



General Assembly

Amendment

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LCO No. 3882



Offered by:
SEN. LOPES, 6th Dist.

To: Subst. Senate Bill No. 147

File No. 201

Cal. No. 122

"AN ACT CONCERNING A STUDY ON THE NEED FOR EXTENDED PRODUCER RESPONSIBILITY FOR ELECTRONIC NICOTINE DELIVERY SYSTEMS AND VAPOR PRODUCTS AND INCLUDING AEROSOL PAINTS UNDER THE PAINT STEWARDSHIP PROGRAM."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. (*Effective from passage*) The Commissioner of Energy and
4 Environmental Protection, in consultation with the Department of
5 Consumer Protection, shall study the feasibility of establishing an
6 extended producer responsibility program in the state for electronic
7 nicotine delivery systems and vapor products, as defined in section 19a-
8 342a of the general statutes, to provide for the end-of-life management
9 of the materials that compose such electronic nicotine delivery systems
10 and vapor products. Such study shall include, but need not be limited
11 to, an analysis of the safe management, recyclability and disposal of the
12 components of electronic nicotine delivery systems and vapor products.
13 In undertaking such study, the Commissioner of Energy and

14 Environmental Protection shall determine: (1) The procedures currently
15 used for the collection, recycling and disposal of electronic nicotine
16 delivery systems and vapor products, both in and outside of the state;
17 (2) the experiences in other states or jurisdictions with extended
18 producer responsibility programs for such delivery systems and
19 products; (3) the approximate costs to municipalities pursuant to such
20 current procedures in relation to the estimated costs to municipalities
21 for such collection, recycling and disposal pursuant to an extended
22 producer responsibility program for such delivery systems and
23 products; and (4) the requisite (A) collection facilities, (B) secondary
24 markets, (C) financial structures, and (D) stewardship organization
25 oversight for the establishment of an extended producer responsibility
26 program in this state for such delivery systems and products. Not later
27 than July 1, 2027, the commissioner shall submit a report, in accordance
28 with the provisions of section 11-4a of the general statutes, to the joint
29 standing committee of the General Assembly having cognizance of
30 matters relating to the environment on such study and any
31 recommendations for legislation to establish such extended producer
32 responsibility program.

33 Sec. 2. Section 22a-904 of the general statutes is repealed and the
34 following is substituted in lieu thereof (*Effective October 1, 2026*):

35 For purposes of this section and section 22a-904a, as amended by this
36 act:

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

40 (2) "Distributor" means a company that has a contractual relationship
41 with one or more producers to market and sell [architectural] paint
42 products to retailers in this state.

43 (3) "Environmentally sound management practices" means
44 procedures for the collection, storage, transportation, reuse, recycling

45 and disposal of [architectural] paint [, to be implemented by the
46 representative organization or such representative organization's
47 contracted partners to ensure compliance] products, in accordance with
48 all applicable federal, state and local laws, regulations and ordinances
49 and the protection of human health and the environment.
50 "Environmentally sound management practices" include, but are not
51 limited to, record keeping, the tracking and documenting of the fate of
52 postconsumer paint products in and outside of this state, and
53 environmental liability coverage for professional services and for the
54 operations of the contractors working on behalf of [the representative
55 organization] a paint stewardship program.

56 (4) "Energy recovery" means the process by which all or a portion of
57 solid waste materials are processed or combusted in order to utilize the
58 heat content or other forms of energy derived from such solid waste
59 materials.

60 (5) "Paint stewardship assessment" means the amount added to the
61 purchase price of [architectural] paint products sold in this state that is
62 necessary to cover the cost of collecting, transporting and processing
63 postconsumer paint products by [the] a representative organization
64 pursuant to [the] a paint stewardship program.

65 (6) "Postconsumer paint" means [architectural] any paint product that
66 is not used and that is no longer wanted by a purchaser of [architectural]
67 a paint product.

68 (7) "Producer" means a manufacturer of [architectural] any paint
69 product who sells, offers for sale, distributes or contracts to distribute
70 [architectural] a paint product in this state.

71 (8) "Recycling" means any process by which discarded products,
72 components and by-products are transformed into new, usable or
73 marketable materials in a manner in which the original products may
74 lose their identity. "Recycling" does not include energy recovery.

75 (9) "Retailer" means any person who offers [architectural] paint

76 products for sale at retail in this state.

77 (10) "Reuse" means the return of a product into the economic stream
78 for use in the same kind of application as the product was originally
79 intended to be used, without a change in the product's identity.

80 (11) "Commissioner" means the Commissioner of Energy and
81 Environmental Protection.

82 (12) "Sell" or "sale" means any transfer of title for consideration
83 including, but not limited to, remote sales conducted through sales
84 outlets, catalogues, the Internet or any other similar electronic means.

85 (13) "Representative organization" means [the] a nonprofit
86 organization created by producers to implement the paint stewardship
87 program described in section 22a-904a, as amended by this act.

88 (14) "Department" means the Department of Energy and
89 Environmental Protection.

90 (15) "Aerosol coating product" means any pressurized coating
91 product that contains pigments or resins dispensed by means of a
92 propellant and that is packaged and sold in a disposable aerosol
93 container for handheld application or for use in specialized equipment
94 for ground traffic or marking applications. "Aerosol coating product"
95 does not include any paint thinner, paint remover, graffiti remover or
96 caulking compound that contains no appreciable level of opaque fillers
97 or pigments.

98 (16) "Paint product" or "paint" means any architectural paint or
99 aerosol coating product. "Paint product" or "paint" does not include any
100 health and beauty product.

101 Sec. 3. Section 22a-904a of the general statutes is repealed and the
102 following is substituted in lieu thereof (*Effective October 1, 2026*):

103 (a) (1) On or before March 1, 2013, each producer of architectural
104 paint shall join the representative organization and such representative

105 organization shall submit a plan for the establishment of a paint
106 stewardship program described in this subdivision to the commissioner
107 for approval. On or before July 1, 2028, each producer of aerosol coating
108 products shall join the representative organization and such
109 representative organization shall submit to the commissioner, for
110 approval, a plan, or an update to a previously approved plan, for a paint
111 stewardship program to include all paint products. Such paint
112 stewardship program shall: (A) Minimize public sector involvement in
113 the management of postconsumer paint by: (i) Reducing the generation
114 of postconsumer paint, (ii) promoting the reuse and recycling of
115 postconsumer paint, and (iii) negotiating and executing agreements to
116 collect, transport, reuse, recycle, burn for energy recovery and dispose
117 of postconsumer paint using environmentally sound management
118 practices; (B) provide for convenient and available state-wide collection
119 of postconsumer paint that, at a minimum, provides for collection rates
120 and convenience equal to, or greater than, the collection programs
121 available to consumers prior to such paint stewardship program; (C)
122 propose a paint stewardship assessment; and (D) include a funding
123 mechanism that requires each producer who participates in [the] a
124 representative organization to remit to the representative organization
125 payment of the paint stewardship assessment for each container of
126 [architectural] paint product such producer sells in this state. The
127 representative organization may propose an update to a previously
128 approved paint stewardship program plan by submitting a plan update
129 to the commissioner.

130 (2) [The] Any plan submitted pursuant to subdivision (1) of this
131 subsection shall: (A) Identify each producer participating in the paint
132 stewardship program and the brands of [architectural] paint products
133 sold in this state covered by the program; and (B) address the
134 coordination of the paint stewardship program with existing household
135 hazardous waste collection infrastructure, as much as is reasonably
136 feasible and mutually agreeable.

137 (3) The commissioner may approve [the] any plan for the

138 establishment of a paint stewardship program or an update to a
139 previously approved paint stewardship plan that meets the
140 requirements of subdivisions (1) and (2) of this subsection. Not later
141 than [two] three months after submission of [the] a plan or an update to
142 a previously approved plan pursuant to this subsection, the
143 commissioner shall make a determination whether or not to approve
144 [the] such plan or update.

145 (4) Not later than [two] six months after the date [the] a plan or
146 update is approved pursuant to subdivision (3) of this subsection, the
147 representative organization shall implement the paint stewardship
148 program. Any such approved plan shall remain in effect until any
149 approved plan updates are implemented pursuant to this subdivision.

150 (b) (1) [On or before March 1, 2013, and every two years thereafter,
151 the representative organization shall propose a uniform paint
152 stewardship assessment for all architectural paint sold in this state.
153 Such] The proposed paint stewardship assessment submitted as part of
154 a plan or plan update shall be reviewed by an independent auditor to
155 assure that such assessment does not exceed the costs of the paint
156 stewardship program described in subsection (a) of this section and
157 such independent auditor shall recommend an amount for such paint
158 stewardship assessment [to the department] that shall be included in the
159 paint stewardship program plan or plan update submitted by the
160 representative organization to the commissioner for approval. The
161 department shall be responsible for the approval of such paint
162 stewardship assessment. Such independent auditor shall be selected by
163 the department and the department shall be responsible for the review
164 of the work product of such independent auditor, including, but not
165 limited to, the review of such auditor's assessment of the bid and
166 purchase procedures utilized by the representative organization to
167 implement such program. The department may terminate the services
168 of any such independent auditor. Not less than once every five years,
169 the department shall select a different independent auditor to perform
170 the duties described in this subdivision and subdivision (4) of

171 subsection (h) of this section. The cost of any work performed by such
172 independent auditor pursuant to the provisions of this subdivision and
173 subdivision (4) of subsection (h) of this section shall be funded by the
174 paint stewardship assessment.

175 (2) On and after the date of implementation of the paint stewardship
176 program pursuant to subdivision (4) of subsection (a) of this section, the
177 paint stewardship assessment, as established pursuant to subdivision
178 (1) of this subsection, shall be added to the cost of all [architectural] paint
179 products sold to retailers and distributors in this state by each producer.
180 On and after such implementation date, each retailer or distributor, as
181 applicable, shall add the amount of such paint stewardship assessment
182 to the purchase price of all [architectural] paint products sold in this
183 state.

184 (c) Any retailer may participate, on a voluntary basis, as a paint
185 collection point pursuant to such paint stewardship program and in
186 accordance with any applicable provision of law or regulation.

187 (d) Each producer and the representative organization shall be
188 immune from liability for any claim of a violation of antitrust law or
189 unfair trade practice if such conduct is a violation of antitrust law, to the
190 extent such producer or representative organization is exercising
191 authority pursuant to the provisions of this section.

192 (e) Not later than the implementation date of the paint stewardship
193 program, the department shall list the names of participating producers
194 and the brands of [architectural] paint products covered by such paint
195 stewardship program on its Internet web site.

196 (f) (1) [On and after the implementation date of the paint stewardship
197 program, no] No producer, distributor or retailer shall sell or offer for
198 sale architectural paint to any person in this state if the producer of such
199 architectural paint is not a [member of the representative organization]
200 participant in the approved paint stewardship program. On and after
201 the implementation date of a paint stewardship plan that includes

202 aerosol coatings, no producer, distributor or retailer shall sell or offer for
203 sale paint products in this state if the producer of such paint products is
204 not a participant in the approved paint stewardship program.

205 (2) No retailer or distributor shall be found to be in violation of the
206 provisions of subdivision (1) of this subsection if, on the date the
207 [architectural] paint product was ordered from the producer or its
208 agent, the producer or the subject brand of [architectural] paint was
209 listed on the department's Internet web site in accordance with the
210 provisions of subsection (e) of this section.

211 (3) The commissioner may seek civil enforcement of the provisions of
212 this subsection pursuant to chapter 439.

213 (g) Producers or the representative organization shall provide
214 consumers with educational materials regarding the paint stewardship
215 assessment and paint stewardship program. Such materials shall
216 include, but not be limited to, information regarding available end-of-
217 life management options for [architectural] paint products offered
218 through the paint stewardship program and information that notifies
219 consumers that a charge for the operation of such paint stewardship
220 program is included in the purchase price of all [architectural] paint
221 products sold in this state.

222 (h) On or before October 30, [2017] 2026, and annually thereafter, the
223 representative organization shall submit a report to the Commissioner
224 of Energy and Environmental Protection that details the paint
225 stewardship program. Such report shall include, but not be limited to:
226 (1) A description of the methods used to collect, transport and process
227 postconsumer paint in this state; (2) the volume of postconsumer paint
228 collected in this state; (3) the volume and type of postconsumer paint
229 collected in this state by method of disposition, including reuse,
230 recycling and other methods of processing; (4) the total cost of
231 implementing the program, as determined by an independent financial
232 audit, as performed by the independent auditor described in
233 subdivision (1) of subsection (b) of this section and funded by the paint

234 stewardship assessment; (5) an evaluation of the operation of the
 235 program's funding mechanism; and (6) samples of educational materials
 236 provided to consumers of [architectural] paint products and an
 237 evaluation of the methods used to disseminate such materials.

238 (i) Not later than January 15, [2015] 2027, and biennially thereafter,
 239 the Commissioner of Energy and Environmental Protection shall
 240 submit, in accordance with section 11-4a, a report to the joint standing
 241 committee of the General Assembly having cognizance of matters
 242 relating to the environment that describes the results of the paint
 243 stewardship program and recommends modifications to improve the
 244 functioning and efficiency of such program, as necessary.

245 (j) Not earlier than July 1, 2027, and annually thereafter, the
 246 commissioner may assess the representative organization that
 247 implement's an approved paint stewardship plan, pursuant to this
 248 section, a fee of not more than fifty thousand dollars for the
 249 administration and enforcement of this section. Such fee shall be
 250 inclusive of all fees charged annually by the commissioner to such
 251 representative organization."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2026</i>	22a-904
Sec. 3	<i>October 1, 2026</i>	22a-904a