

6930--A

2013-2014 Regular Sessions

I N A S S E M B L Y

April 25, 2013

Introduced by M. of A. PEOPLES-STOKES, MAISEL -- read once and referred to the Committee on Environmental Conservation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the environmental conservation law, in relation to establishing the paint stewardship program

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 27 of the environmental conservation law is amended
2 by adding a new title 20 to read as follows:

3 TITLE 20

4 PAINT STEWARDSHIP PROGRAM

5 SECTION 27-2001. DEFINITIONS.

6 27-2003. PAINT STEWARDSHIP PROGRAM.

7 27-2005. REGULATIONS.

8 27-2007. REPORTING.

9 S 27-2001. DEFINITIONS.

10 WHEN USED IN THIS TITLE:

11 1. "ARCHITECTURAL PAINT" MEANS INTERIOR AND EXTERIOR ARCHITECTURAL
12 COATINGS SOLD IN CONTAINERS OF FIVE GALLONS OR LESS. ARCHITECTURAL PAINT
13 DOES NOT INCLUDE INDUSTRIAL, ORIGINAL EQUIPMENT OR SPECIALTY COATINGS.

14 2. "DISTRIBUTOR" MEANS A PERSON THAT HAS A CONTRACTUAL RELATIONSHIP
15 WITH ONE OR MORE PRODUCERS TO MARKET AND SELL ARCHITECTURAL PAINT TO
16 RETAILERS OR DIRECTLY TO CONSUMERS OR END-USERS IN THE STATE.

17 3. "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES" MEANS PROCEDURES FOR
18 THE COLLECTION, STORAGE, TRANSPORTATION, REUSE, RECYCLING AND DISPOSAL
19 OF ARCHITECTURAL PAINT, TO BE IMPLEMENTED BY THE REPRESENTATIVE ORGAN-
20 IZATION OR SUCH REPRESENTATIVE ORGANIZATION'S CONTRACTED PARTNERS TO
21 ENSURE COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS,
22 REGULATIONS AND ORDINANCES AND THE PROTECTION OF HUMAN HEALTH AND THE
23 ENVIRONMENT. ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES INCLUDE, BUT ARE

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 NOT LIMITED TO, RECORD KEEPING, THE TRACKING AND DOCUMENTING OF THE FATE
2 OF POST-CONSUMER PAINT IN AND OUTSIDE OF THE STATE, AND ENVIRONMENTAL
3 LIABILITY COVERAGE FOR PROFESSIONAL SERVICES AND FOR THE OPERATIONS OF
4 THE CONTRACTORS WORKING ON BEHALF OF THE REPRESENTATIVE ORGANIZATION.

5 4. "PAINT STEWARDSHIP ASSESSMENT" MEANS THE AMOUNT ADDED TO THE
6 PURCHASE PRICE OF ARCHITECTURAL PAINT SOLD IN THE STATE THAT IS NECES-
7 SARY TO COVER THE COST OF COLLECTING, TRANSPORTING AND PROCESSING POST-
8 CONSUMER PAINT BY THE REPRESENTATIVE ORGANIZATION PURSUANT TO THE PAINT
9 STEWARDSHIP PROGRAM.

10 5. "POST-CONSUMER PAINT" MEANS ARCHITECTURAL PAINT THAT IS NOT USED
11 AND THAT IS NO LONGER WANTED BY A PURCHASER OF ARCHITECTURAL PAINT.

12 6. "PRODUCER" MEANS A MANUFACTURER OF ARCHITECTURAL PAINT WHO SELLS,
13 OFFERS FOR SALE, DISTRIBUTES OR CONTRACTS TO DISTRIBUTE ARCHITECTURAL
14 PAINT IN THE STATE.

15 7. "RECYCLING" MEANS THE SERIES OF ACTIVITIES BY WHICH RECYCLABLES ARE
16 COLLECTED, SORTED, PROCESSED AND CONVERTED INTO RAW MATERIALS OR USED IN
17 THE PRODUCTION OF NEW PRODUCTS. THIS TERM EXCLUDES THERMAL TREATMENT OR
18 THE USE OF WASTE AS A FUEL SUBSTITUTE OR FOR ENERGY PRODUCTION.

19 8. "REPRESENTATIVE ORGANIZATION" MEANS THE NONPROFIT ORGANIZATION
20 CREATED BY PRODUCERS TO IMPLEMENT THE PAINT STEWARDSHIP PROGRAM
21 DESCRIBED IN SECTION 27-2003 OF THIS TITLE.

22 9. "RETAILER" MEANS ANY PERSON WHO OFFERS ARCHITECTURAL PAINT FOR SALE
23 AT RETAIL IN THE STATE.

24 10. "REUSE" MEANS THE RETURN OF A PRODUCT INTO THE ECONOMIC STREAM FOR
25 USE IN THE SAME KIND OF APPLICATION AS THE PRODUCT WAS ORIGINALLY
26 INTENDED TO BE USED, WITHOUT A CHANGE IN THE PRODUCT'S IDENTITY.

27 11. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR
28 THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUD-
29 ING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES
30 OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC
31 MEANS; THIS DOES NOT INCLUDE SAMPLES, DONATIONS, AND REUSE.

32 S 27-2003. PAINT STEWARDSHIP PROGRAM.

33 1. ON OR BEFORE MARCH FIRST, TWO THOUSAND FIFTEEN, EACH PRODUCER SHALL
34 JOIN THE REPRESENTATIVE ORGANIZATION AND SUCH REPRESENTATIVE ORGANIZA-
35 TION SHALL SUBMIT A PLAN FOR THE ESTABLISHMENT OF A PAINT STEWARDSHIP
36 PROGRAM TO THE DEPARTMENT FOR APPROVAL. THE PROGRAM SHALL MINIMIZE THE
37 PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-CONSUMER PAINT BY
38 REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGOTIATING AGREEMENTS
39 TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR BURN FOR ENERGY RECOVERY
40 AT AN APPROPRIATELY LICENSED FACILITY POST-CONSUMER PAINT USING ENVIRON-
41 MENTALLY SOUND MANAGEMENT PRACTICES. THE PROGRAM SHALL MINIMIZE THE
42 PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-CONSUMER PAINT BY
43 REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGOTIATING AGREEMENTS
44 TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR COMBUST FOR ENERGY RECOV-
45 ERY AT AN APPROPRIATELY AUTHORIZED FACILITY, INCLUDING PERMITTEES,
46 POST-CONSUMER PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES.

47 2. THE PROGRAM SHALL PROVIDE FOR CONVENIENT AND AVAILABLE STATE-WIDE
48 COLLECTION OF POST-CONSUMER PAINT THAT, AT A MINIMUM, PROVIDES AT LEAST
49 ONE PERMANENT COLLECTION SITE LOCATED WITHIN A FIFTEEN MILE RADIUS OF
50 ALL "INCORPORATED CITIES" AND "CENSUS-DESIGNATED PLACES" IN THE STATE;
51 AND ONE ADDITIONAL PERMANENT COLLECTION SITE FOR EVERY THIRTY THOUSAND
52 PEOPLE LOCATED IN THOSE AREAS, UNLESS OTHERWISE APPROVED BY THE DEPART-
53 MENT. WHERE A PERMANENT COLLECTION SITE CANNOT BE LOCATED WITHIN A
54 FIFTEEN MILE RADIUS OF AN INCORPORATED CITY OR CENSUS-DESIGNATED PLACE,
55 THE PROGRAM SHALL PROVIDE FOR AT LEAST ONE COLLECTION EVENT ANNUALLY.

1 THE PROGRAM SHALL NOT CHARGE A FEE TO THE CONSUMER AT THE TIME OF
2 COLLECTION OF POST-CONSUMER ARCHITECTURAL PAINT.

3 3. THE PLAN SUBMITTED TO THE DEPARTMENT PURSUANT TO THIS SECTION
4 SHALL:

5 (A) IDENTIFY EACH PRODUCER PARTICIPATING IN THE PAINT STEWARDSHIP
6 PROGRAM AND THE BRANDS OF ARCHITECTURAL PAINT SOLD IN THE STATE COVERED
7 BY THE PROGRAM;

8 (B) IDENTIFY HOW THE REPRESENTATIVE ORGANIZATION WILL PROVIDE CONVEN-
9 IENT, STATEWIDE ACCESSIBILITY TO THE PROGRAM;

10 (C) SET FORTH THE PROCESS BY WHICH AN INDEPENDENT AUDITOR WILL BE
11 SELECTED AND IDENTIFY THE CRITERIA USED BY THE REPRESENTATIVE ORGANIZA-
12 TION IN SELECTING AN INDEPENDENT AUDITOR;

13 (D) IDENTIFY, IN DETAIL, THE EDUCATIONAL AND OUTREACH PROGRAM THAT
14 WILL BE IMPLEMENTED TO INFORM CONSUMERS AND RETAILERS OF THE PROGRAM AND
15 HOW TO PARTICIPATE;

16 (E) IDENTIFY, IN DETAIL, THE OPERATIONAL PLANS FOR INTERACTING WITH
17 RETAILERS ON THE PROPER HANDLING AND MANAGEMENT OF POST-CONSUMER PAINT;

18 (F) INCLUDE THE PROPOSED, AUDITED PAINT ASSESSMENT AS IDENTIFIED IN
19 THIS SECTION AND THE CRITERIA UPON WHICH THE ASSESSMENT IS BASED;

20 (G) INCLUDE THE TARGETED ANNUAL COLLECTION RATE;

21 (H) INCLUDE A DESCRIPTION OF THE INTENDED TREATMENT, STORAGE, TRANS-
22 PORTATION AND DISPOSAL OPTIONS AND METHODS FOR THE COLLECTED POST-CON-
23 SUMER PAINT; AND

24 (I) BE ACCOMPANIED BY A FEE IN THE AMOUNT OF FIVE THOUSAND DOLLARS FOR
25 EACH PRODUCER AND TEN THOUSAND DOLLARS FOR EACH PRODUCT STEWARDSHIP
26 ORGANIZATION TO BE DEPOSITED INTO THE ENVIRONMENTAL REGULATORY ACCOUNT
27 AS ESTABLISHED IN SECTION 72-1009 OF THIS CHAPTER, TO COVER THE REVIEW
28 OF SAID PLAN BY THE DEPARTMENT.

29 4. THE COMMISSIONER SHALL APPROVE OR REJECT A PLAN SUBMITTED UNDER
30 THIS SECTION WITHIN NINETY DAYS OF SUBMISSION AND, IF REJECTED, INFORM
31 THE PRODUCER OR PRODUCT STEWARDSHIP ORGANIZATION IN WRITING AS TO ANY
32 DEFICIENCIES IN SAID PLAN. A PRODUCER OR PRODUCT STEWARDSHIP ORGANIZA-
33 TION SHALL AMEND AND RESUBMIT ANY REJECTED PLANS FOR RECONSIDERATION
34 WITHIN SIXTY DAYS OF NOTIFICATION OF THE REJECTION OF SAID PLAN. THE
35 COMMISSIONER SHALL APPROVE OR REJECT SAID PLAN WITHIN THIRTY DAYS OF
36 RESUBMISSION. A PLAN SHALL BE APPROVED BY THE COMMISSIONER IF IT MEETS
37 THE REQUIRED ELEMENTS UNDER SUBDIVISION THREE OF THIS SECTION.

38 5. NOT LATER THAN THREE MONTHS AFTER THE DATE THE PLAN IS APPROVED,
39 THE REPRESENTATIVE ORGANIZATION SHALL IMPLEMENT THE PAINT STEWARDSHIP
40 PROGRAM.

41 6. ON OR BEFORE MARCH FIRST, TWO THOUSAND FIFTEEN, THE PROPOSED
42 UNIFORM PAINT STEWARDSHIP ASSESSMENT FOR ALL ARCHITECTURAL PAINT SOLD IN
43 THE STATE SHALL BE REVIEWED BY AN INDEPENDENT AUDITOR TO ASSURE THAT THE
44 ASSESSMENT IS CONSISTENT WITH THE BUDGET OF THE PAINT STEWARDSHIP
45 PROGRAM DESCRIBED IN THIS SECTION AND THE INDEPENDENT AUDITOR SHALL
46 RECOMMEND AN AMOUNT FOR THE PAINT STEWARDSHIP ASSESSMENT TO THE DEPART-
47 MENT. THE DEPARTMENT SHALL APPROVE THE PAINT STEWARDSHIP ASSESSMENT
48 BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. THE DEPARTMENT
49 SHALL BE RESPONSIBLE FOR THE APPROVAL OF SUCH PAINT STEWARDSHIP ASSESS-
50 MENT BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. IF THE PAINT
51 STEWARDSHIP ASSESSMENT PREVIOUSLY APPROVED BY THE DEPARTMENT PURSUANT TO
52 THIS SECTION IS PROPOSED TO BE CHANGED, THE REPRESENTATIVE ORGANIZATION
53 SHALL SUBMIT THE NEW, ADJUSTED UNIFORM PAINT STEWARDSHIP ASSESSMENT TO
54 AN INDEPENDENT AUDITOR FOR REVIEW. AFTER SUCH REVIEW HAS BEEN COMPLETED,
55 THE REPRESENTATIVE ORGANIZATION SHALL SUBMIT THE RESULTS OF SAID AUDI-
56 TOR'S REVIEW AND A PROPOSAL TO AMEND THE PAINT STEWARDSHIP ASSESSMENT TO

1 THE DEPARTMENT FOR REVIEW. THE DEPARTMENT SHALL REVIEW AND APPROVE, IN
2 WRITING, THE ADJUSTED PAINT STEWARDSHIP ASSESSMENT BEFORE THE NEW
3 ASSESSMENT CAN BE IMPLEMENTED. ANY PROPOSED CHANGES TO THE PAINT
4 STEWARDSHIP ASSESSMENT SHALL BE SUBMITTED TO THE DEPARTMENT NO LATER
5 THAN SIXTY DAYS PRIOR TO THE DATE THE REPRESENTATIVE ORGANIZATION ANTIC-
6 IPATES THE ADJUSTED ASSESSMENT TO TAKE EFFECT.

7 7. ON AND AFTER THE DATE OF IMPLEMENTATION OF THE PAINT STEWARDSHIP
8 PROGRAM PURSUANT TO THIS SECTION, THE PAINT STEWARDSHIP ASSESSMENT SHALL
9 BE ADDED TO THE COST OF ALL ARCHITECTURAL PAINT SOLD TO RETAILERS AND
10 DISTRIBUTORS IN THE STATE BY EACH PRODUCER. ON AND AFTER SUCH IMPLEMEN-
11 TATION DATE, EACH RETAILER OR DISTRIBUTOR, AS APPLICABLE, SHALL ADD THE
12 AMOUNT OF SUCH PAINT STEWARDSHIP ASSESSMENT TO THE PURCHASE PRICE OF ALL
13 ARCHITECTURAL PAINT SOLD IN THE STATE.

14 8. ANY RETAILER MAY PARTICIPATE, ON A VOLUNTARY BASIS, AS A PAINT
15 COLLECTION POINT PURSUANT TO SUCH PAINT STEWARDSHIP PROGRAM AND IN
16 ACCORDANCE WITH ANY APPLICABLE PROVISION OF LAW OR REGULATION.

17 9. EACH PRODUCER AND THE REPRESENTATIVE ORGANIZATION SHALL BE IMMUNE
18 FROM LIABILITY FOR ANY CLAIM OF A VIOLATION OF ANTITRUST LAW OR UNFAIR
19 TRADE PRACTICE IF SUCH CONDUCT IS A VIOLATION OF ANTITRUST LAW, TO THE
20 EXTENT SUCH PRODUCER OR REPRESENTATIVE ORGANIZATION IS EXERCISING
21 AUTHORITY PURSUANT TO THE PROVISIONS OF THIS SECTION.

22 10. NOT LATER THAN THE IMPLEMENTATION DATE OF THE PAINT STEWARDSHIP
23 PROGRAM, THE DEPARTMENT SHALL LIST THE NAMES OF PARTICIPATING PRODUCERS
24 AND THE BRANDS OF ARCHITECTURAL PAINT COVERED BY SUCH PAINT STEWARDSHIP
25 PROGRAM ON ITS WEBSITE.

26 11. (A) ON AND AFTER THE IMPLEMENTATION DATE OF THE PAINT STEWARDSHIP
27 PROGRAM, NO PRODUCER, DISTRIBUTOR OR RETAILER SHALL SELL OR OFFER FOR
28 SALE ARCHITECTURAL PAINT TO ANY PERSON IN THE STATE IF THE PRODUCER OF
29 SUCH ARCHITECTURAL PAINT IS NOT A MEMBER OF THE REPRESENTATIVE ORGANIZA-
30 TION.

31 (B) NO RETAILER OR DISTRIBUTOR SHALL BE FOUND TO BE IN VIOLATION OF
32 THE PROVISIONS OF THIS SECTION IF, ON THE DATE THE ARCHITECTURAL PAINT
33 WAS ORDERED FROM THE PRODUCER OR ITS AGENT, THE PRODUCER OR THE SUBJECT
34 BRAND OF ARCHITECTURAL PAINT WAS LISTED ON THE DEPARTMENT'S WEBSITE IN
35 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

36 12. PRODUCERS OR THE REPRESENTATIVE ORGANIZATION SHALL PROVIDE RETAIL-
37 ERS WITH EDUCATIONAL MATERIALS REGARDING THE PAINT STEWARDSHIP ASSESS-
38 MENT AND PAINT STEWARDSHIP PROGRAM TO BE DISTRIBUTED AT THE POINT OF
39 SALE TO THE CONSUMER. SUCH MATERIALS SHALL INCLUDE, BUT NOT BE LIMITED
40 TO, INFORMATION REGARDING AVAILABLE END-OF-LIFE MANAGEMENT OPTIONS FOR
41 ARCHITECTURAL PAINT OFFERED THROUGH THE PAINT STEWARDSHIP PROGRAM AND
42 INFORMATION THAT NOTIFIES CONSUMERS THAT A CHARGE FOR THE OPERATION OF
43 SUCH PAINT STEWARDSHIP PROGRAM IS INCLUDED IN THE PURCHASE PRICE OF ALL
44 ARCHITECTURAL PAINT SOLD IN THE STATE.

45 13. ON OR BEFORE OCTOBER FIFTEENTH, TWO THOUSAND SIXTEEN, AND ANNUALLY
46 THEREAFTER, THE REPRESENTATIVE ORGANIZATION SHALL SUBMIT A REPORT TO THE
47 COMMISSIONER THAT DETAILS THE PAINT STEWARDSHIP PROGRAM FOR THE PRIOR
48 YEAR'S PROGRAM FROM JULY FIRST TO JUNE THIRTIETH. SAID REPORT SHALL
49 INCLUDE A COPY OF THE INDEPENDENT AUDIT DETAILED IN PARAGRAPH (D) OF
50 THIS SUBDIVISION. SUCH ANNUAL REPORT SHALL INCLUDE:

51 (A) A DETAILED DESCRIPTION OF THE METHODS USED TO COLLECT, TRANSPORT
52 AND PROCESS POST-CONSUMER PAINT IN THE STATE INCLUDING DETAILING
53 COLLECTION METHODS MADE AVAILABLE TO CONSUMERS AND AN EVALUATION OF THE
54 PROGRAM'S COLLECTION CONVENIENCE;

55 (B) THE OVERALL VOLUME OF POST-CONSUMER PAINT COLLECTED IN THE STATE;

1 (C) THE VOLUME AND TYPE OF POST-CONSUMER PAINT COLLECTED IN THE STATE
2 BY METHOD OF DISPOSITION, INCLUDING REUSE, RECYCLING AND OTHER METHODS
3 OF PROCESSING OR DISPOSAL;

4 (D) THE TOTAL COST OF IMPLEMENTING THE PROGRAM, AS DETERMINED BY AN
5 INDEPENDENT FINANCIAL AUDIT, AS PERFORMED BY AN INDEPENDENT AUDITOR;

6 (E) AN EVALUATION OF THE ADEQUACY OF THE PROGRAM'S FUNDING MECHANISM;

7 (F) SAMPLES OF ALL EDUCATIONAL MATERIALS PROVIDED TO CONSUMERS OF
8 ARCHITECTURAL PAINT AND RETAILERS;

9 (G) A DETAILED LIST OF EFFORTS UNDERTAKEN AND AN EVALUATION OF THE
10 METHODS USED TO DISSEMINATE SUCH MATERIALS INCLUDING RECOMMENDATIONS, IF
11 ANY, FOR HOW THE EDUCATIONAL COMPONENT OF THE PROGRAM CAN BE IMPROVED;
12 AND

13 (H) THE ANNUAL REPORT SHALL BE ACCOMPANIED BY A FEE IN THE AMOUNT OF
14 THREE THOUSAND DOLLARS TO BE DEPOSITED INTO THE ENVIRONMENTAL REGULATORY
15 ACCOUNT, ESTABLISHED PURSUANT TO SECTION 72-1009 OF THIS CHAPTER TO
16 COVER THE REVIEW OF SAID PLAN BY THE DEPARTMENT.

17 14. THE REPRESENTATIVE ORGANIZATION SHALL UPDATE THE PLAN, AS NEEDED,
18 WHEN THERE ARE CHANGES PROPOSED TO THE CURRENT PROGRAM. A NEW PLAN OR
19 AMENDMENT WILL BE REQUIRED TO BE SUBMITTED TO THE DEPARTMENT FOR
20 APPROVAL WHEN:

21 (A) THERE IS A CHANGE TO THE AMOUNT OF THE ASSESSMENT; OR

22 (B) THERE IS AN ADDITION TO THE PRODUCTS COVERED UNDER THE PROGRAM; OR

23 (C) THERE IS A REVISION OF THE PRODUCT STEWARDSHIP ORGANIZATION'S
24 GOALS; OR

25 (D) EVERY FOUR YEARS, IF REQUESTED, IN WRITING, BY THE DEPARTMENT.

26 THE REPRESENTATIVE ORGANIZATION SHALL NOTIFY THE DEPARTMENT ANNUALLY,
27 IN WRITING, IF THERE ARE NO CHANGES PROPOSED TO THE PROGRAM AND THE
28 REPRESENTATIVE ORGANIZATION INTENDS TO CONTINUE IMPLEMENTATION OF THE
29 PROGRAM AS PREVIOUSLY APPROVED BY THE DEPARTMENT.

30 S 27-2005. REGULATIONS.

31 THE DEPARTMENT IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGU-
32 LATIONS AS MAY BE NECESSARY TO IMPLEMENT AND CARRY OUT THE PROVISIONS OF
33 THIS TITLE.

34 S 27-2007. REPORTING.

35 NOT LATER THAN JANUARY FIFTEENTH, TWO THOUSAND SEVENTEEN, AND BIENNI-
36 ALLY THEREAFTER, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE LEGISLA-
37 TURE AND THE GOVERNOR THAT DESCRIBES THE RESULTS AND ACTIVITIES OF THE
38 PAINT STEWARDSHIP PROGRAM AS ENACTED PURSUANT TO THIS TITLE INCLUDING
39 ANY RECOMMENDATIONS TO IMPROVE THE FUNCTIONING AND EFFICIENCY OF THE
40 PAINT STEWARDSHIP PROGRAM, AS NECESSARY.

41 S 2. The environmental conservation law is amended by adding a new
42 section 71-2730 to read as follows:

43 S 71-2730. ENFORCEMENT OF TITLE 20 OF ARTICLE 27 OF THIS CHAPTER.

44 1. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMIS-
45 SIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE
46 PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR SHALL BE ASSESSED BY
47 THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO THIS SECTION. IN ADDI-
48 TION TO ANY CIVIL PENALTIES, ANY PERSON, RETAILER OR MANUFACTURER, AS
49 THOSE TERMS ARE DEFINED IN SECTION 27-1803 OF THIS CHAPTER, MAY BY SIMI-
50 LAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION.

51 2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER
52 TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL PROTECTION FUND
53 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.

54 S 3. This act shall take effect immediately.