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Legislative Document

No. 1044

S.P. 370

In Senate, March 24, 2015

**An Act To Ensure That Collection Facilities Can Participate in the
Architectural Paint Stewardship Program**

Reference to the Committee on Environment and Natural Resources suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Secretary of the Senate

Presented by Senator SAVIELLO of Franklin.
Cosponsored by Representatives: BLACK of Wilton, BUCKLAND of Farmington,
DUCHESNE of Hudson, MARTIN of Eagle Lake.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 38 MRSA §1319-P**, as reallocated by PL 1987, c. 517, §23, is amended to
3 read:

4 **§1319-P. Municipal hazardous waste control**

5 Nothing in this chapter ~~shall~~ may be construed as a preemption of the field of
6 hazardous waste regulation and study on the part of the State. Municipalities may study
7 hazardous waste and adopt and enforce hazardous waste control and abatement
8 ordinances, to the extent that these ordinances are not less stringent than this chapter or
9 than any standard under, or other action promulgated pursuant to, this chapter. Local
10 ordinance provisions ~~which that~~ touch on matters not dealt with by ~~the~~ this chapter or
11 ~~which that~~ are more stringent than this chapter ~~shall~~ bind persons residing in the
12 municipality, except that, notwithstanding any provision in this chapter to the contrary, a
13 municipality may not impose conditions or restrictions on the operation of collection sites
14 that are more stringent than conditions or restrictions in section 2144.

15 **Sec. 2. 38 MRSA §2144, sub-§1, ¶A**, as enacted by PL 2013, c. 395, §1, is
16 amended to read:

17 A. "Architectural paint" or "paint" means interior and exterior architectural coatings
18 sold in containers of 5 gallons or less and does not mean industrial, original
19 equipment or specialty coatings, arts and crafts paints, adhesives and caulking
20 compounds, epoxies, glues, automotive and marine paints, 2-component coatings,
21 deck cleaners, industrial maintenance coatings, original equipment manufacturer
22 paints and finishes, paint additives, colorants, tints, resins, roof patch and repair, tar
23 and bitumen-based products, traffic and road marking paints, wood preservatives,
24 ignitable paint thinners or solvents used for cleaning paint-related equipment or
25 contaminated with architectural paint or paint thinners or solvents identified as
26 hazardous waste in 40 Code of Federal Regulations, Section 261.31 that are used for
27 cleaning paint-related equipment or contaminated with architectural paint.

28 **Sec. 3. 38 MRSA §2144, sub-§1, ¶¶A-1 and A-2** are enacted to read:

29 A-1. "Collection container" means a container that is designed to store more than one
30 universal waste item that meets federal Department of Transportation specifications
31 for collection of those items.

32 A-2. "Collection site" means a location that collects post-consumer paint directly
33 from consumers for end-of-life management and may include, but is not limited to,
34 retailers, hardware and home improvement stores, transfer stations and household
35 hazardous waste programs. A collection site may also accept other universal wastes
36 according to rules established by the department.

37 **Sec. 4. 38 MRSA §2144, sub-§1, ¶B**, as enacted by PL 2013, c. 395, §1, is
38 amended to read:

1 B. "Consumer" means a purchaser or user of architectural paint. "Consumer"
2 includes a purchaser or user of architectural paint who also generates post-consumer
3 paint.

4 **Sec. 5. 38 MRSA §2144, sub-§1, ¶F-1** is enacted to read:

5 F-1. "Paint containing hazardous waste" means paint containing a hazardous waste
6 identified in rules adopted by the department pursuant to section 1319-O, including
7 paint containing a material identified as a hazardous waste by characteristic and
8 generated by a conditionally exempt small quantity generator pursuant to 40 Code of
9 Federal Regulations, Section 261.5 that:

10 (1) Generates less than 220 pounds of post-consumer paint each month;

11 (2) Does not generate more than 2.2 pounds of acutely hazardous waste as
12 defined in department rules each month; and

13 (3) Does not accumulate more than 2,200 pounds of post-consumer paint at one
14 site at any one time.

15 **Sec. 6. 38 MRSA §2144, sub-§1, ¶K**, as enacted by PL 2013, c. 395, §1, is
16 amended to read:

17 K. "Post-consumer paint" means architectural paint not used and no longer wanted
18 by a consumer. "Post-consumer paint" includes paint containing hazardous waste.

19 **Sec. 7. 38 MRSA §2144, sub-§5-A** is enacted to read:

20 **5-A. Requirements for collection sites.** This subsection applies to collection sites.

21 A. Within 30 days of commencement of a paint stewardship program, a producer or
22 representative organization shall notify the department of each site name and location
23 added or deleted from the list of collection sites provided under subsection 2,
24 paragraph D.

25 B. A collection site shall track all outgoing shipments of post-consumer paint on
26 either a manifest or a bill of lading. The collection site shall maintain these shipping
27 documents for at least 3 years.

28 C. Prior to accepting post-consumer paint, a collection site shall ensure that a
29 conditionally exempt small quantity generator certify in writing that the
30 post-consumer paint was not generated in an amount that exceeds the requirements of
31 subsection 1, paragraph F-1. The collection site shall maintain these records for at
32 least 3 years.

33 D. For each drop-off of post-consumer paint collected, a collection site shall
34 maintain records, including the name and address of the consumer, the date of the
35 drop-off and a description and quantity of the post-consumer paint. The collection
36 site shall keep the records for at least 3 years.

37 E. A collection site shall store post-consumer paint in collection containers in a
38 secure area. A collection container must be closed except when adding containers of
39 architectural paint that have been collected from consumers. A collection container

1 must be labeled with the words "Waste Paint." A collection site may not store more
2 than 1,100 gallons of post-consumer paint at any one time. A collection site may
3 store collected post-consumer paint for up to one year.

4 F. A collection site shall ship collected paint to a consolidation facility for universal
5 waste or a recycling facility for universal waste approved by the department in
6 accordance with rules adopted by the department.

7 G. Notwithstanding any law or rule to the contrary, the department may not impose a
8 requirement, including any requirement in an approved paint stewardship program
9 plan, on a collection site regarding the collection, handling, record-keeping, storage
10 and shipping of post-consumer paint that exceeds the requirements for collection sites
11 in this section, except as may otherwise be required by federal law.

12 **Sec. 8. 38 MRSA §2144, sub-§11** is enacted to read:

13 **11. Universal waste rules amendment.** The department shall amend the universal
14 waste rules adopted pursuant to section 1319-O, subsection 1, paragraph F to include
15 paint containing hazardous waste as universal waste.

16 **SUMMARY**

17 This bill amends the laws governing the stewardship program for architectural paint
18 by amending definitions and enacting requirements for architectural paint collection sites.