

SECOND REGULAR SESSION

SENATE BILL NO. 917

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BURGER.

3838S.02I

KRISTINA MARTIN, Secretary

AN ACT

To amend chapter 701, RSMo, by adding thereto one new section relating to paint recycling.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Chapter 701, RSMo, is amended by adding thereto
2 one new section, to be known as section 701.151, to read as
3 follows:

701.151. 1. As used in this section, the following
2 terms mean:

3 (1) "Administrative fee", a fee set by the department
4 to reimburse the department for administering this section
5 and paid by each producer or representative organization
6 submitting a plan under this section;
7 (2) "Architectural paint", interior and exterior
8 architectural coatings sold in containers of five gallons or
9 less. "Architectural paint" shall not be construed to
10 include industrial, original equipment, or specialty
11 coatings;

12 (3) "Collection site", any location, event, or other
13 department-approved collection service at which
14 architectural paint is accepted into a post-consumer paint
15 collection program under a post-consumer paint collection
16 program plan;

17 (4) "Conditionally exempt small quantity generator",
18 the meaning ascribed to "very small generator" under 40 CFR
19 262.14;

20 (5) "Department", the department of natural resources;

21 (6) "Director", the director of the department of
22 natural resources, or the director's designee;

23 (7) "Environmentally sound management practices",
24 procedures for the collection, storage, transportation,
25 reuse, recycling, energy recovery, and disposal of
26 architectural paint that shall:

27 (a) Be implemented by producers or a representative
28 organization or by contracted partners of the producers or a
29 representative organization to ensure compliance with all
30 applicable federal, state, and local laws and any
31 regulations and ordinances for the protection of human
32 health and the environment;

33 (b) Address adequate record keeping, tracking, and
34 documenting of the final disposition of materials; and

35 (c) Address appropriate environmental liability
36 coverage for the representative organization;

37 (8) "Household waste", the same definition as in 10
38 CSR 80.2-010;

39 (9) "Paint" or "paint product", architectural paint
40 and additional products as defined in an approved program
41 plan. "Paint" or "paint product" shall not include
42 industrial or original equipment coatings;

43 (10) "Paint assessment fee", cost added per container
44 of paint by producers. Such cost shall cover the cost to
45 operate and sustain the program authorized under this
46 section and shall be verified by an independent financial
47 auditor;

48 (11) "Post-consumer paint", architectural paint not
49 used and no longer wanted by a purchaser;

50 (12) "Producer", a manufacturer of architectural paint
51 that sells, offers for sale, or distributes the
52 architectural paint in this state under the producer's own
53 name or brand. "Producer" does not include a retailer who
54 sells, offers for sale, or distributes within or into the
55 state architectural paint manufactured or trademarked by a
56 person other than the retailer;

57 (13) "Program", the post-consumer paint collection
58 program established under this section;

59 (14) "Recycling", the separation and reuse or
60 remanufacture of materials that might otherwise be disposed
61 of as solid waste;

62 (15) "Representative organization", a nonprofit
63 organization established by producers to implement the
64 program;

65 (16) "Retailer", a person who offers architectural
66 paint or other allied products for sale at retail in this
67 state.

68 2. Producers of architectural paint sold at retail in
69 this state may establish or join a representative
70 organization. The duties under this section shall be met by
71 the representative organization on behalf of all its member
72 producers. Any producer who is not a member of a
73 representative organization shall meet the duties under this
74 section separately.

75 3. (1) A representative organization or a producer of
76 architectural paint sold at retail in this state that is not
77 a member of such representative organization shall develop
78 and submit to the director for the director's approval a
79 plan for the establishment of a post-consumer paint

80 collection program. Additional paint products may be
81 proposed in a subsequent program plan in consultation with
82 the department. The program shall be structured to:

- 83 (a) Reduce the generation of post-consumer paint;
- 84 (b) Promote the reuse and recycling of post-consumer
85 paint;
- 86 (c) Manage the post-consumer paint waste stream using
87 environmentally sound management practices; and
- 88 (d) Limit the department's role to oversight
89 activities that include approving the program plan and
90 reviewing the annual report.

91 (2) The plan submitted under this section shall:

- 92 (a) Provide a list of participating producers and
93 brands covered by the program;
- 94 (b) Provide information on the architectural paint
95 products covered under the program, such as interior or
96 exterior water and oil-based coatings, primers, sealers, or
97 wood coatings;
- 98 (c) Describe how the program will provide for
99 convenient and cost-effective statewide collection of post-
100 consumer paint in this state. The producers or
101 representative organization may coordinate the program with
102 existing household hazardous waste collection infrastructure
103 as is mutually agreeable. A paint retailer shall be
104 authorized by the producers or representative organization
105 as a paint collection site only if the paint retailer
106 voluntarily agrees to act as such and complies with all
107 applicable laws and regulations and the retail location is
108 consistent with the maintenance of a cost-effective network
109 of paint collection locations;

110 (d) Establish a goal for the number and geographic
111 distribution of sites for collection of post-consumer paint
112 based on the following criteria:

113 a. At least ninety percent of Missouri residents shall
114 have a collection site within a fifteen-mile radius and one
115 site shall be established for every fifty thousand residents
116 of the state, unless otherwise approved by the director; or

117 b. If the program is unable to meet the requirements
118 of this subsection, a collection event or other department-
119 approved collection service shall be scheduled on a periodic
120 basis to serve such residents;

121 (e) Describe how post-consumer paint will be managed
122 in the most environmentally and economically sound manner
123 using the following strategies in the following order:
124 reuse, recycling, energy recovery, and disposal;

125 (f) Describe education and outreach efforts to inform
126 consumers about the program. Such efforts should
127 incorporate at least:

128 a. Information about collection opportunities for post-
129 consumer paint;

130 b. Information about the charge for the operation of
131 the program that shall be included in the purchase price of
132 all architectural paint sold in this state; and

133 c. Efforts to promote the source reduction, reuse, and
134 recycling of architectural paint;

135 (g) Establish a per-container cost to be added to
136 architectural paint sold in this state as a result of the
137 program. This per-container cost, known as the paint
138 assessment fee, shall be reviewed by an independent
139 financial auditor to ensure that any added cost to paint
140 sold in this state as a result of the program does not

141 exceed the costs to operate and sustain the program in
142 accordance with sound management practices; and

143 (h) Describe how the program will compensate service
144 providers for activities conducted under the program that
145 may include:

146 a. The collection of post-consumer architectural paint
147 and architectural paint containers through permanent
148 collection sites, collection events, or curbside services;

149 b. The reuse or processing of post-consumer
150 architectural paint at a permanent collection site; and

151 c. The transportation, recycling, and proper disposal
152 of post-consumer architectural paint.

153 (3) The independent financial auditor required under
154 paragraph (g) of subdivision (2) of this subsection shall be
155 selected by the representative organization after
156 consultation with the department. The independent financial
157 auditor shall verify that the cost added to each unit of
158 paint will cover the costs of the program. The department
159 shall review the work product of the independent financial
160 auditor. The cost of any work performed by such independent
161 financial auditor shall be funded by the paint assessment
162 fees authorized by the program.

163 (4) Each manufacturer under the plan shall include in
164 the price of any architectural paint sold to retailers or
165 distributors in the state the per-container amount of the
166 fee set forth in the plan or fee adjustment. If a
167 representative organization implements the plan for a
168 manufacturer, the manufacturer shall be responsible for
169 filing, reporting, and remitting any fee assessed under this
170 section for each container of architectural paint to the
171 representative organization. A retailer or distributor
172 shall not deduct the amount of the fee from the purchase

price of any architectural paint the retailer or distributor sells.

(5) No later than sixty days after the submission of a plan under this section, the director shall make a written determination of whether to approve the plan as submitted or disapprove the plan. If the director finds the plan does not meet the requirements of this section, the director shall provide a written explanation of the nonconforming items. Within sixty days following receipt of the director's written explanation of items that do not meet the requirements of this section, the representative organization or the producer of architectural paint shall submit a revised plan to the director for approval.

(6) The department shall enforce the producer's or the representative organization's compliance with the plan and may, by regulation or by using existing regulations promulgated under sections 260.230, 260.240, and 260.249, establish enforcement procedures and penalties.

(7) No later than the implementation date of the program, information regarding the approved plan, the names of participating producers, and the brands of architectural paint covered by the program shall be posted on the department's website and on the website of the representative organization.

(8) The plan required under this subsection shall be submitted to the department not later than twelve months after the effective date of this section. The department may, for good cause shown, grant an extension of the deadline for submission.

(9) Nothing in this section shall be construed to require the department to develop the plan or establish the program authorized under this section. Such requirement

shall be the sole responsibility of the producers or representative organization.

(10) Nothing in this section shall require a retailer to track, file, report, submit, or remit a fee assessed under this section, sales data, or any other information on behalf of a manufacturer, distributor, or representative organization. Nothing in this section shall prohibit a manufacturer and a retailer from entering into remitter agreements.

4. (1) The department shall establish an administrative fee to be paid by each producer or representative organization submitting a plan under this section. The department shall set the fee at an amount that, when paid by every producer or representative organization that submits a plan, is adequate to reimburse the department's full costs of administering this section. The total amount of annual fees collected under this subdivision shall not exceed the amount necessary to reimburse costs incurred by the department to administer this section. The department may consider relevant factors when establishing the fee including, but not limited to, the portion of architectural paint sold in the state by the producer or the members of the representative organization compared to the total amount of architectural paint sold in the state by all producers or representative organizations submitting a plan.

(2) Each producer or representative organization implementing a plan under this section shall pay the administrative fee required in subdivision (1) of this subsection on or before July 1, 2027, and annually thereafter. Each year after the initial payment, the annual administrative fee shall not exceed five percent of the

237 aggregate program fee added to the cost of all architectural
238 paint sold by producers in the state for the preceding
239 calendar year. The department may extend the time for
240 payment upon good cause shown.

241 5. Upon implementation of the program, each producer
242 shall include in the price of any architectural paint sold
243 to retailers and distributors in this state the per-
244 container amount, known as the paint assessment fee, in the
245 approved plan. No retailer or distributor shall deduct such
246 amount from the purchase price.

247 6. Retailers may incorporate the fee as part of the
248 price amount displayed to consumers of architectural
249 products. Retailers shall not be required to incorporate
250 the fee as part of the price amount displayed to consumers
251 for architectural products, provided that the retailers make
252 information about the fee available to consumers of
253 architectural paint products prior to purchase.

254 7. (1) After the program is implemented, no producer
255 or retailer shall sell or offer for sale architectural paint
256 to any person in this state unless the producer of a paint
257 brand or a representative organization is implementing or
258 participating in the program as required by this section.

259 (2) A retailer shall be deemed to be in compliance
260 with this section if, on the date the architectural paint
261 was offered for sale, the producer is listed on the
262 department's website as implementing or participating in the
263 program or if the paint brand is listed on the department's
264 website as being included in the program.

265 (3) A paint collection site authorized under this
266 section shall not charge any additional amount for the
267 disposal of paint when the paint is offered for disposal.

268 (4) A producer or the representative organization that
269 organizes the collection, transport, and processing of post-
270 consumer paint in accordance with the program shall not be
271 liable for any claim of a violation of antitrust, restraint
272 of trade, unfair trade practice, or other anticompetitive
273 activity arising from conduct undertaken in accordance with
274 the program under this section.

275 (5) Before March thirty-first of each year, the
276 producers or representative organization shall submit an
277 annual report for the previous year to the director that
278 details the program. The first report shall be submitted
279 after the first full year of implementation. The director
280 may, for good cause shown, extend the deadline for filing
281 the report. The report or information relating to the
282 report shall be posted on the department's website and on
283 the website of the representative organization. The report
284 shall contain at least the following:

285 (a) A description of the methods used to collect,
286 transport, and process post-consumer paint in this state;

287 (b) The volume and type of post-consumer paint
288 collected by method of disposition, containing information
289 about reuse, recycling, other methods of processing, and any
290 other related and appropriate information;

291 (c) Samples of educational materials provided to
292 consumers of architectural paint;

293 (d) The total cost of the program; and

294 (e) An independent financial audit completed by an
295 individual financial auditor chosen by the producers or the
296 representative organization.

297 (6) Financial, production, or sales data reported to
298 the department by a producer or by the representative
299 organization shall not be subject to disclosure, but the

300 director may release a summary form of such data that does
301 not disclose financial, production, or sales data of the
302 producer, retailer, or representative organization.

303 (7) The producers or the representative organization
304 shall implement the program required under this section on
305 January 1, 2028, or six months after the approval of the
306 plan under this section, whichever occurs later.

307 8. (1) Generators of household wastes and
308 conditionally exempt small quantity generators may transport
309 or send architectural paints to a paint collection site to
310 the extent permitted by a program approved by the director.

311 (2) Paint collection sites may collect and temporarily
312 store architectural paints generated by entities specified
313 in subdivision (1) of this subsection in accordance with the
314 requirements of the program in lieu of any otherwise
315 applicable requirements of state laws or regulations.

316 (3) Nothing in this section shall be construed to
317 restrict the collection of architectural paint by a program
318 where such collection is authorized by any other state laws
319 or regulations.

320 (4) Nothing in this section shall be construed to
321 affect any requirements applicable to facilities that treat,
322 dispose, or recycle architectural paint under any other
323 state laws or regulations.

324 9. The director may promulgate all necessary rules and
325 regulations for the administration of this section. Any
326 rule or portion of a rule, as that term is defined in
327 section 536.010, that is created under the authority
328 delegated in this section shall become effective only if it
329 complies with and is subject to all of the provisions of
330 chapter 536 and, if applicable, section 536.028. This
331 section and chapter 536 are nonseverable and if any of the

332 powers vested with the general assembly pursuant to chapter
333 536 to review, to delay the effective date, or to disapprove
334 and annul a rule are subsequently held unconstitutional,
335 then the grant of rulemaking authority and any rule proposed
336 or adopted after August 28, 2026, shall be invalid and void.

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