

[First Reprint]

**ASSEMBLY, No. 1979**

**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

**Sponsored by:**

**Assemblyman STERLEY S. STANLEY**

**District 18 (Middlesex)**

**Assemblywoman YVONNE LOPEZ**

**District 19 (Middlesex)**

**Assemblyman JAMES J. KENNEDY**

**District 22 (Middlesex, Somerset and Union)**

**Co-Sponsored by:**

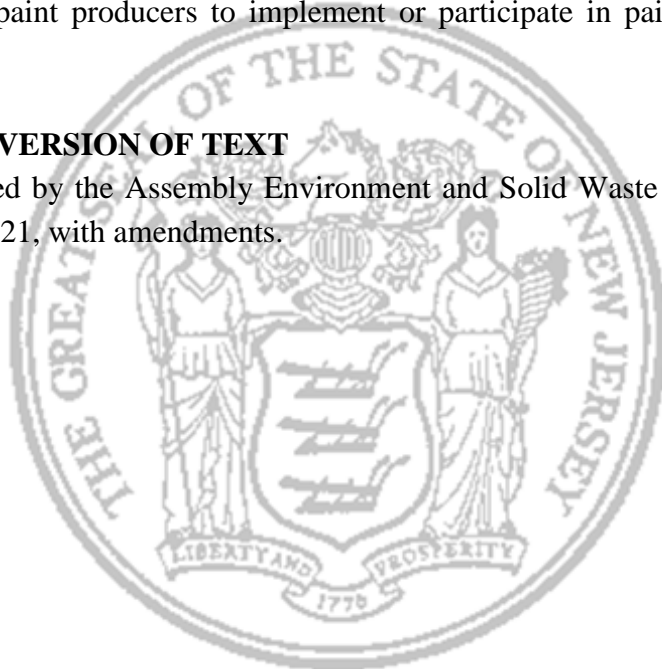
**Assemblywoman Murphy, Assemblyman Holley, Assemblywomen Swain, McKnight, Assemblymen Verrelli, Karabinchak, Scharfenberger, Assemblywoman Dunn and Assemblyman Conaway**

**SYNOPSIS**

Requires paint producers to implement or participate in paint stewardship program.

**CURRENT VERSION OF TEXT**

As reported by the Assembly Environment and Solid Waste Committee on March 15, 2021, with amendments.



**(Sponsorship Updated As Of: 12/13/2021)**

1 AN ACT requiring producers of architectural paint to implement or  
2 participate in a paint stewardship program, and supplementing  
3 Title 13 of the Revised Statutes.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

7  
8 1. This act shall be known and may be cited as the  
9 “Architectural Paint Stewardship Act.”

10  
11 2. The Legislature finds and declares that local governments,  
12 businesses, and residents of the State do not have ready access to an  
13 efficient, environmentally sound, and cost-effective disposal  
14 method for architectural paint; and that hazardous waste collection  
15 days are costly for local governments and insufficient,  
16 inconvenient, and too infrequent to properly serve local businesses  
17 and residents, resulting in missed opportunities to reduce, reuse, and  
18 recycle paint.

19 The Legislature further finds and declares that the producers of  
20 architectural paint are best able to assume responsibility for the  
21 development and implementation of a cost-effective paint  
22 stewardship program that will provide fiscal relief to local  
23 governments by reducing the volumes of leftover paint, promoting  
24 its reuse, and providing for the collection, transportation, and  
25 processing of such paint.

26 The Legislature therefore determines that it is in the best  
27 interests of the State for the producers of architectural paint to  
28 provide for the planning and implementation of a program to  
29 collect, reuse, recycle, transport, and dispose of post-consumer  
30 architectural paint.

31  
32 3. As used in this act:

33 “Architectural paint” means interior or exterior architectural  
34 coatings that are sold in containers of five gallons or less.  
35 “Architectural paint” shall not mean industrial, original equipment, or  
36 specialty use coatings.

37 “Commissioner” means the Commissioner of Environmental  
38 Protection.

39 “Department” means the Department of Environmental Protection.

40 “Distributor” means a person who has a contractual relationship  
41 with one or more producers to market and sell architectural paint to  
42 retailers.

43 “Energy recovery” means a procedure in which all or a part of the  
44 solid waste materials of architectural paint are processed to use the  
45 heat content or other forms of energy from the solid waste materials.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Assembly AEN committee amendments adopted March 15, 2021.

1 “Environmentally sound management practices” means the  
2 policies or procedures for collection, storage, transportation, reuse,  
3 recycling, and disposal of architectural paint, which are implemented  
4 by a producer, representative organization, or their contracted partners  
5 to ensure compliance with all applicable federal, State, and local laws,  
6 rules, regulations, and ordinances, and the protection of human health  
7 and the environment, and which address matters such as adequate  
8 recordkeeping, accurate tracking and documentation of the use, reuse,  
9 recycling, or disposal of post-consumer architectural paint within and  
10 outside of the State, and adequate provision of environmental liability  
11 coverage for professional services and for the operations of contractors  
12 working on behalf of a producer or representative organization.

13 “Paint stewardship assessment” means the assessed amount,  
14 established pursuant to section 5 of this act, which is <sup>1</sup>**[added to]**  
15 included in<sup>1</sup> the purchase price of architectural paint sold in the State.

16 “Post-consumer architectural paint” means architectural paint not  
17 used and no longer wanted by a consumer.

18 “Producer” means a manufacturer of architectural paint that is sold,  
19 offered for sale, or distributed in the State, either under the producer’s  
20 own name or under any other brand name.

21 “Recycling” means any process used to transform discarded  
22 products, components, or by-products into new usable or marketable  
23 materials, and which process may cause those discarded products,  
24 components, or by-products to lose their original composition or  
25 identity. “Recycling” shall not include energy recovery or energy  
26 generation by means of combustion or incineration.

27 “Representative organization” means a nonprofit organization that  
28 is established by, and for the benefit of, two or more architectural paint  
29 producers in the State, and which is tasked with the development of an  
30 architectural paint stewardship program plan, in accordance with  
31 section 4 of this act, and implementation of the plan on behalf of, and  
32 with the participation of, each member producer.

33 “Retailer” means any person who sells architectural paint or offers  
34 architectural paint for sale at retail to consumers in the State.

35 “Reuse” means the return of a product into the economic stream  
36 for use in the same kind of application originally intended for the  
37 product, without a change in the product’s original composition or  
38 identity.

39 “Sell” or “sale” means any transfer of title for consideration,  
40 including, but not limited to, remote sales transactions conducted  
41 through sales outlets, catalogs, or the Internet, or through any other  
42 similar electronic means.

43

44 4. a. Within one year after the date of enactment of this act, every  
45 producer of architectural paint, or any representative organization  
46 established pursuant to this act, shall prepare and submit to the  
47 commissioner, for the commissioner’s approval, a plan for an  
48 architectural paint stewardship program. The plan shall minimize

1 public sector involvement in the management of post-consumer  
2 architectural paint by reducing its generation, promoting its reuse and  
3 recycling, and negotiating and executing agreements for its collection,  
4 transportation, reuse, recycling, burning for energy recovery,  
5 incineration, and disposal using environmentally sound management  
6 practices.

7 b. The plan submitted pursuant to this section shall:

8 (1) provide for convenient and available Statewide collection of  
9 post-consumer architectural paint from urban, suburban, and rural  
10 areas of the State in a manner that, at a minimum, ensures collection  
11 rates and a level of convenience equal to or greater than that provided  
12 by other collection programs available to consumers prior to the  
13 establishment of the architectural paint stewardship program;

14 (2) provide collection site locations Statewide that will accept  
15 post-consumer architectural paint, through the use of geographic  
16 information modeling, such that at least 90 percent of State residents  
17 have a permanent collection site within 15 miles of their residence,  
18 that permanent collection sites be established for every 30,000  
19 residents of a population center, and that collection sites be distributed  
20 to provide convenient and equitable access for residents within each  
21 population center, unless otherwise authorized by the department. For  
22 those persons who do not have a permanent collection site within 15  
23 miles of their residence, the plan shall provide for annual collection  
24 events;

25 (3) address, to the extent reasonably feasible and mutually  
26 agreeable, the coordination of the architectural paint stewardship  
27 program with the existing infrastructure of local governments and the  
28 existing household hazardous waste collection infrastructure in the  
29 State;

30 (4) in accordance with the provisions of section 5 of this act,  
31 identify an appropriate amount for the paint stewardship assessment;

32 (5) identify, in two separate lists: (a) each producer participating  
33 in the program; and (b) the brands of architectural paint that are  
34 included in the program; and

35 (6) be reviewed by an independent financial auditor to verify that  
36 the paint stewardship assessment <sup>1</sup>**[added to]** included in the price of<sup>1</sup>  
37 each unit of paint sold in the State will cover, but not exceed, the costs  
38 of the architectural paint stewardship program. The cost of any work  
39 performed by an independent financial auditor pursuant to this  
40 paragraph shall be funded by the architectural paint stewardship  
41 program.

42 c. A producer of architectural paint, or a representative  
43 organization established pursuant to this act, shall notify the  
44 department, in writing, within 30 days of any of the following changes  
45 to a plan approved pursuant to section 6 of this act:

46 (1) the location or number of collection sites identified in the plan;

47 (2) the identity of the processors that manage the post-consumer  
48 architectural paint collected; or

1 (3) the transporters of the post-consumer architectural paint  
2 collected by the program.

3 d. A producer of architectural paint, or a representative  
4 organization established pursuant to this act, shall submit an  
5 amendment to the plan approved by the department within 120 days  
6 after:

7 (1) any change to the amount of the paint stewardship assessment  
8 imposed pursuant to section 5 of this act; or

9 (2) any change to the goals of the program as approved in the plan.

10 The department shall review the amendments to the plan and shall  
11 approve or disapprove them in accordance with the procedures  
12 established pursuant to section 6 of this act.

13 e. The department shall charge and collect from each producer or  
14 representative organization that submits a plan for an architectural  
15 paint stewardship program pursuant to this section an annual  
16 administrative fee, which shall not exceed the department's costs in  
17 administering the provisions of this act.

18

19 5. a. The producer or representative organization submitting a  
20 plan pursuant to section 4 of this act shall establish, as a funding  
21 mechanism for the program, a paint stewardship assessment amount to  
22 be uniformly applied to the sale price of all brands of architectural  
23 paint covered under the architectural paint stewardship program. The  
24 paint stewardship assessment shall not exceed the costs of the  
25 architectural paint stewardship program.

26 b. A paint stewardship assessment, as established by subsection a.  
27 of this section, shall be <sup>1</sup>**[added to]** included in<sup>1</sup> the cost of each  
28 container of architectural paint sold by a producer to a retailer or  
29 distributor in the State, and each retailer or distributor shall <sup>1</sup>**[add]**  
30 include<sup>1</sup> the paint stewardship assessment <sup>1</sup>**[to]** in<sup>1</sup> the purchase price  
31 of the producer's architectural paint.

32 c. If a producer is a member of a representative organization, the  
33 producer shall remit to the representative organization the paint  
34 stewardship assessment received for each container of architectural  
35 paint sold by the producer in the State.

36

37 6. a. Within 90 days after the department's receipt of a plan  
38 submitted in accordance with section 4 of this act, the commissioner  
39 shall approve or disapprove the plan, including the paint  
40 stewardship assessment identified therein, and provide written  
41 notice of its determination to the producer or representative  
42 organization, as the case may be. If the department does not  
43 provide notice of its determination within 90 days after its receipt of  
44 the plan, the plan shall be deemed to have been approved, and the  
45 producer or representative organization, as the case may be, shall  
46 proceed to implement the plan.

1       b. If the commissioner disapproves a plan submitted pursuant  
2 to section 4 of this act, the written notice provided pursuant to  
3 subsection a. of this section shall be accompanied by a detailed  
4 statement, prepared by the department, describing the reasons for  
5 the disapproval, and prescribing the changes required for approval.  
6 No more than 45 days after receipt of the department's written  
7 notice and accompanying statement of the reasons for the  
8 disapproval of a plan submitted pursuant to section 4 of this act, the  
9 producer or representative organization, as appropriate, shall submit  
10 the modified plan to the department for approval.

11       c. Within 45 days after receipt of a modified plan that has been  
12 submitted in accordance with subsection b. of this section, the  
13 department shall approve the plan or reject it, and shall certify the  
14 approval or rejection to the producer or representative organization,  
15 as the case may be. Upon the department's disapproval of any  
16 modified plan submitted pursuant to subsection b. of this section, or  
17 upon the failure of the producer or representative organization to  
18 submit a modified plan as required, the department shall propose  
19 any revisions to the plan the department deems necessary, and shall  
20 transmit the proposed plan revisions to the producer or  
21 representative organization, as the case may be. Upon receipt of the  
22 department's proposed revisions to the plan, the producer or  
23 representative organization, as appropriate, shall implement the  
24 revised plan unless otherwise agreed to by the department.

25       d. Within 90 days after the department's approval of, or  
26 revisions to, a plan submitted in accordance with section 4 of this  
27 act:

28       (1) the producer or representative organization, as appropriate,  
29 shall implement the architectural paint stewardship program  
30 described in the plan; and

31       (2) the department shall post, at a publicly accessible location  
32 on its Internet website, two separate lists respectively identifying  
33 (a) each producer participating in the architectural paint stewardship  
34 program, and (b) the brands of architectural paint included in the  
35 program.

36  
37       7. In implementing a plan approved or revised pursuant to  
38 section 6 of this act, the producer, or representative organization of  
39 which the producer is a member, shall provide consumers with  
40 educational materials related to the architectural paint stewardship  
41 program and the paint stewardship assessment. These educational  
42 materials shall include, but need not be limited to, information  
43 identifying the end-of-life management options that are available  
44 for post-consumer architectural paint through the architectural paint  
45 stewardship program, and a notice provision stating that the costs of  
46 program operation will be included in the purchase price of all  
47 architectural paint sold in the State. The producer, or representative  
48 organization of which the producer is a member, may provide

1 retailers and collection sites with educational and informational  
2 material describing collection opportunities and promoting waste  
3 prevention, reuse, and recycling of post-consumer architectural  
4 paint. The educational and promotional materials may include, but  
5 need not be limited to, signage, written materials, templates of  
6 materials for reproduction by retailers to be provided to consumers  
7 at the time of purchase, and advertising materials describing the  
8 architectural paint stewardship program.

9  
10 8. a. A producer, distributor, or retailer shall not sell  
11 architectural paint or offer architectural paint for sale to any person  
12 in the State unless the producer of the architectural paint, or a  
13 representative organization of which the producer is a member, is  
14 engaged in the implementation of, or has fully implemented, a plan  
15 approved or revised by the commissioner pursuant to section 6 of  
16 this act.

17 b. A distributor or retailer shall be deemed to be in compliance  
18 with subsection a. of this section if, on the date architectural paint is  
19 ordered thereby, the producer of the paint and the brand name of the  
20 paint are each identified on the respective lists maintained on the  
21 department's Internet website pursuant to paragraph (2) of  
22 subsection d. of section 6 of this act.

23 c. (1) Any producer, distributor, or retailer who violates the  
24 provisions of subsection a. of this section shall be subject to: (a) a  
25 written warning for a first offense, and (b) a penalty of between  
26 \$500 and \$1,000 for each subsequent offense. Any applicable  
27 penalty under this subsection shall be collected by the State in a  
28 civil action by summary proceeding under the "Penalty  
29 Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10 et seq.),  
30 or in any case before a court of competent jurisdiction wherein  
31 injunctive relief has been requested. The Superior Court and the  
32 municipal court shall have jurisdiction to enforce the provisions of  
33 the "Penalty Enforcement Law of 1999" in accordance with the  
34 provisions of this act.

35 (2) The department may institute a civil action for injunctive  
36 relief to enforce the provisions, or prevent a violation, of this  
37 section, and the court may proceed in the action in a summary  
38 manner.

39  
40 9. a. Except as provided in subsection b. of this section, an  
41 action undertaken by a producer or representative organization,  
42 which affects the types or quantities of paint being recycled, or the  
43 cost or structure of any return or recycling program, shall not be  
44 deemed to be a violation of any State law relating to antitrust,  
45 restraint of trade, unfair trade practices, or the regulation of trade or  
46 commerce, so long as the action is necessary to plan or implement  
47 the organized collection or processing of architectural paint  
48 pursuant to this act.

1       b. Subsection a. of this section shall not apply to: (1) any  
2 agreement establishing or affecting the price of architectural paint,  
3 except an agreement to establish a paint stewardship assessment, as  
4 authorized by this act; or (2) any agreement restricting the output or  
5 production of architectural paint or the geographic area or  
6 customers to which paint will be sold.

7  
8       10. a. One year after the department provides notification to a  
9 producer or representative organization of its approval of a plan in  
10 accordance with section 6 of this act, and annually thereafter, the  
11 producer or representative organization, as the case may be, shall  
12 submit a report to the department describing its architectural paint  
13 stewardship program. The report shall include, at a minimum:

14       (1) a description of the methods used to reduce, reuse, collect,  
15 transport, recycle, and process post-consumer architectural paint  
16 under the program;

17       (2) the pounds of latex and oil-based post-consumer  
18 architectural paint collected under the program during the preceding  
19 year;

20       (3) the volume of post-consumer architectural paint processed  
21 under the program by method of disposition, including reuse,  
22 recycling, energy recovery, incineration, and disposal in accordance  
23 with environmentally sound management practices;

24       (4) the estimated volume of post-consumer architectural paint  
25 collected at each collection site under the program;

26       (5) a list of all processors of post-consumer architectural paint  
27 from the time of collection to final disposition that are used in the  
28 program and the disposition method used by each processor;

29       (6) a list of all producers participating in the program;

30       (7) the total volume of architectural paint sold in the State  
31 during the preceding year based upon the collection of the paint  
32 stewardship assessment;

33       (8) the total cost of implementing the program, which shall  
34 include separate figures for the cost of collection, transportation,  
35 disposition, communication, and independent financial audit;

36       (9) an evaluation of the effectiveness of the program and any  
37 steps necessary to improve the program; and

38       (10) samples of the educational materials provided to consumers  
39 of architectural paint, together with an evaluation of the methods  
40 used to disseminate those materials, and an assessment of the  
41 educational and outreach effectiveness of those materials.

42       b. Within 90 days after receipt of an annual report, the  
43 department shall meet with interested stakeholders to review it. The  
44 department shall post minutes of the stakeholder meeting on its  
45 Internet website within 30 days after the date of the meeting.

46       c. Each report submitted pursuant to subsection a. of this  
47 section shall be posted on the department's Internet website. The  
48 department shall not disclose financial, production, or sales data



1 reported by a producer or representative organization pursuant to  
2 this section, except that the department may disclose such data in  
3 aggregate or summary format, provided that individual producers,  
4 distributors, or retailers and their financial, production, or sales data  
5 are not specifically identified, and the summary omits any reference  
6 to unique characteristics from which the identities of individual  
7 producers, distributors, or retailers might be inferred or otherwise  
8 ascertained.

9  
10 11. This act shall take effect immediately, except that section 8  
11 of this act shall take effect on the first day of the 18th month after  
12 the date of enactment of this act.