

By: Thompson of Brazoria

H.B. No. 2125

A BILL TO BE ENTITLED

AN ACT

relating to the establishment of a program for the collection, transportation, and recycling of architectural paint.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 361, Health and Safety Code, is amended by adding Subchapter P to read as follows:

SUBCHAPTER P. ARCHITECTURAL PAINT COLLECTION PROGRAM

Sec. 361.471. DEFINITIONS. In this subchapter:

(1) "Architectural paint" means interior and exterior architectural coatings sold in containers of not more than five gallons. The term does not include industrial, original equipment, or specialty coatings.

(2) "Manufacturer" means a person that manufactures architectural paint that is sold or offered for sale in this state.

(3) "Post-consumer architectural paint" means architectural paint not used and no longer wanted by its purchaser.

(4) "Retailer" means a person who sells architectural paint directly to a consumer through a selling or distribution mechanism, including a sale using a catalog or the Internet.

Sec. 361.472. MANUFACTURER PROGRAMS FOR ARCHITECTURAL PAINT COLLECTION. (a) A manufacturer shall establish, finance, manage, and maintain a program for the collection, transportation, recycling, and processing of architectural paint in accordance with this subchapter, either individually or collectively with other

1 manufacturers. Each manufacturer is responsible for collecting,  
2 handling, transporting, recycling, and processing architectural  
3 paint through a program in accordance with this subchapter and  
4 rules adopted under this subchapter.

5 (b) A manufacturer or a group of manufacturers operating a  
6 program collectively may contract with a retailer to provide a  
7 point of collection for architectural paint, either in the  
8 retailer's place of business or elsewhere.

9 (c) A program established under this subchapter must:

10 (1) be approved by the commission;

11 (2) provide for convenient and available statewide  
12 collection of post-consumer architectural paint in urban and rural  
13 areas of this state;

14 (3) identify each manufacturer participating in the  
15 program and the brands of architectural paint sold by each  
16 manufacturer;

17 (4) provide for the development and implementation of  
18 strategies to reduce the generation of post-consumer architectural  
19 paint;

20 (5) promote the reuse of post-consumer architectural  
21 paint; and

22 (6) provide for the collection, transportation,  
23 recycling, and processing of post-consumer architectural paint for  
24 end-of-product-life management, including recycling, energy  
25 recovery, and disposal, using policies that provide for:

26 (A) recordkeeping that tracks and documents the  
27 use, reuse, or disposal of post-consumer architectural paint within

1 this state and outside of this state; and

2 (B) adequate environmental liability coverage  
3 for professional services and for the operations of contractors  
4 working for the manufacturer.

5 Sec. 361.473. COMMISSION APPROVAL OF PROGRAM. (a) Before  
6 implementing a program under this subchapter, a manufacturer or  
7 group of manufacturers shall submit to the executive director for  
8 approval a plan describing the program to be operated by the  
9 manufacturer or group of manufacturers.

10 (b) The executive director shall approve a program plan that  
11 demonstrates to the executive director's satisfaction that the  
12 program will comply with the requirements of Sections  
13 361.472(c)(2)-(6).

14 Sec. 361.474. ARCHITECTURAL PAINT SALES PROHIBITED; LIST OF  
15 NONCOMPLIANT MANUFACTURERS. (a) A manufacturer may not sell or  
16 offer for sale in this state architectural paint if the  
17 manufacturer is listed on the commission's Internet website as a  
18 noncompliant manufacturer.

19 (b) A retailer may not sell or offer for sale in this state  
20 architectural paint that is produced by a manufacturer that is  
21 listed on the commission's Internet website as a noncompliant  
22 manufacturer on the date the architectural paint was ordered from  
23 the manufacturer or its agent.

24 (c) Notwithstanding the prior approval of a program under  
25 Section 361.473, the commission may list as noncompliant any  
26 manufacturer or group of manufacturers that violates a provision of  
27 this subchapter, a rule adopted under this subchapter, or an order

1 issued under Section 361.477.

2 (d) On the first day of each month, the commission shall  
3 post a list on its Internet website of manufacturers that are not in  
4 compliance with this subchapter.

5 Sec. 361.475. DISTRIBUTION OF INFORMATION. (a) A  
6 manufacturer or group of manufacturers shall promote the program  
7 established by the manufacturer or group of manufacturers under  
8 Section 361.472 and provide consumers with educational materials  
9 describing collection opportunities for post-consumer  
10 architectural paint and information promoting waste prevention,  
11 reuse, and recycling.

12 (b) At the time of sale to a consumer, a manufacturer or  
13 retailer selling or offering for sale architectural paint must  
14 provide the consumer with information on available  
15 end-of-product-life management options offered through the  
16 manufacturer's program established under Section 361.472.

17 Sec. 361.476. REPORT. (a) Not later than September 1 of  
18 each year, a manufacturer, through a program established under  
19 Section 361.472, shall submit to the commission a report that  
20 includes:

21 (1) the volume and type of post-consumer architectural  
22 paint the program collected in all regions of this state during the  
23 preceding calendar year;

24 (2) the volume of post-consumer architectural paint  
25 collected in this state by method of disposition, including reuse,  
26 recycling, energy recovery, and disposal;

27 (3) a description of the methods used to collect,

1 transport, recycle, and process post-consumer architectural paint  
2 in this state;

3 (4) samples of educational materials provided to  
4 consumers of architectural paint, an evaluation of the methods used  
5 to disseminate those materials, and an assessment of the  
6 effectiveness of the education and outreach, including levels of  
7 waste prevention and reuse;

8 (5) an analysis of the environmental costs and  
9 benefits of collecting and recycling architectural paint; and

10 (6) any other information reasonably required by the  
11 commission to assess compliance with this subchapter.

12 (b) The information reported by a manufacturer under  
13 Subsection (a) is confidential and not subject to public disclosure  
14 under Chapter 552, Government Code, except that the commission may  
15 disclose the information in aggregate form.

16 Sec. 361.477. COMMISSION ORDER. The commission may order a  
17 manufacturer or group of manufacturers operating a program to  
18 revise the program and to take other necessary actions to comply  
19 with this subchapter.

20 SECTION 2. (a) Not later than February 1, 2018, the Texas  
21 Commission on Environmental Quality shall adopt any rules or forms  
22 needed to implement Subchapter P, Chapter 361, Health and Safety  
23 Code, as added by this Act.

24 (b) Not later than March 1, 2018, the Texas Commission on  
25 Environmental Quality shall begin accepting plans seeking approval  
26 for and approving manufacturer's programs established under  
27 Subchapter P, Chapter 361, Health and Safety Code, as added by this

1 Act.

2 (c) A manufacturer is not required to implement a program  
3 under Subchapter P, Chapter 361, Health and Safety Code, as added by  
4 this Act, before September 1, 2018.

5 (d) The first report required by Section 361.476, Health and  
6 Safety Code, as added by this Act, is due September 1, 2019.

7 SECTION 3. (a) Except as provided by Subsection (b) of  
8 this section, this Act takes effect September 1, 2017.

9 (b) Sections 361.472, 361.474, 361.475, and 361.476, Health  
10 and Safety Code, as added by this Act, take effect September 1,  
11 2018.