

STATE OF NEW YORK

4645

2019-2020 Regular Sessions

IN SENATE

March 19, 2019

Introduced by Sen. KENNEDY -- read twice and ordered printed, and when printed to be committed to the Committee on Environmental Conservation

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

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Declaration of legislative intent and findings. The legis-
2 lature finds and declares that it is in the public interest of the state
3 of New York for architectural paint producers to finance and manage an
4 environmentally sound, cost-effective architectural paint stewardship
5 program, undertaking responsibility for the development and implementa-
6 tion of strategies to reduce the generation of post-consumer architec-
7 tural paint, promote the reuse of post-consumer architectural paint and
8 collect, transport and process post-consumer architectural paint for
9 end-of-product-life management, including reuse and recycling.

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

TITLE 20

PAINT STEWARDSHIP PROGRAM

14 Section 27-2001. Short title.

15 27-2003. Declaration of policy.

16 27-2005. Definitions.

17 27-2007. Producer collection.

18 27-2009. Producer registration and responsibilities.

19 27-2011. Retailer requirements.

20 27-2013. Department responsibilities.

21 27-2015. Reporting requirements.

22 27-2017. Collective participation.

23 § 27-2001. Short title.

24 This title shall be known as and may be cited as the "New York state
25 paint stewardship program".

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

LBD04719-01-9

1 § 27-2003. Declaration of policy.

2 It is hereby declared to be the public policy of the state of New York
3 to promote the development and implementation of strategies to reduce
4 the generation of post-consumer architectural paint, to encourage the
5 reuse of post-consumer architectural paint, and to maximize the
6 collection, transport, and process of post-consumer architectural paint
7 for end-of-product-life management.

8 § 27-2005. Definitions.

9 When used in this title:

10 1. "architectural paint" means interior and exterior architectural
11 coatings sold in containers of five gallons or less. Architectural paint
12 does not mean industrial, original equipment or specialty coatings.

13 2. "consumer" means a person located in the state who owns or uses
14 architectural paint, including but not limited to an individual, a busi-
15 ness, corporation, limited partnership, not-for-profit organization, or
16 governmental entity, but does not include an entity involved in a whole-
17 sale transaction between a distributor and retailer.

18 3. "distributor" means a company that has a contractual relationship
19 with one or more producers to market and sell architectural paint to
20 retailers in this state.

21 4. "post-consumer architectural paint" means architectural paint not
22 used and no longer wanted by its purchaser.

23 5. "producer" means a person that manufactures architectural paint
24 that is sold or offered for sale in this state.

25 6. "recycling" means any process by which discarded products, compo-
26 nents and by-products are transformed into new usable or marketable
27 materials in a manner in which the products may lose their original
28 composition. Recycling does not include energy recovery or energy gener-
29 ation by means of combusting discarded products, components and by-pro-
30 ducts with or without other waste products from post-consumer architec-
31 tural paint.

32 7. "retailer" means any person that sells or offers for sale architec-
33 tural paint at retail in this state.

34 8. "reuse" means the return of a product into the economic stream for
35 use in the same kind of application intended for the use of the product,
36 without a change in the product's original composition.

37 9. "sell" or "sale" means any transfer of title for consideration,
38 including remote sales conducted through sales outlets, catalogs or the
39 internet or through any other similar electronic means.

40 § 27-2007. Producer collection.

41 Beginning December thirty-first, two thousand twenty, a producer shall
42 accept for disposal and recycling or reuse post-consumer architectural
43 paint.

44 § 27-2009. Producer registration and responsibilities.

45 1. A producer shall individually or cooperatively with one or more
46 other producers, submit a registration to the department by July first,
47 two thousand twenty, along with a registration fee of five thousand
48 dollars. Such registration shall include:

49 (a) the producer's name, address, and telephone number;

50 (b) the name and title of an officer, director, or other individual
51 designated as the producer's contact for purposes of this title;

52 (c) a list identifying the producer's brands;

53 (d) a general description of the manner in which the producer will
54 comply with section 27-2007 of this title, including specific informa-
55 tion on the producer's architectural paint acceptance program in the
56 state, intended treatment, storage, transportation and disposal options

1 and a current list of locations within the state where consumers may
2 return architectural paint;

3 (e) targeted annual collection rates;

4 (f) educational and outreach program that will be implemented to
5 inform consumers and retailers of the program and how to participate;
6 and

7 (g) any other information as the department may require.

8 2. A producer's registration shall be updated within thirty days of
9 any material change to the information required by the registration.

10 3. Any person who becomes a producer on or after January first, two
11 thousand twenty-one shall register with the department prior to selling
12 or offering for sale in the state any architectural paint, and must
13 comply with the requirements of this title.

14 4. No later than January first, two thousand twenty-one, a producer
15 shall not sell or offer for sale architectural paint in the state unless
16 the producer has registered with the department and maintains an archi-
17 tectural paint acceptance program through which the producer, either
18 directly or through an agent or designee, accepts architectural paint
19 from consumers in the state for disposal, reuse or recycling. The
20 producer shall ensure that retailers are notified of such registration.
21 The producer shall not impose a fee on consumers for the collection,
22 handling and recycling or reuse of architectural paint.

23 5. The architectural paint acceptance program shall include, at a
24 minimum:

25 (a) collection, disposal and recycling or reuse of architectural paint
26 produced by the producer and offered for return by any consumer in this
27 state, free of cost and in a manner convenient to consumers. The follow-
28 ing acceptance methods shall be considered reasonably convenient: (i)
29 collection or acceptance events conducted by the producer or the produc-
30 er's agent or designee, including events conducted through local govern-
31 ments or private parties; (ii) fixed acceptance locations such as dedi-
32 cated acceptance sites operated by the producer or its agent or
33 designee; (iii) agreements with local governments, retail stores, sales
34 outlets and not-for-profit organizations which have agreed to provide
35 facilities for the collection of architectural paint; (iv) community
36 collection events; and (v) any combination of these or other acceptance
37 methods which effectively provide for the acceptance of architectural
38 paint for recycling or reuse through means that are available and
39 reasonably convenient to consumers in the state. At a minimum, the
40 producer shall ensure that all counties of the state and all munici-
41 palities which have a population of ten thousand or greater have at
42 least one permanent collection site and one additional permanent
43 collection site for every thirty thousand people located in those areas,
44 unless otherwise approved by the department, or unless the producer is a
45 small business taxpayer as defined in paragraph (f) of subdivision one
46 of section two hundred ten of the tax law. Such producers shall conduct
47 no less than one collection event annually. The department may estab-
48 lish additional requirements to ensure convenient collection from
49 consumers;

50 (b) a public education program to inform consumers about the produc-
51 er's architectural paint acceptance program, including at a minimum an
52 internet website and a toll-free telephone number and written informa-
53 tion included in the package for, or at the time of sale of, architec-
54 tural paint that provides sufficient information to allow a consumer of
55 architectural paint to learn how to return such paint for disposal,
56 recycling or reuse; and

1 (c) any other information as required by the department in accordance
2 with regulations promulgated pursuant to this article.

3 6. A producer shall maintain records demonstrating compliance with the
4 provisions of this title and make them available for audit and
5 inspection by the department for a period of three years.

6 7. A producer may satisfy the architectural paint collection require-
7 ments of this section by agreeing to participate in a collective archi-
8 tectural paint acceptance program with other producers. Any such collec-
9 tive architectural paint acceptance program shall meet the same
10 requirements as an individual producer. Any architectural acceptance
11 program shall include a list of producers that are participating in such
12 program along with other identifying information as may be required by
13 the department. Such program shall submit a registration to the depart-
14 ment along with a registration fee of ten thousand dollars.

15 8. A producer shall be responsible for all costs associated with the
16 implementation of the architectural paint acceptance program.

17 § 27-2011. Retailer requirements.

18 1. At the location of sale of architectural paint, a retailer shall
19 provide purchasers of architectural paint with information about oppor-
20 tunities for the return of architectural paint that has been provided to
21 the retailer by a producer.

22 2. No later than July first, two thousand twenty-one no retailer shall
23 sell or offer for sale in the state any architectural paint unless the
24 producer and the producer's brands are registered with the department
25 pursuant to section 27-2009 of this title.

26 § 27-2013. Department responsibilities.

27 1. The department shall promulgate all necessary rules and regulations
28 including, but not limited to, standards for reuse.

29 2. The department shall (a) maintain a list of producers who are
30 registered pursuant to section 27-2009 of this title, (b) maintain a
31 list of each such producer's brands, and (c) post such lists on the
32 department's website.

33 § 27-2015. Reporting requirements.

34 1. Beginning March first, two thousand twenty-two, for the previous
35 calendar year and annually thereafter, a producer that offers architec-
36 tural paint for sale in this state shall submit a report to the depart-
37 ment on a form prescribed by the department that includes the following:

38 (a) the quantity of architectural paint collected for disposal, recy-
39 cling or reuse in this state during the preceding calendar year and the
40 methods used to accept such paint and the approximate weight and volume
41 of architectural paint accepted by each method used to the extent known;

42 (b) information detailing the acceptance methods made available to
43 consumers;

44 (c) a brief description of its public education program and samples of
45 any materials, the number of visits to the internet website and calls to
46 the toll-free telephone number provided by the producer as required by
47 section 27-2009 of this title;

48 (d) any other information as required by the department; and

49 (e) a signature by an officer, director, or other individual affirming
50 the accuracy of the report.

51 2. The report shall be accompanied by an annual reporting fee of three
52 thousand dollars.

53 3. The department shall submit a report regarding the implementation
54 of this title in this state to the governor and legislature by April
55 first, two thousand twenty-two and every two years thereafter. The
56 report must include, at a minimum, an evaluation of:

- 1 (a) the architectural paint stream in the state;
2 (b) disposal, recycling and reuse rates in the state for architectural
3 paint;
4 (c) a discussion of compliance and enforcement related to the require-
5 ments of this title; and
6 (d) recommendations for any changes to this title.

7 § 27-2017. Collective participation.

8 A producer may satisfy the requirements of this article by agreeing to
9 participate in a collective acceptance program with any other producer
10 or producers. Any such collective acceptance program must meet the same
11 requirements as an individual producer. Any collective acceptance
12 program must include a list of producers that are participating in such
13 program along with other identifying information as may be required by
14 the department. Such program shall submit a registration to the depart-
15 ment along with a registration fee of ten thousand dollars.

16 § 3. This act shall take effect immediately.