

HB 451-FN - AS INTRODUCED

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. Avard, 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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 New Subdivision; Paint Product Stewardship Program. Amend RSA 149-M by inserting after section 64 the following new subdivision:

Paint Product Stewardship Program

149-M:65 Definitions. In this subdivision:

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

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

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

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

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

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

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

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

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

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

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

149-M:66 Paint Product Stewardship Program Plan.

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) Establish a goal for the number and geographic distribution of collection sites for
9 postconsumer paint products.

10 (d) Describe how paint products covered by a program will be managed using
11 environmentally sound management practices.

12 (e) Describe education and outreach efforts to inform consumers about a program.

13 (f) Provide examples of collection site procedural manuals for architectural paint
14 products, including training procedures and electronic copies of materials that will be provided to
15 collection sites.

16 (g) Describe the funding mechanism and any added fee to paint products sold in New
17 Hampshire as a result of a program. The description shall demonstrate how the funding mechanism
18 will not exceed the costs to operate and sustain a program in accordance with sound management
19 practices.

20 (1) A funding mechanism shall provide a fee for each container of a paint product
21 sold by manufacturers in New Hampshire and the fee shall be remitted to the representative
22 organization, if applicable.

23 (2) The fee shall be added to the cost of all paint products sold to New Hampshire
24 retailers and distributors, and each New Hampshire retailer or distributor shall add the fee to the
25 purchase price of all paint products covered by a program sold in New Hampshire.

26 (3) The initial fee shall not be more than \$0.75 for containers larger than a half pint
27 up to smaller than one gallon, \$1.75 for containers from one to 2 gallons, and \$3.00 for containers
28 larger than 2 gallons.

29 (4) An independent auditor, selected in consultation with the department, shall
30 verify that the assessment added to each container of a paint product will not exceed the costs to
31 operate and sustain a program in accordance with sound management practices. The cost of any
32 work performed by such independent auditor shall be funded by a program.

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

36 IV. A manufacturer may, individually or through a stewardship organization, suspend or
37 terminate use of an approved collection site that does not comply with all applicable state, federal, or

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1 municipal laws and regulations or adhere to the rules and conditions imposed by the stewardship
2 organization.

3 149-M:67 Plan Submission and Approval.

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

8 II. The department shall review a plan submitted under RSA 149-M:66. The department
9 shall publish a notice on its website that the plan is available for public review at least 30 days prior
10 to making a determination of whether to approve the plan.

11 III. Not later than 90 days after submission of a plan under this section, the department
12 shall approve the plan and send written notification of such approval to the organization that
13 submitted the plan upon determining that:

14 (a) The organization submitting the plan appears capable of implementing the plan;

15 (b) The proposed methods of collecting, transporting, and processing postconsumer paint
16 appear adequate to meet the goals stated in RSA 149-M:66, II(d); and

17 (c) The funding mechanism proposed in the plan appears adequate to meet the
18 requirements of RSA 149-M:66, II(g).

19 IV. If the department does not approve the plan, the department shall provide written
20 notification to the organization that submitted the plan of the reason for the denial. Such denial
21 shall not preclude the organization from submitting an amended plan.

22 149-M:68 Sale of Paint. Upon the date of implementation:

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

26 II. A retailer shall be in compliance with this section if, on the date the paint product was
27 offered for sale, the manufacturer is listed on the department's website as implementing or
28 participating in an approved program plan, or if the paint brand is listed on the department's
29 website as being included in the program.

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

32 IV. Each manufacturer, distributor, and retailer shall include the per-container fee amount
33 set forth in an approved plan in the purchase price of any paint product sold in or into New
34 Hampshire. Retailers may incorporate the fee as part of the price amount displayed to consumers of
35 paint products. Retailers are not required to incorporate the fee as part of the price amount
36 displayed to consumers for paint products, provided that those retailers make information about the
37 fee available to consumers of paint products prior to purchase.

149-M:69 Annual Report.

I. A manufacturer or representative organization implementing an approved program plan under this subdivision shall submit a report annually to the commissioner that details the program.

At a minimum, the report shall include all of the following:

(a) The total volume of paint sold in this state during the preceding program year.

(b) The total volume of postconsumer paint recovered in this state during the preceding program year.

(c) A description of methods used to collect, transport, and process postconsumer paint products in this state.

(d) The total cost of implementing the stewardship program.

(e) An evaluation of how the stewardship program's funding mechanism operated.

(f) An independent financial audit funded from the stewardship assessment.

(g) Examples of educational materials that were provided to consumers the first year and any changes to those materials in subsequent years.

(h) Any other information deemed relevant by the stewardship organization for the department to determine compliance with the stewardship plan

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

149-M:70 Liability and Disclosure.

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

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

149-M:71 Administrative Fee.

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

II. No later than 90 days before a stewardship plan is required to be submitted to the department, the department shall notify each manufacturer acting individually and each representative organization of its reasonable personnel costs, related to implementing and enforcing

1 this chapter. This shall include the actual and reasonable costs associated with rulemaking and
2 other startup activities before the stewardship plan is submitted and approved.

3 149-M:72 Implementation. A program plan shall be implemented within 6 months of the date of
4 approval by the department. The department may extend the date of implementation for good cause
5 shown. The department may adopt rules under RSA 541-A to implement the program.

6 149-M:73 Postconsumer Paint from Households and Small Businesses.

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

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

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

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

21 2 Effective Date. This act shall take effect July 1, 2025.

HB 451-FN- FISCAL NOTE
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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.

AGENCIES CONTACTED:

Department of Environmental Services