

# Senate Ways and Means Committee

*Sonja Caldwell 271-2117*

**HB 451-FN**, establishing the paint product stewardship program.

**Hearing Date:** April 2, 2025

**Members of the Committee Present:** Senators Lang, Murphy, Sullivan, Rosenwald and Fenton

**Members of the Committee Absent :** None

**Bill Analysis:** This bill establishes the paint product stewardship program.

---

## **Sponsors:**

Rep. Ebel

Rep. J. Aron

Rep. M. Murray

Rep. Bixby

Rep. Creighton

Rep. Grote

Rep. N. Germana

Sen. Watters

Sen. Ricciardi

Sen. Pearl

Sen. Avard

Sen. Rosenwald

---

**Who supports the bill:** 46 people signed up in support

*\*Complete sign in sheets available upon request of committee aide*

**Who opposes the bill:** 2 people signed up opposed

**Who is neutral on the bill:** 2 people signed in as neutral

## **Summary of testimony presented:**

### **Rep. Karen Ebel**

- This bill passed the House unanimously on the consent calendar.
- There is no financial effect on the state.
- This bill would create a post-consumer paint stewardship program.
- It is a bipartisan bill and is a prototype that has been used in other states and is supported by businesses.
- Once the program is in place, consumers can bring leftover paint to participating retailers to be recycled.
- The participation of retailers is voluntary.
- Municipalities who hold expensive household hazardous waste recycle days can also turn over their paint to this program for no cost.
- About half of all household hazardous waste is paint.
- Once the program is up and running, anyone can bring their paint in for recycling whether they bought it before or after the program is in operation.

- This bill supports the state's solid waste management goals. DES recently adopted a solid waste management plan. It hadn't been updated in twenty years and since that time, landfill issues have been front and center. Part of this plan is to try to recycle and use our landfills for things that really need to be landfilled.
- For this reason, she is bringing the committee a bill that is supported by the BIA, waste management, Casella, NH Municipal Association, many environmental organizations, and small hardware store chains.
- This bill has been fully vetted, is fully supported, and well-constructed.
- Northeast Resource Recovery Association is the nonprofit organization that works with virtually all municipalities to help them with contracts related to their solid waste. They did an analysis and household hazardous waste collection days for a community of about 9,600 costs \$13,000 of taxpayer money. They figured out over half of what's coming in is paint so if you can take that out of the waste stream and ensure its recycled into the stewardship program, you're saving taxpayer money and ensuring it is recycled.
- The cans are recycled also.
- A lot of retailers are in support of this program as this helps build customer traffic when they come back with their paint for recycling. Aubuchon has participated in it for a while.

**Sen. Sullivan** asked what actually happens to these products if these leave NH.

**Rep. Ebel** said the representative from the American Coatings Association can answer in more detail, but explained that if the paint products, which includes aerosols and all kinds of things, aren't collected and recycled in this way they are going into a landfill. Oil paints and things of that nature are considered hazardous waste. These items will be collected by the stewardship organization who has contracts with recyclers and they will be recycled.

**Sen. Lang** asked her to walk him through the requirements of each level as provided in the bill.

**Rep. Ebel**

- Rep. Ebel explained that the manufacturers have all come together through their trade association, the Americans Coatings Association, and decided that considering the toxicity and problems of handling paint products, they want to do better with these products. They created an entity called PaintCare which is a post-consumer stewardship program. That organization takes care of working with manufacturers. They are the point at which any fees are collected. They are the bank for that.
- They also work with recycling groups to make those contracts.
- They work with the people who pick up the paint and they work with retailers when the retailer wants to participate.
- PaintCare creates a plan for the state. They have a plan that's been successful in other states.
- Under this bill, they work with DES to walk through the program and develop a plan with DES. DES then approves the plan and once the plan is in place, PaintCare would gear up the program.

- There is an assessment that is included in the cost of paint that's worked on by the association and that helps fund the program.
- Rep. Ebel stated that the whole program is basically self-funded. To the extent that administrative oversight from DES is needed, they worked hard to ensure that all costs to DES were defrayed in advance for the run-up and on an ongoing basis after so there is no cost to the state.
- The state costs in the fiscal note are small and will be defrayed by stewardship organization. Rep. Ebel also stated that while it is hard to say, it is estimated that this will decrease costs for the municipal association.
- The run up to the program, including the rule-making process, will take more time and after that it will roll along.
- Any paint that is then sold in the state would have a fee rolled into the price and then people can bring the leftover paint cans to participating retailers for recycling.
- People want to get rid of their paint responsibly and it's harder to do through municipal hazardous waste days.
- This is a win for taxpayers, consumers, public health, solid waste industry.

**Sen. Rosenwald** asked Rep. Ebel if this program also covers stain.

**Rep. Ebel** said yes.

**Sen. Rosenwald** asked if one buys the paint or stain at one store, could they recycle it at a different store.

**Rep. Ebel** said yes and added that one could even buy paint in another state as it's a national organization. Nobody tracks paint purchases.

**Sen. Lang** said the collection sites are utterly voluntary, so all these retailers have to agree to participate, however the cost seems to be mandatory.

**Rep. Ebel** said yes, that is what funds the program.

**Sen. Lang** asked if the cost is mandatory even if they don't participate in the program.

**Rep. Ebel** explained that the way this works is the manufacturers estimate how much paint they will sell, and they cut a check for a certain amount of money per gallon and send it on a quarterly basis to the stewardship organization. They roll the assessment into the cost of the paint. The retailer has zero responsibility; they just sell the paint. Manufacturers take care of all that in the top end.

**Sen. Rosenwald** asked if Rep. Ebel knew what the surcharge on the paint would be.

**Rep. Ebel** said the ACA could talk about that, but she estimated it could be \$1.00 or \$1.50. It depends on how much paint is taken in. The idea is to have it be a moderate amount to help fund the program. The amount would be based on the size of the paint can.

### **Rep. Judy Aron**

- Rep. Aron testified in support HB 451. She stated that her committee in the House has worked on this issue for two years prior to this iteration of the bill.
- HB 451 is important because it helps divert these hazardous things from our landfills.
- She stated that she wants to explain what we do now and why we need this bill.

- What we do now is tell consumers who have leftover paint that they should throw it in some cat litter to dry it out and then throw it in the trash. Doing this adds weight to the trash being delivered to local transfer stations, which adds costs for municipalities because of the extra weight, and when it arrives in landfills it's a toxic material.
- It can create more leachate in landfills which is difficult to deal with. Leachate can get into the land and water system around a landfill.
- If we can divert paint products from our landfills, it would go a long way toward helping landfill operators operate a cleaner landfill and protect our environment.
- This makes it easier for our consumers who have leftover paint as well. It is dangerous to have cans of leftover paint in your house as they emit odors and create problems.
- This is a good mechanism to solve the problem of storing and disposing of leftover paint.
- Rep. Ebel said they had total bipartisan support both times this idea came through their committee and the House.
- She said they have finally worked out the money aspect of the bill and she supports this very strongly.

**Sen. Lang** asked if there is a cost when towns run a collection day.

**Rep. Aron** said yes there is a cost to the taxpayer because the taxpayer is paying the town to have the hazardous waste day. The less material they have to deal with, the fewer times they have to have a hazardous waste day to collect it. She added that she doesn't believe they collect latex paint either, which can be a problem for consumers and is why it ends up in the landfill.

**Rep. Ebel** returned to speak a second time. She referenced a letter from the Northeast Resource Recovery Association. They found that for communities with an average of 9,631 people, the cost was over \$13,000 for these collection days. On average 53% of the material collected was paint. This means when a community runs a hazardous waste day, the cost is over \$7,000 just in paint.

**Sen. Lang** asked if her testimony was that given that cost, there would be a \$7,000 shift from the taxpayer over to the consumer who's actually buying the paint if this bill passes.

**Rep. Ebel** said if he wants to look at it that way, but she's not sure it tracks exactly. She said one could argue that it's being turned over to the users of the paint as opposed to defrayed across all of the taxpayers in the community.

#### **Natch Greyes - Business and Industry Association**

- This is the most efficient use of money for disposal of paint. It is brought to the legislature by industries solving a problem identified by the industry and supported by everyone in the room that is present for this bill.
- In addition to the cost of the actual disposal and the hazardous waste day, there is a problem identified by landfill operators, which is that some people just throw their paint into their garbage, and it goes to the landfill and it adds to the

leachate problem. The goal is less leachate as it's better for everyone because the taxpayers aren't paying for treating that as well. There are additional costs in addition to ones that were identified by the Resource Recover Association.

- Essentially this bill is asking permission for manufacturers to work together to address this problem. From a legal standpoint, that is what is needed from the legislature. They need to work together to address the problem they have identified.
- Since it is a voluntary program, sellers of paint and retailers can opt into this. They can look at their own numbers and ensure it works for them.
- It is an efficient use of money and it is voluntary.
- These costs will not be extensive and there will be an improvement from the environmental perspective in terms of landfills.

#### **Brody Deshaies - NH Municipal Association -**

- There is benefit to towns by having collection sites that are operated at solid waste facilities or by private businesses in the municipalities.
- It creates less stress in the household hazardous waste days that municipalities host to limit people from improperly disposing their waste.
- If there were to be increased costs because of more waste disposal, which has happened in Maine, municipalities can increase fees for any items being disposed of in order to deal with those increased costs.
- What they saw in Maine, especially in rural areas, was that people were bringing in hazardous waste like paint but also other hazardous waste that they had lying around for years, which benefits the environment and municipalities if people are incentivized to not leave hazardous waste on their property or improperly dispose of it.

#### **Heidi McAuliffe, Senior VP Government Affairs, American Coatings Association (ACA)**

- The ACA represents paint manufactures, suppliers, and distributors.
- PaintCare is an in industry developed and supported program.
- About 25-35 years ago they didn't worry about the end-of-life management of paint. Paint manufacturers have come to realize the scope of this problem and that they need to help develop a solution.
- In the early 2000s they developed PaintCare, which is currently operating in 11 different states, soon to be 13 states, and 14 if NH passes this bill.
- Over the last 14 years the program has collected 76 million gallons of architectural paint, solvent-based paint and latex paint. 80% of the latex gets recycled back into mostly paint products and other products as well. There is not good technology to recycle solvent-based paint back into paint, so they currently send that mostly to energy recovery facilities.
- This program does exactly what they say it will do: it gets leftover paint out of basements and garages, and they make it convenient by setting up multiple locations. They make a commitment that they will set up a collection location within 15 miles of everyone's homes in this state. They send transporters to

those locations to pick up the collected material, and they take it directly to processors.

- Once this program is enacted all legacy paint, which is old paint sitting around, can be brought to collection center at no cost. The program is funded by a fee and the fee is established by the stewardship organization after they do a thorough study of the cost of transportation, the cost of processing, and the sales of paint in the State of NH. They use a financial auditor to evaluate all of the different data points and determine a schedule of fees. For the smallest container of paint, it's zero; for a one gallon can, the fee ranges from 75 cents per gallon to 90 cents in the northeast. For a five gallon can it is somewhere around \$1.50 or \$1.75.
- That fee is paid directly by manufacturers on a quarterly basis to the stewardship organization. That fee is then added to the price of paint and is passed down through distributors to the retailers and then when the retailers sell the paint, the consumer pays it. That is 100% of the revenue for this program.
- They have been successful in diverting all collected material from landfills. In other states it's had an impact of preventing a lot of dumping because now it's convenient for consumers to bring the paint to collection locations.
- The manufacturer estimates their sales in the state and pays directly to the stewardship organization. The stewardship organization develops the plan, including the fee schedule, submits that to the agency and once the agency approves it, they'll spend the next couple months developing the retail network. They will also work with the local municipalities that are collecting paint and sign them up as collection locations.
- The local municipalities also stand to gain. Once they're cooperating with PaintCare, PaintCare will pay for the cost of transportation and processing.
- When retailers purchase paint from distributors nothing changes except the added fee on price of paint. They can choose to sign up as a collection location, but they don't need to.
- When a consumer returns leftover paint there is no charge. They bring it to a participating location and give it to an employee. The consumer will get educational information about this program when they buy the paint.
- Contractors benefit from the program as well through the large volume pick up service. They can arrange for PaintCare to send a truck to their location to collect leftover paint at no cost and take it directly to a processor.
- If this bill becomes law, PaintCare will work for the next 12 months to develop a program plan, working collaboratively with the agency. They will pay the agency for their time through a fee they pay when they submit the program plan as well as annually thereafter.

**Sen. Sullivan** asked where the 20% of latex paint that is not able to be recycled goes. **Ms. McAuliffe** responded that it most likely goes to a landfill. She said it is typically latex paint not solvent.

**Sen. Sullivan** said the manufacture is not just including this in the wholesale price, it is now a tax to the consumer.

**Ms. McAuliffe** said it's a user fee and it is not set by the manufacturer. It is developed by an independent financial auditor working with PaintCare.

**Sen. Sullivan** asked if she were to go to Home Depot and get a gallon of paint for \$22, if the fee would be added after when she purchases it.

**Ms. McAuliffe** said the purchase price is marked accordingly to include the fee from the manufacturer.

**Sen. Lang** clarified that the price that's on the wall is inclusive of the fee and no one will be surprised at checkout.

**Ms. McAuliffe** said yes.

**Sen. Rosenwald** said she saw that PaintCare is a 501(C)3 and asked if it is currently registered with the NH Secretary of State's Office.

**Ms. McAuliffe** said PaintCare is not currently working in NH so they are not registered. She added that it will be a state specific LLC once the bill is passed.

**Sen. Rosenwald** clarified that she meant an LLC, not a 501(C)3.

**Ms. McAuliffe** said yes it will be.

**Sen. Rosenwald** stated that Ms. McAuliffe said there would be a fee paid by paint care to the agency. She said the fiscal note says that DES has to hire a part-time person for \$49,000 and asked if that fee would cover the cost of that.

**Ms. McAuliffe** said the philosophy of PaintCare is to reimburse the agency for 100% of its costs. That will be a negotiated element of the program plan.

#### **Michael Nork and Todd Piskovitz – DES**

- They have not taken an official position on the bill but have worked extensively with the sponsor and the ACA on the technical aspects of the bill.

**Sen. Lang** asked if the intention of the department was for the 20 hour a week person to be part of the plan to reimburse the agency.

**Mr. Piskovitz** responded that he doesn't anticipate they would hire someone for this position, but they would set up an accounting code so that any work spent on this program can be identified on time sheets and sent to PaintCare and DES would expect to be reimbursed for that.

**Sen. Lang** asked him to clarify that there would be no state expense on the DES side for this program.

**DES** said that was correct. **Mr. Nork** said they tried to develop the fiscal note in a way that reflected that, which is why there is a revenue piece and an expenditure that are equal, so it is a wash. **Mr. Piskovitz** added that as Rep. Ebel said in her testimony, they anticipate the first year and a half of the program will take more time and effort, but once its established it will be a lot less work.

**Sen. Lang** asked about the savings to local municipalities and taxpayers estimated at \$150,000 per year in the fiscal note.

**Mr. Piskovitz** said he thinks that number is quite low. They run a household hazardous waste grant program, and they provide grant assistance to roughly 23 municipalities or regional planning commissions and that figure was based on the numbers they're getting from the grant program. There are many municipalities that do not participate in the grant program so DES has no idea what their costs are.

**Sen. Lang** asked if that grant program will still continue for the 47% of hazardous waste that is not collected through PaintCare.

**Mr. Piskovitz** said that yes it would continue.

**Mr. Nork** added that the hazardous waste collection aspect of paint management is one cost factor. They don't have any data on non-hazardous waste paint disposal that goes to landfills and what that cost represents to municipalities so that is another unknown variable. There are additional cost savings that municipalities would realize.

**Rep. Ebel** said that line 25 of page 3 mentions administrative reimbursement. She wanted to ensure no financial hit to the state for this program. This provision tightly controls the reimbursement situation. The language at the top of page 3, line 3 says a paint collection site authorized shall not charge an additional amount for the collection of paint. Line 5 says they will include a per container assessment in the cost of the paint, so the customer experience will not change.

**Sen. Sullivan** asked if she would support an amendment to line 7 that says that assessment amount will be included in the sticker price just to eliminate any potential confusion.

**Rep. Ebel** asked that she collaborate with Chairman Hunt if she wants to do that. It is a user fee paid for by the user rather than being defrayed across all taxpayers through hazardous waste collection days.

**Sen. Rosenwald** asked if there was a mechanism in the bill to make sure that the assessment added per container would not exceed the costs of the department.

**Rep. Ebel** said there are audit provisions in the bill to make sure that is tightly controlled. She said she didn't think anyone was looking to make money on this program. There is also a provision for an annual report.