penalty
3 not to exceed ten thousand dollars for each violation.

4 (4)(a) A recreational water vessel manufacturer, wholesaler,
5 retailer, or distributor that violates this chapter must notify the
6 registered owner of the recreational water vessel, if any, within six
7 months of knowledge of the violation and must replace at no cost to the
8 owner the noncompliant antifouling paint with an alternative
9 antifouling paint that complies with this chapter.

10 (b) A recreational water vessel manufacturer, wholesaler, retailer,
11 or distributor that fails to provide the required notification under
12 (a) of this subsection within six months of knowledge of the violation
13 is subject to a civil penalty not to exceed one hundred thousand
14 dollars.

15 (c) A recreational water vessel manufacturer, wholesaler, retailer,
16 or distributor that fails to provide the required notification under
17 (a) of this subsection after twelve months of knowledge of the
18 violation is subject to a civil penalty not to exceed ten thousand
19 dollars per recreational water vessel.

20 (5) Before the effective date of the prohibitions in sections 3 and
21 4 of this act, the department shall prepare and distribute information
22 about the prohibitions to manufacturers, wholesalers, retailers, and
23 distributors to the maximum extent practicable.

24 (6) All penalties collected under this chapter must be deposited in
25 the state toxics control account created in RCW 70.105D.070.

26 NEW SECTION. **Sec. 6.** (1) On January 1, 2017, the department shall
27 establish the antifouling paint review panel. The department may
28 determine the membership of the antifouling paint review panel.

29 (2) The antifouling paint review panel shall review available
30 scientific studies and other relevant information to determine how
31 antifouling paints and alternative antifouling paints are affecting
32 marine organisms and water quality. The department shall report its
33 findings to the legislature by December 31, 2017.

34 NEW SECTION. **Sec. 7.** The department may adopt rules necessary to
35 implement this chapter.

1 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
2 a new chapter in Title 70 RCW.

3 NEW SECTION. **Sec. 9.** If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 remainder of the act or the application of the provision to other
6 persons or circumstances is not affected.

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