

4926--A

Cal. No. 1076

2015-2016 Regular Sessions

I N   S E N A T E

April 23, 2015

---

Introduced by Sens. O'MARA, HOYLMAN, LATIMER, PANEPINTO, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

TITLE 20

PAINT STEWARDSHIP PROGRAM

SECTION 27-2001. DEFINITIONS.

27-2003. PAINT STEWARDSHIP PROGRAM.

27-2005. REGULATIONS.

27-2007. REPORTING.

S 27-2001. DEFINITIONS.

WHEN USED IN THIS TITLE:

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

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

3. "ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES" MEANS PROCEDURES FOR THE COLLECTION, STORAGE, TRANSPORTATION, REUSE, RECYCLING AND DISPOSAL OF ARCHITECTURAL PAINT, TO BE IMPLEMENTED BY THE PRODUCER OR REPRESENTATIVE ORGANIZATION OR SUCH REPRESENTATIVE ORGANIZATION'S CONTRACTED PARTNERS TO ENSURE COMPLIANCE WITH ALL APPLICABLE FEDERAL, STATE AND

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

LBD05196-03-5

1 LOCAL LAWS, REGULATIONS AND ORDINANCES AND THE PROTECTION OF HUMAN  
2 HEALTH AND THE ENVIRONMENT. ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES  
3 INCLUDE, BUT ARE NOT LIMITED TO, RECORD KEEPING, THE TRACKING AND DOCU-  
4 MENTING OF THE FATE OF POST-CONSUMER PAINT IN AND OUTSIDE OF THE STATE,  
5 AND ENVIRONMENTAL LIABILITY COVERAGE FOR PROFESSIONAL SERVICES AND FOR  
6 THE OPERATIONS OF THE CONTRACTORS WORKING ON BEHALF OF THE PRODUCER OR  
7 REPRESENTATIVE ORGANIZATION.

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

13 5. "PAINT STEWARDSHIP PROGRAM" OR "PROGRAM" MEANS A PROGRAM FOR THE  
14 MANAGEMENT OF POST-CONSUMER PAINT OPERATED BY A PRODUCER OR REPRES-  
15 TATIVE ORGANIZATION.

16 6. "POST-CONSUMER PAINT" MEANS ARCHITECTURAL PAINT THAT IS NOT USED  
17 AND THAT IS NO LONGER WANTED BY A PURCHASER OF ARCHITECTURAL PAINT.

18 7. "PRODUCER" MEANS A MANUFACTURER OF ARCHITECTURAL PAINT WHO SELLS,  
19 OFFERS FOR SALE, DISTRIBUTES OR CONTRACTS TO DISTRIBUTE ARCHITECTURAL  
20 PAINT IN THE STATE.

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

25 9. "REPRESENTATIVE ORGANIZATION" MEANS A NONPROFIT ORGANIZATION  
26 CREATED BY PRODUCERS TO IMPLEMENT THE PAINT STEWARDSHIP PROGRAM  
27 DESCRIBED IN SECTION 27-2003 OF THIS TITLE.

28 10. "RETAILER" MEANS ANY PERSON WHO OFFERS ARCHITECTURAL PAINT FOR  
29 SALE AT RETAIL IN THE STATE.

30 11. "REUSE" MEANS THE RETURN OF A PRODUCT INTO THE ECONOMIC STREAM FOR  
31 USE IN THE SAME KIND OF APPLICATION AS THE PRODUCT WAS ORIGINALLY  
32 INTENDED TO BE USED, WITHOUT A CHANGE IN THE PRODUCT'S IDENTITY.

33 12. "SELL" OR "SALE" MEANS ANY TRANSFER FOR CONSIDERATION OF TITLE OR  
34 THE RIGHT TO USE, FROM A MANUFACTURER OR RETAILER TO A PERSON, INCLUD-  
35 ING, BUT NOT LIMITED TO, TRANSACTIONS CONDUCTED THROUGH RETAIL SALES  
36 OUTLETS, CATALOGS, MAIL, THE TELEPHONE, THE INTERNET, OR ANY ELECTRONIC  
37 MEANS; THIS DOES NOT INCLUDE SAMPLES, DONATIONS, AND REUSE.

38 S 27-2003. PAINT STEWARDSHIP PROGRAM.

39 1. ON OR BEFORE MARCH FIRST, TWO THOUSAND SIXTEEN, A PRODUCER OR A  
40 REPRESENTATIVE ORGANIZATION SHALL SUBMIT A PLAN FOR THE ESTABLISHMENT OF  
41 A PAINT STEWARDSHIP PROGRAM TO THE DEPARTMENT FOR APPROVAL. THE PROGRAM  
42 SHALL MINIMIZE THE PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-  
43 CONSUMER PAINT BY REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGO-  
44 TIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR BURN  
45 FOR ENERGY RECOVERY AT AN APPROPRIATELY LICENSED FACILITY POST-CONSUMER  
46 PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT PRACTICES. THE PROGRAM  
47 SHALL MINIMIZE THE PUBLIC SECTOR INVOLVEMENT IN THE MANAGEMENT OF POST-  
48 CONSUMER PAINT BY REDUCING THE GENERATION OF POST-CONSUMER PAINT, NEGO-  
49 TIATING AGREEMENTS TO COLLECT, TRANSPORT, REUSE, RECYCLE, AND/OR COMBUST  
50 FOR ENERGY RECOVERY AT AN APPROPRIATELY AUTHORIZED FACILITY, INCLUDING  
51 PERMITTEES, POST-CONSUMER PAINT USING ENVIRONMENTALLY SOUND MANAGEMENT  
52 PRACTICES.

53 2. THE PROGRAM SHALL PROVIDE FOR CONVENIENT AND AVAILABLE STATE-WIDE  
54 COLLECTION OF POST-CONSUMER PAINT THAT, AT A MINIMUM, PROVIDES AT LEAST  
55 ONE PERMANENT COLLECTION SITE LOCATED WITHIN A FIFTEEN MILE RADIUS OF  
56 ALL "INCORPORATED CITIES" AND "CENSUS-DESIGNATED PLACES" IN THE STATE;

1 AND ONE ADDITIONAL PERMANENT COLLECTION SITE FOR EVERY THIRTY THOUSAND  
2 PEOPLE LOCATED IN THOSE AREAS, UNLESS OTHERWISE APPROVED BY THE DEPART-  
3 MENT. WHERE A PERMANENT COLLECTION SITE CANNOT BE LOCATED WITHIN A  
4 FIFTEEN MILE RADIUS OF AN INCORPORATED CITY OR CENSUS-DESIGNATED PLACE,  
5 THE PROGRAM SHALL PROVIDE FOR AT LEAST ONE COLLECTION EVENT ANNUALLY.  
6 THE PROGRAM SHALL NOT CHARGE A FEE TO THE CONSUMER AT THE TIME OF  
7 COLLECTION OF POST-CONSUMER ARCHITECTURAL PAINT.

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

10 (A) IDENTIFY EACH PRODUCER PARTICIPATING IN THE PAINT STEWARDSHIP  
11 PROGRAM AND THE BRANDS OF ARCHITECTURAL PAINT SOLD IN THE STATE COVERED  
12 BY THE PROGRAM;

13 (B) IDENTIFY HOW THE PRODUCER OR REPRESENTATIVE ORGANIZATION WILL  
14 PROVIDE CONVENIENT, STATEWIDE ACCESSIBILITY TO THE PROGRAM;

15 (C) SET FORTH THE PROCESS BY WHICH AN INDEPENDENT AUDITOR WILL BE  
16 SELECTED AND IDENTIFY THE CRITERIA USED BY THE PRODUCER OR REPRESENTATIVE  
17 ORGANIZATION IN SELECTING AN INDEPENDENT AUDITOR;

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

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

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

25 (G) INCLUDE THE TARGETED ANNUAL COLLECTION RATE;

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

29 (I) BE ACCOMPANIED BY A FEE IN THE AMOUNT OF FIVE THOUSAND DOLLARS FOR  
30 EACH PRODUCER, OR TEN THOUSAND DOLLARS FOR EACH PRODUCT STEWARDSHIP  
31 ORGANIZATION TO BE DEPOSITED INTO THE ENVIRONMENTAL REGULATORY ACCOUNT  
32 AS ESTABLISHED IN SECTION 72-1009 OF THIS CHAPTER, TO COVER THE REVIEW  
33 OF SAID PLAN BY THE DEPARTMENT.

34 4. THE COMMISSIONER SHALL APPROVE OR REJECT A PLAN SUBMITTED UNDER  
35 THIS SECTION WITHIN NINETY DAYS OF SUBMISSION AND, IF REJECTED, INFORM  
36 THE PRODUCER OR REPRESENTATIVE ORGANIZATION IN WRITING AS TO ANY DEFICIENCIES  
37 IN SAID PLAN. A PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL  
38 AMEND AND RESUBMIT ANY REJECTED PLANS FOR RECONSIDERATION WITHIN SIXTY  
39 DAYS OF NOTIFICATION OF THE REJECTION OF SAID PLAN. THE COMMISSIONER  
40 SHALL APPROVE OR REJECT SAID PLAN WITHIN THIRTY DAYS OF RESUBMISSION. A  
41 PLAN SHALL BE APPROVED BY THE COMMISSIONER IF IT MEETS THE REQUIRED  
42 ELEMENTS UNDER SUBDIVISION THREE OF THIS SECTION.

43 5. NOT LATER THAN THREE MONTHS AFTER THE DATE THE PLAN IS APPROVED,  
44 THE REPRESENTATIVE ORGANIZATION SHALL IMPLEMENT THE PAINT STEWARDSHIP  
45 PROGRAM.

46 6. ON OR BEFORE MARCH FIRST, TWO THOUSAND SIXTEEN, THE PROPOSED  
47 UNIFORM PAINT STEWARDSHIP ASSESSMENT FOR ALL ARCHITECTURAL PAINT SOLD IN  
48 THE STATE SHALL BE REVIEWED BY AN INDEPENDENT AUDITOR TO ASSURE THAT THE  
49 ASSESSMENT IS CONSISTENT WITH THE BUDGET OF THE PAINT STEWARDSHIP  
50 PROGRAM DESCRIBED IN THIS SECTION AND THE INDEPENDENT AUDITOR SHALL  
51 RECOMMEND AN AMOUNT FOR THE PAINT STEWARDSHIP ASSESSMENT TO THE DEPART-  
52 MENT. THE DEPARTMENT SHALL APPROVE THE PAINT STEWARDSHIP ASSESSMENT  
53 BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. THE DEPARTMENT  
54 SHALL BE RESPONSIBLE FOR THE APPROVAL OF SUCH PAINT STEWARDSHIP ASSESS-  
55 MENT BASED UPON THE INDEPENDENT AUDITOR'S RECOMMENDATION. IF THE PAINT  
56 STEWARDSHIP ASSESSMENT PREVIOUSLY APPROVED BY THE DEPARTMENT PURSUANT TO

1 THIS SECTION IS PROPOSED TO BE CHANGED, THE PRODUCER OR REPRESENTATIVE  
2 ORGANIZATION SHALL SUBMIT THE NEW, ADJUSTED UNIFORM PAINT STEWARDSHIP  
3 ASSESSMENT TO AN INDEPENDENT AUDITOR FOR REVIEW. AFTER SUCH REVIEW HAS  
4 BEEN COMPLETED, THE PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL SUBMIT  
5 THE RESULTS OF SAID AUDITOR'S REVIEW AND A PROPOSAL TO AMEND THE PAINT  
6 STEWARDSHIP ASSESSMENT TO THE DEPARTMENT FOR REVIEW. THE DEPARTMENT  
7 SHALL REVIEW AND APPROVE, IN WRITING, THE ADJUSTED PAINT STEWARDSHIP  
8 ASSESSMENT BEFORE THE NEW ASSESSMENT CAN BE IMPLEMENTED. ANY PROPOSED  
9 CHANGES TO THE PAINT STEWARDSHIP ASSESSMENT SHALL BE SUBMITTED TO THE  
10 DEPARTMENT NO LATER THAN SIXTY DAYS PRIOR TO THE DATE THE PRODUCER OR  
11 REPRESENTATIVE ORGANIZATION ANTICIPATES THE ADJUSTED ASSESSMENT TO TAKE  
12 EFFECT.

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

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

23 9. EACH PRODUCER AND THE REPRESENTATIVE ORGANIZATION SHALL BE IMMUNE  
24 FROM LIABILITY FOR ANY CLAIM OF A VIOLATION OF ANTITRUST LAW OR UNFAIR  
25 TRADE PRACTICE IF SUCH CONDUCT IS A VIOLATION OF ANTITRUST LAW, TO THE  
26 EXTENT SUCH PRODUCER OR REPRESENTATIVE ORGANIZATION IS EXERCISING  
27 AUTHORITY PURSUANT TO THE PROVISIONS OF THIS SECTION.

28 10. NOT LATER THAN THE IMPLEMENTATION DATE OF THE PAINT STEWARDSHIP  
29 PROGRAM, THE DEPARTMENT SHALL LIST THE NAMES OF PARTICIPATING PRODUCERS  
30 AND THE BRANDS OF ARCHITECTURAL PAINT COVERED BY SUCH PAINT STEWARDSHIP  
31 PROGRAM ON ITS WEBSITE.

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

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

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

51 13. ON OR BEFORE OCTOBER FIFTEENTH, TWO THOUSAND SEVENTEEN, AND ANNU-  
52 ALLY THEREAFTER, EACH OPERATOR OF A PROGRAM SHALL SUBMIT A REPORT TO THE  
53 COMMISSIONER THAT DETAILS THE PAINT STEWARDSHIP PROGRAM FOR THE PRIOR  
54 YEAR'S PROGRAM FROM JULY FIRST TO JUNE THIRTIETH. SAID REPORT SHALL  
55 INCLUDE A COPY OF THE INDEPENDENT AUDIT DETAILED IN PARAGRAPH (D) OF  
56 THIS SUBDIVISION. SUCH ANNUAL REPORT SHALL INCLUDE:

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

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

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

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

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

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

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

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

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

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

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

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

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

THE OPERATOR OF THE PAINT STEWARDSHIP PROGRAM SHALL NOTIFY THE DEPARTMENT ANNUALLY, IN WRITING, IF THERE ARE NO CHANGES PROPOSED TO THE PROGRAM AND THE PRODUCER OR REPRESENTATIVE ORGANIZATION INTENDS TO CONTINUE IMPLEMENTATION OF THE PROGRAM AS PREVIOUSLY APPROVED BY THE DEPARTMENT.

S 27-2005. REGULATIONS.

THE DEPARTMENT IS HEREBY AUTHORIZED TO PROMULGATE RULES AND REGULATIONS AS MAY BE NECESSARY TO IMPLEMENT AND CARRY OUT THE PROVISIONS OF THIS TITLE.

S 27-2007. REPORTING.

NOT LATER THAN JANUARY FIFTEENTH, TWO THOUSAND EIGHTEEN, AND BIENNIAL-LY THEREAFTER, THE COMMISSIONER SHALL SUBMIT A REPORT TO THE LEGISLATURE AND THE GOVERNOR THAT DESCRIBES THE RESULTS AND ACTIVITIES OF THE PAINT STEWARDSHIP PROGRAM AS ENACTED PURSUANT TO THIS TITLE INCLUDING ANY RECOMMENDATIONS TO IMPROVE THE FUNCTIONING AND EFFICIENCY OF THE PAINT STEWARDSHIP PROGRAM, AS NECESSARY.

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

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

1. CIVIL PENALTIES UNDER THIS SECTION SHALL BE ASSESSED BY THE COMMISSIONER AFTER A HEARING OR OPPORTUNITY TO BE HEARD PURSUANT TO THE PROVISIONS OF SECTION 71-1709 OF THIS ARTICLE, OR SHALL BE ASSESSED BY THE COURT IN ANY ACTION OR PROCEEDING PURSUANT TO THIS SECTION. IN ADDITION TO ANY CIVIL PENALTIES, ANY PERSON, RETAILER OR MANUFACTURER, AS THOSE TERMS ARE DEFINED IN SECTION 27-1803 OF THIS CHAPTER, MAY BY SIMILAR PROCESS BE ENJOINED FROM CONTINUING SUCH VIOLATION.

1       2. ALL PENALTIES COLLECTED PURSUANT TO THIS SECTION SHALL BE PAID OVER  
2 TO THE COMMISSIONER FOR DEPOSIT TO THE ENVIRONMENTAL PROTECTION FUND  
3 ESTABLISHED PURSUANT TO SECTION NINETY-TWO-S OF THE STATE FINANCE LAW.  
4       S 3. This act shall take effect immediately.