

1.1 A bill for an act

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

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

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

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

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

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

1.14 Subdivision 1. **Purpose.** The purpose of this section is to allow manufacturers to
1.15 pilot an environmentally sound and cost-effective paint stewardship program, undertaking
1.16 responsibility for the development and implementation of strategies to reduce the
1.17 generation of postconsumer paint; promote the reuse of postconsumer paint; and collect,
1.18 transport, and process postconsumer paint for end-of-life management. The ultimate
1.19 purpose of this section is to minimize public sector involvement in the management of
1.20 postconsumer paint.

1.21 Subd. 2. **Definitions.** (a) For purposes of sections 115A.1331 to 115A.1333, the
1.22 following terms have the meanings given.

2.1 (b) "Architectural paint" means interior and exterior architectural coatings, including
2.2 paints and stains purchased for commercial or homeowner use, but does not include
2.3 architectural coatings purchased for industrial or original equipment manufacturer use.

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

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

2.7 (e) "Paint stewardship assessment" means the amount included in the purchase
2.8 price of architectural paint sold in Minnesota to implement the paint stewardship pilot
2.9 program described in subdivision 3.

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

2.11 (g) "Representative organization" means the nonprofit organization created by the
2.12 manufacturers to implement the paint stewardship pilot program described in subdivision
2.13 3.

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

2.15 Subd. 3. **Pilot program.** (a) Beginning September 1, 2009, manufacturers of
2.16 architectural paint sold at retail must, through a representative organization, implement
2.17 a statewide paint stewardship pilot program for the development and implementation
2.18 of strategies to reduce the generation of postconsumer paint; promote the reuse and
2.19 recycling of postconsumer paint; and undertake the responsibility of negotiating and
2.20 executing agreements to collect, transport, and process postconsumer paint for end-of-life
2.21 management in an environmentally sound fashion. In developing the pilot program,
2.22 manufacturers of architectural paint must consult with and consider the views of
2.23 representatives of the Solid Waste Management Coordinating Board, the Association
2.24 of Minnesota Counties, the Solid Waste Administrators Association, and household
2.25 hazardous waste programs administered in rural and metropolitan counties. The pilot
2.26 program must include a funding mechanism whereby each architectural paint manufacturer
2.27 remits to the representative organization payment of the paint stewardship assessment for
2.28 each container of architectural paint it sells in this state. The paint stewardship assessment
2.29 must be included in the cost of all architectural paint sold to Minnesota retailers and
2.30 distributors, and each Minnesota retailer or distributor must include the assessment in the
2.31 purchase price of all architectural paint sold in this state.

2.32 (b) To ensure that the funding mechanism is equitable and sustainable, a uniform
2.33 paint stewardship assessment must be established for all architectural paint sold. The paint
2.34 stewardship assessment must be approved by the commissioner and must be sufficient to
2.35 recover, but not exceed, the costs of the paint stewardship pilot program.

3.1 (c) Paint manufacturers or their representative organization shall provide Minnesota
3.2 consumers with educational materials regarding the paint stewardship assessment and the
3.3 paint stewardship pilot program in a manner designed to ensure that consumers are made
3.4 aware that a provision for the operation of a paint stewardship program is included in the
3.5 purchase price of all architectural paint sold in the state.

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

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

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

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

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

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

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

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

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

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

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

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

3.31 (b) Data reported to the commissioner by a manufacturer or the representative
3.32 organization of manufacturers is classified as nonpublic data, as defined in section 13.02,
3.33 subdivision 9, except that the commissioner may release the data in summary form
3.34 in which individual manufacturers, distributors, or retailers are not identified and from

4.1 which neither their identities nor any other characteristics that could uniquely identify
4.2 an individual manufacturer or retailer are ascertainable.

4.3 (c) By January 15, 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
4.6 paint stewardship pilot program and recommending whether it should be made
4.7 permanent and any modifications to improve its functioning and efficiency. In preparing
4.8 the report, the commissioner must consult with representatives of the Solid Waste
4.9 Management Coordinating Board, the Association of Minnesota Counties, the Solid Waste
4.10 Administrators Association, and household hazardous waste programs administered in
4.11 rural and metropolitan counties, and must include their views in the report. The report
4.12 must include an estimate of the potential costs of collecting and disposing of architectural
4.13 paint avoided by state and local units of government and taxpayer savings as a result
4.14 of the program.

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

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

4.17 Sec. 6. **EFFECTIVE DATE.**

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