

HB 451-FN - AS AMENDED BY THE HOUSE

13Mar2025... 0458h

2025 SESSION

25-0600

08/02

HOUSE BILL **451-FN**

AN ACT establishing the paint product stewardship program.

SPONSORS: Rep. Ebel, Merr. 7; Rep. J. Aron, Sull. 4; Rep. M. Murray, Hills. 37; Rep. Bixby, Straf. 13; Rep. Creighton, Hills. 30; Rep. Grote, Rock. 24; Rep. N. Germana, Ches. 15; Sen. Watters, Dist 4; Sen. Ricciardi, Dist 9; Sen. Pearl, Dist 17; Sen. Avar, Dist 12; Sen. Rosenwald, Dist 13

COMMITTEE: Commerce and Consumer Affairs

ANALYSIS

This bill establishes the paint product stewardship program.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT establishing the paint product stewardship program.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Subdivision; Paint Product Stewardship Program. Amend RSA 149-M by inserting after
2 section 64 the following new subdivision:

3 Paint Product Stewardship Program

4 149-M:65 Definitions. In this subdivision:

5 I. "Aerosol coating product" means a pressurized coating product containing pigments or
6 resins dispensed by means of a propellant and packaged and sold in a disposable aerosol container
7 for hand-held application, or for use in specialized equipment for ground traffic or marking
8 applications.

9 II. "Architectural paint" means interior and exterior architectural coatings sold in
10 containers of 5 gallons or less.

11 III. "Collection site" means any location or event at which paint is accepted into a
12 postconsumer paint stewardship program pursuant to a postconsumer paint stewardship program
13 plan.

14 IV. "Department" means the department of environmental services.

15 V. "Environmentally sound management practices" means procedures for the collection,
16 storage, transportation, reuse, recycling, energy recovery, and disposal of paint, that comply with all
17 applicable federal, state and local laws, including adequate record keeping, tracking and
18 documenting of the final disposition of materials.

19 VI. "Postconsumer paint" means paint not used and no longer wanted by a purchaser.

20 VII. "Manufacturer" means manufacturer of a paint product who sells, offers for sale or
21 distributes the paint product in the state under the manufacturer's own name or brand.

22 VIII. "Paint or paint product" means architectural paint, aerosol coating products, and
23 additional products as defined in an approved program plan. "Paint" or "Paint product" shall not
24 include industrial or original equipment coatings.

25 IX. "Program" means a postconsumer paint stewardship program established pursuant to
26 RSA 149-M:66.

27 X. "Representative organization" means a nonprofit organization established by a
28 manufacturer to implement a postconsumer paint stewardship program.

29 XI. "Retailer" means a company that offers paint or other allied products for retail sale in
30 the state.

31 149-M:66 Paint Product Stewardship Program Plan.

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1 I. A manufacturer of paint sold at retail in New Hampshire, or representative organization,
2 shall submit to the commissioner a plan for the establishment of a postconsumer paint product
3 stewardship program to cover paint products as defined in RSA 149-M:65. Additional paint products
4 may be proposed in a subsequent program plan in consultation with the department.

5 II. A plan submitted to the department under this section shall:

6 (a) Provide a list of participating manufacturers and brands covered by a program.

7 (b) Provide information on the paint products covered by the program.

8 (c) Describe how paint products covered by a program will be managed using
9 environmentally sound management practices.

10 (d) Describe education and outreach efforts to inform consumers about a program.

11 (e) Describe the assessment added to each unit of paint product sold or transferred for
12 retail sale or to the public in New Hampshire as a result of a program.

13 III. Participation as a collection site is voluntary. A retailer or political subdivision that
14 agrees to comply with any requirements that are consistent with the stewardship plan may request
15 in writing to participate in the stewardship plan as an approved collection site.

16 IV. A manufacturer may, individually or through a stewardship organization, suspend or
17 terminate use of an approved collection site that does not comply with all applicable state, federal, or
18 municipal laws and regulations or adhere to the rules and conditions imposed by the stewardship
19 organization.

20 149-M:67 Plan Submission and Approval.

21 I. A plan required by RSA 149-M:66 shall be submitted within 12 months of the effective
22 date of this subdivision. The department may extend the time for submission of the plan for cause
23 shown. A manufacturer or representative organization may propose an update to an approved
24 program plan by submitting a revised program plan as described in RSA 149-M:66.

25 II. Not later than 90 days after submission of a plan under this section, the department
26 shall approve a plan submitted in accordance with RSA 149-M:66 and send written notification of
27 such approval to the organization that submitted the plan upon determining that the organization
28 submitting the plan fulfilled the requirements of RSA 149-M:66, II.

29 III. If the department does not approve the plan, the department shall provide written
30 notification to the organization that submitted the plan of the reason for the denial. Such denial
31 shall not preclude the organization from submitting an amended plan.

32 149-M:68 Sale of Paint. Upon the date of implementation:

33 I. A manufacturer or retailer shall not sell, or offer for sale, a paint product to any person in
34 New Hampshire unless the manufacturer or manufacturer's representative organization is
35 implementing an approved program plan as required by RSA 149-M:66.

36 II. A retailer shall be in compliance with this section if, on the date the paint product was
37 offered for sale, the manufacturer is listed on the department's website as implementing or

1 participating in an approved program plan, or if the paint brand is listed on the department's
2 website as being included in the program.

3 III. A paint collection site authorized under the provisions of this section shall not charge
4 any additional amount for the management of paint when it is offered for collection.

5 IV. Each manufacturer, distributor, and retailer shall include the per-container assessment
6 amount set forth in an approved plan in the purchase price of any paint product sold in or into New
7 Hampshire.

8 149-M:69 Annual Report.

9 I. A manufacturer or representative organization implementing an approved program plan
10 under this subdivision shall submit a report annually to the commissioner that details the program
11 in accordance with the program plan requirements.

12 II. The first annual report shall be due 120 days after completion of the first year of program
13 implementation, and in no case later than 18 months from the date the plan was approved.
14 Thereafter, annual reports shall be submitted within 120 days after the end of each calendar year.

15 149-M:70 Liability and Disclosure.

16 I. A manufacturer or representative organization implementing or participating in a
17 program shall be exempt from RSA 356 with respect to any claim of a violation of antitrust, restraint
18 of trade, unfair trade practice, or other anticompetitive conduct arising from conduct undertaken in
19 accordance with a program.

20 II. Financial, production or sales data reported to the department by a manufacturer or by
21 the representative organization is not a public record pursuant to RSA 91-A:5, IV and rules adopted
22 by the department pursuant thereto and shall not be subject to public inspection or disclosure. The
23 commissioner may release a summary form of such data that does not disclose financial, production
24 or sales data of the manufacturer, retailer or representative organization.

25 149-M:71 Administrative Reimbursement.

26 I. Manufacturers and stewardship organizations shall collectively pay the department's
27 reasonably incurred administrative costs related to implementing this chapter. The timing and
28 amount of administrative payments shall be determined in consultation with the department.

29 II. No later than 90 days before a stewardship plan is required to be submitted to the
30 department, the department shall notify each manufacturer acting individually and each
31 representative organization of its reasonably incurred administrative costs related to implementing
32 this chapter. This shall include reasonable actual costs associated with rulemaking and other
33 startup activities before the stewardship plan is submitted and approved.

34 149-M:72 Implementation. A program plan shall be implemented within 6 months of the date of
35 approval by the department. The department may extend the date of implementation for good cause
36 shown. The department may adopt rules under RSA 541-A to implement the program.

37 149-M:73 Postconsumer Paint from Households and Small Businesses.

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1 I. Postconsumer paint that is otherwise defined as hazardous waste by RSA 147-A and rules
2 adopted by the department pursuant thereto, and that is received at a collection site, shall be
3 managed as universal waste in accordance with rules established by the department.

4 II. Any person who agrees to operate a collection point and who responsibly implements
5 environmentally-sound management practices in good faith shall not be subject to penalties for the
6 acceptance or storage of, or for any spill, leak, or discharge of collected paint, or other materials that
7 are inadvertently accepted pursuant to the program, and which occurs despite the implementation of
8 such practices.

9 III. Nothing in this section shall be construed as restricting the collection of postconsumer
10 paint by a stewardship program where such collection is authorized under any other laws or
11 regulations.

12 IV. Nothing in this section shall be construed to affect any requirements applicable to
13 facilities that treat, dispose of, or recycle postconsumer paint products under an otherwise applicable
14 law, rule or regulation.

15 2 Effective Date. This act shall take effect upon its passage.

HB 451-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0458h)

AN ACT establishing the paint product stewardship program.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$49,000	\$48,000	\$50,000
<i>Revenue Fund(s)</i>	General Fund			
Expenditures*	\$0	\$49,000	\$48,000	\$50,000
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	\$0	Indeterminable Decrease (\$150,000+)	Indeterminable Decrease (\$150,000+)

METHODOLOGY:

This bill would amend RSA 149-M to create a paint stewardship program, managed by manufacturers or a representative organization, which would submit a plan to the Department of Environmental Services detailing collection, management, funding through fees, and site distribution. The Department would oversee rulemaking, plan reviews, regulatory enforcement, and evaluation, with administrative costs reimbursed annually by manufacturers through a fee paid to the General Fund.

The Department estimates implementing this bill would require hiring a part-time Environmentalist IV (SOC 19, Band 8) for approximately 20 hours per week, starting July 1, 2025, with an expense for salary and position costs of \$49,000 for FY 2026 and \$48,000 for FY 2027, to handle rulemaking and startup activities. It is assumed the \$50,000 cost in FY 2028

would be included in the Department's FY 2028 and FY 2029 budget requests. Additionally, the costs for this position are expected to be fully covered by administrative fees paid by manufacturers or a representative organization and reflected in the increase in General Fund revenue above.

The Department also states the impact to local expenditures is an indeterminable decrease of at least \$150,000 per a year, starting in FY 2027, for reduced expenditures in waste paint management as these costs would shift to the paint stewardship program. While data on municipal solid waste paint disposal costs are unavailable, the Department has some data on household hazardous waste (HHW) paint management. In FY 2024, invoices from HHW collection events show municipalities spent at least \$150,000 on paint disposal. This figure is incomplete, as it only includes municipalities reimbursed through the Department's HHW Grant Program, and some invoices combine costs, making it difficult to calculate paint-specific expenses. Despite these gaps, the total statewide cost is likely to be much higher, however \$150,000 serves as a baseline for potential savings under this bill.

It is assumed that any fiscal impact will occur after FY 2025.

AGENCIES CONTACTED:

Department of Environmental Services