

HOUSE BILL 890

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By: **Delegates Boyce, Atterbeary, Bridges, Ebersole, Hettleman, Lehman, R. Lewis, Lierman, Moon, Palakovich Carr, Shetty, Smith, Terrasa, and K. Young**

Introduced and read first time: February 3, 2020

Assigned to: Environment and Transportation and Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Paint Stewardship Program**

3 FOR the purpose of requiring certain producers of architectural paint sold at retail in the
4 State or a certain representative organization to submit a plan for the establishment
5 of a Paint Stewardship Program to the Department of the Environment for approval, on
6 or before a certain date, and in accordance with certain requirements; authorizing a
7 certain plan to identify a certain retailer as a postconsumer collection site under certain
8 circumstances; requiring a certain plan to establish a certain assessment; prohibiting a
9 certain assessment from exceeding certain costs; requiring a certain assessment to be
10 evaluated by an independent financial auditor, as designated by the Department, for
11 certain purposes; requiring that the cost of certain work performed by a certain financial
12 auditor be funded by the Paint Stewardship Program; requiring certain assessments to
13 be used for a certain purpose; requiring the Office of Recycling within the Department
14 to review and approve certain plans, including a certain assessment, submitted in
15 accordance with the Paint Stewardship Program; requiring a producer or representative
16 organization to pay a plan review fee, as determined by the Department; requiring
17 certain fees to be deposited in the State Recycling Trust Fund; authorizing the State
18 Recycling Trust Fund to be used to cover certain costs; requiring the Department to
19 approve a certain plan under certain circumstances; requiring the Department to list
20 certain producers and brands on its website under certain circumstances; requiring
21 certain producers and retailers or distributors to add a certain assessment to the cost of
22 all architectural paint sold in the State beginning on a certain date; requiring a certain
23 producer or representative organization to implement a certain program within a certain
24 amount of time after the Department approves a certain plan; prohibiting a producer or
25 retailer from selling or offering for sale certain architectural paint under certain
26 circumstances beginning on a certain date or after a certain amount of time after the
27 Department approves a certain plan, whichever is later; requiring a certain producer or
28 representative organization to provide consumers with certain educational materials in
29 accordance with certain requirements; providing that certain retailers are in compliance
30 with certain requirements under certain circumstances; providing that a certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 producer or representative organization is immune from certain liability under certain
 2 circumstances; requiring a certain producer or representative organization to submit a
 3 certain report to the Department in accordance with certain requirements, on or before
 4 a certain date, and with a certain frequency thereafter; requiring the Department to
 5 review a certain report in accordance with certain requirements; requiring a producer
 6 or representative organization to pay an annual report review fee, as determined by the
 7 Department; requiring the Department to keep certain data confidential; authorizing
 8 the Department to release certain summary data under certain circumstances; defining
 9 certain terms; and generally relating to the Paint Stewardship Program.

10 BY repealing and reenacting, without amendments,

11 Article – Environment

12 Section 9–1701(a), (i), and (m)

13 Annotated Code of Maryland

14 (2014 Replacement Volume and 2019 Supplement)

15 BY adding to

16 Article – Environment

17 Section 9–1701(b–1), (i–1), (o–1) through (o–3), (r–1), (s–1), and (s–2); and 9–1733 to
 18 be under the new part “Part V. Paint Stewardship Program”

19 Annotated Code of Maryland

20 (2014 Replacement Volume and 2019 Supplement)

21 BY repealing and reenacting, with amendments,

22 Article – Environment

23 Section 9–1702 and 9–1707(f)

24 Annotated Code of Maryland

25 (2014 Replacement Volume and 2019 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 27 That the Laws of Maryland read as follows:

28 **Article – Environment**

29 9–1701.

30 (a) In this subtitle the following words have the meanings indicated.

31 **(B–1) (1) “ARCHITECTURAL PAINT” MEANS INTERIOR AND EXTERIOR**
 32 **ARCHITECTURAL COATINGS SOLD IN CONTAINERS OF 5 GALLONS OR LESS.**

33 **(2) “ARCHITECTURAL PAINT” DOES NOT INCLUDE INDUSTRIAL**
 34 **COATINGS, ORIGINAL EQUIPMENT COATINGS, OR SPECIALTY COATINGS.**

35 (i) “Director” means the Director of the Office of Recycling.

36 **(I–1) “DISTRIBUTOR” MEANS A COMPANY THAT HAS A CONTRACTUAL**

1 RELATIONSHIP WITH ONE OR MORE PRODUCERS TO MARKET AND SELL
2 ARCHITECTURAL PAINT TO RETAILERS IN THE STATE.

3 (m) "Office" means the Office of Recycling within the Department.

4 (O-1) "PAINT STEWARDSHIP ASSESSMENT" MEANS THE AMOUNT ADDED TO
5 THE PURCHASE PRICE OF ARCHITECTURAL PAINT SOLD IN THE STATE THAT IS
6 NECESSARY TO COVER THE PAINT STEWARDSHIP PROGRAM'S COST OF
7 COLLECTING, TRANSPORTING, AND PROCESSING POSTCONSUMER PAINT
8 STATEWIDE.

9 (O-2) "POSTCONSUMER PAINT" MEANS ARCHITECTURAL PAINT NOT USED
10 AND NO LONGER WANTED BY A PURCHASER.

11 (O-3) "PRODUCER" MEANS A MANUFACTURER OF ARCHITECTURAL PAINT
12 THAT SELLS, OFFERS FOR SALE, OR DISTRIBUTES THE PAINT IN THE STATE UNDER
13 THE PRODUCER'S OWN NAME OR BRAND.

14 (R-1) "REPRESENTATIVE ORGANIZATION" MEANS A NONPROFIT
15 ORGANIZATION CREATED BY PRODUCERS TO IMPLEMENT A PAINT STEWARDSHIP
16 PROGRAM.

17 (S-1) "RETAILER" MEANS ANY PERSON THAT OFFERS ARCHITECTURAL PAINT
18 FOR SALE AT RETAIL IN THE STATE.

19 (S-2) "SALE" OR "SELL" MEANS ANY TRANSFER OF TITLE FOR
20 CONSIDERATION, INCLUDING REMOTE SALES CONDUCTED THROUGH SALES
21 OUTLETS, CATALOGUES, THE INTERNET, OR ANY OTHER SIMILAR ELECTRONIC
22 MEANS.

23 9-1702.

24 (a) There is an Office of Recycling created within the Department.

25 (b) The Secretary shall appoint a Director and sufficient staff to perform the
26 functions of the Office. After July 1, 1989, the number of staff shall be as provided in the
27 budget.

28 (c) The Secretary may adopt regulations to carry out the provisions of this
29 subtitle.

30 (d) The Office shall:

31 (1) Assist the counties in developing an acceptable recycling plan required
32 under § 9-1703 of this subtitle and § 9-505 of this title, including technical assistance to

1 the local governments;

2 (2) Coordinate the efforts of the State to facilitate the implementation of
3 the recycling goals at the county level;

4 (3) Review all recycling plans submitted as part of a county plan as
5 required under § 9–505 of this title and advise the Secretary on the adequacy of the
6 recycling plan; [and]

7 (4) Administer the Statewide Electronics Recycling Program under Part IV
8 of this subtitle; **AND**

9 (5) **REVIEW AND APPROVE PLANS AND ANNUAL REPORTS, INCLUDING**
10 **THE PAINT STEWARDSHIP ASSESSMENT, SUBMITTED IN ACCORDANCE WITH A PAINT**
11 **STEWARDSHIP PROGRAM ESTABLISHED UNDER PART V OF THIS SUBTITLE.**

12 (e) Beginning on January 1, 1990, and biannually thereafter, the Office shall, in
13 coordination with the Maryland Environmental Service, study and report to the Governor
14 and, subject to § 2–1257 of the State Government Article, the General Assembly on:

15 (1) The availability of local, national, and international markets for
16 recycling materials;

17 (2) The identification and location of recycling centers, including an
18 analysis of existing recycling centers and the need to expand these facilities or construct
19 new recycling centers;

20 (3) Programs necessary to educate the public on the need to participate in
21 recycling efforts;

22 (4) The economics and financing of existing and proposed systems of waste
23 disposal and recycling;

24 (5) State procurement policies for the purchase of recycled materials;

25 (6) Programs necessary to reduce the amount of solid waste generated for
26 disposal by a State agency or unit;

27 (7) The liaison role with local governments, the federal government, and
28 the private sector;

29 (8) The percentage reduction in the amount of solid waste that has been
30 achieved by each county; and

31 (9) Economically feasible methods for the recycling of scrap automobile
32 tires, batteries, and white goods.

1 (f) (1) By December 1, 1988, the Office shall, in coordination with the
2 Maryland Environmental Service and the Governor's Task Force on Solid Waste, make
3 recommendations to the General Assembly for the financing of a comprehensive system of
4 recycling at the State and local level, including funding for recycling centers, recycling
5 equipment, recycling education, and marketing strategies.

6 (2) After the financing recommendations are made under paragraph (1) of
7 this subsection, each county may submit to the Office and the Governor a detailed request
8 for funds necessary to assist in the development and implementation of a recycling plan
9 under guidelines developed by the Office.

10 (g) In studying feasible methods for the management and recycling of used tires
11 under subsection (e)(9) of this section, the Office of Recycling shall consult with the
12 appropriate industry, including representatives of:

13 (1) Tire manufacturers;

14 (2) Tire dealers; and

15 (3) Tire recyclers.

16 9-1707.

17 (f) (1) There is a State Recycling Trust Fund.

18 (2) The Fund shall consist of:

19 (i) The newsprint recycling incentive fee;

20 (ii) The telephone directory recycling incentive fee collected under §
21 9-1709 of this subtitle;

22 (iii) The covered electronic device manufacturer registration fee
23 collected under § 9-1728 of this subtitle;

24 **(IV) THE PAINT STEWARDSHIP PROGRAM PLAN AND ANNUAL**
25 **REPORT REVIEW FEES COLLECTED UNDER § 9-1733(B) AND (H) OF THIS SUBTITLE;**

26 ~~[(iv)] (v)~~ All fines and penalties collected under this subtitle;

27 ~~[(v)] (vi)~~ Money appropriated in the State budget to the Fund; and

28 ~~[(vi)] (vii)~~ Any other money from any other source accepted for the
29 benefit of the Fund.

30 (3) The Secretary shall administer the Fund.

1 (4) The Treasurer shall hold the Fund separately and the Comptroller shall
2 account for the Fund.

3 (5) At the end of each fiscal year, any unspent or unencumbered balance in
4 the Fund that exceeds \$2,000,000 shall revert to the General Fund of the State in
5 accordance with § 7–302 of the State Finance and Procurement Article.

6 (6) In accordance with the State budget, the Fund shall be used only:

7 (i) To provide grants to the counties to be used by the counties to
8 develop and implement local recycling plans;

9 (ii) To provide grants to counties that have addressed methods for
10 the separate collection and recycling of covered electronic devices in accordance with §
11 9–1703(c)(1) of this subtitle;

12 (iii) To provide grants to municipalities to be used by the
13 municipalities to implement local covered electronic device recycling programs; [and]

14 (IV) TO COVER THE COSTS OF THE PAINT STEWARDSHIP
15 PROGRAM PLAN REVIEW UNDER § 9–1733(B) OF THIS SUBTITLE AND THE ANNUAL
16 REPORT REVIEW UNDER § 9–1733(H) OF THIS SUBTITLE; AND

17 [(iv)] (V) To carry out the purposes of the land management
18 administration.

19 (7) (i) The Treasurer shall invest the money in the Fund in the same
20 manner as other State money may be invested.

21 (ii) Any investment earnings of the Fund shall be credited to the
22 General Fund of the State.

23 **9–1731. RESERVED.**

24 **9–1732. RESERVED.**

25 **PART V. PAINT STEWARDSHIP PROGRAM.**

26 **9–1733.**

27 (A) (1) ON OR BEFORE JANUARY 1, 2021, PRODUCERS OF
28 ARCHITECTURAL PAINT SOLD AT RETAIL IN THE STATE, OR A REPRESENTATIVE
29 ORGANIZATION ACTING ON A PRODUCER’S BEHALF, SHALL SUBMIT A PLAN FOR THE
30 ESTABLISHMENT OF A PAINT STEWARDSHIP PROGRAM TO THE DEPARTMENT FOR

1 APPROVAL.

2 (2) THE PLAN SHALL MINIMIZE PUBLIC SECTOR INVOLVEMENT IN,
3 AND FINANCIAL RESPONSIBILITY FOR, THE MANAGEMENT OF POSTCONSUMER
4 PAINT BY:

5 (I) REDUCING ITS GENERATION;

6 (II) PROMOTING ITS REUSE AND RECYCLING; AND

7 (III) NEGOTIATING AND EXECUTING AGREEMENTS TO COLLECT,
8 TRANSPORT, REUSE, RECYCLE, PROCESS FOR RESOURCE RECOVERY, AND DISPOSE
9 OF POSTCONSUMER PAINT.

10 (3) THE PLAN SHALL PROVIDE FOR CONVENIENT AND AVAILABLE
11 STATEWIDE COLLECTION OF POSTCONSUMER PAINT THAT:

12 (I) PROVIDES FOR COLLECTION RATES AND CONVENIENCE
13 EQUAL TO OR GREATER THAN THE COLLECTION PROGRAMS AVAILABLE TO
14 CONSUMERS PRIOR TO THE PAINT STEWARDSHIP PROGRAM;

15 (II) IDENTIFIES EACH PRODUCER PARTICIPATING IN THE
16 PAINT STEWARDSHIP PROGRAM AND THE BRANDS OF ARCHITECTURAL PAINT SOLD
17 IN THE STATE THAT ARE COVERED BY THE PROGRAM;

18 (III) DESCRIBES HOW THE PAINT STEWARDSHIP PROGRAM MAY
19 BE IMPLEMENTED IN COORDINATION WITH EXISTING HOUSEHOLD HAZARDOUS
20 WASTE COLLECTION INFRASTRUCTURE IN A MANNER THAT IS MUTUALLY
21 AGREEABLE; AND

22 (IV) PROVIDES GEOGRAPHIC MODELING TO DETERMINE THE
23 NUMBER AND DISTRIBUTION OF SITES FOR COLLECTION OF POSTCONSUMER PAINT
24 BASED ON THE FOLLOWING CRITERIA:

25 1. AT LEAST 90% OF THE RESIDENTS OF THE STATE
26 SHALL HAVE A COLLECTION SITE WITHIN A 15-MILE RADIUS; AND

27 2. UNLESS OTHERWISE APPROVED BY THE
28 DEPARTMENT, ONE ADDITIONAL COLLECTION SITE SHALL BE ESTABLISHED FOR
29 EVERY 50,000 RESIDENTS OF A GEOGRAPHICAL AREA DESIGNATED UNDER FEDERAL
30 LAW AS AN URBANIZED AREA.

31 (4) THE PLAN MAY IDENTIFY A RETAILER AS A POSTCONSUMER PAINT

1 COLLECTION SITE IF:

2 (I) THE RETAILER VOLUNTEERS TO ACT AS A POSTCONSUMER
3 PAINT COLLECTION SITE;

4 (II) THE RETAILER IS IN COMPLIANCE WITH ALL APPLICABLE
5 LAWS AND REGULATIONS; AND

6 (III) THE SITE LOCATION OF THE RETAILER IS CONSISTENT WITH
7 MAINTAINING A COST-EFFECTIVE NETWORK OF POSTCONSUMER PAINT
8 COLLECTION LOCATIONS.

9 (5) THE PLAN SHALL ESTABLISH:

10 (I) A UNIFORM PAINT STEWARDSHIP ASSESSMENT FOR ALL
11 ARCHITECTURAL PAINT SOLD IN THE STATE; AND

12 (II) A MECHANISM FOR PAINT PRODUCERS PARTICIPATING IN A
13 PAINT STEWARDSHIP PROGRAM TO REMIT TO THE REPRESENTATIVE
14 ORGANIZATION PAYMENT OF THE PAINT STEWARDSHIP ASSESSMENT FOR EACH
15 CONTAINER OF ARCHITECTURAL PAINT SOLD IN THE STATE.

16 (6) THE TOTAL AMOUNT OF THE PAINT STEWARDSHIP ASSESSMENT
17 MAY NOT EXCEED THE COSTS OF IMPLEMENTING THE PAINT STEWARDSHIP
18 PROGRAM.

19 (7) (I) THE PAINT STEWARDSHIP ASSESSMENT SHALL BE
20 EVALUATED BY AN INDEPENDENT FINANCIAL AUDITOR, AS DESIGNATED BY THE
21 DEPARTMENT, TO ENSURE THE COSTS OF IMPLEMENTING THE PAINT
22 STEWARDSHIP PROGRAM ARE COVERED BUT NOT EXCEEDED.

23 (II) THE COST OF ANY WORK PERFORMED BY AN INDEPENDENT
24 FINANCIAL AUDITOR SHALL BE FUNDED BY THE PROGRAM.

25 (8) PAINT STEWARDSHIP ASSESSMENTS MAY BE USED ONLY TO
26 IMPLEMENT THE PAINT STEWARDSHIP PROGRAM.

27 (B) (1) THE DEPARTMENT SHALL REVIEW:

28 (I) THE PAINT STEWARDSHIP PROGRAM PLAN REQUIRED
29 UNDER SUBSECTION (A) OF THIS SECTION; AND

30 (II) THE WORK PRODUCT OF THE INDEPENDENT FINANCIAL

1 AUDITOR DESIGNATED BY THE DEPARTMENT TO EVALUATE PAINT STEWARDSHIP
2 ASSESSMENTS.

3 (2) THE PRODUCER OR REPRESENTATIVE ORGANIZATION THAT
4 SUBMITS A PLAN FOR APPROVAL SHALL PAY A PLAN REVIEW FEE TO THE
5 DEPARTMENT TO BE DEPOSITED IN THE STATE RECYCLING TRUST FUND UNDER §
6 9-1707 OF THIS SUBTITLE THAT COVERS THE DEPARTMENT'S COST OF PLAN
7 REVIEW, AS DETERMINED BY THE DEPARTMENT.

8 (3) IF THE DEPARTMENT DETERMINES THAT THE PAINT
9 STEWARDSHIP PROGRAM PLAN, INCLUDING THE PAINT STEWARDSHIP
10 ASSESSMENT, COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS
11 SECTION, THE DEPARTMENT SHALL APPROVE THE PROGRAM.

12 (4) THE DEPARTMENT SHALL LIST ON ITS WEBSITE THE PRODUCERS
13 AND BRANDS IMPLEMENTING OR PARTICIPATING IN AN APPROVED PAINT
14 STEWARDSHIP PROGRAM.

15 (C) (1) A PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL
16 IMPLEMENT ITS PAINT STEWARDSHIP PROGRAM PLAN WITHIN 6 MONTHS OF THE
17 PLAN'S APPROVAL BY THE DEPARTMENT.

18 (2) BEGINNING OCTOBER 1, 2021, OR 6 MONTHS AFTER PLAN
19 APPROVAL, WHICHEVER IS LATER:

20 (I) A PRODUCER OR RETAILER MAY NOT SELL OR OFFER FOR
21 SALE A BRAND OF ARCHITECTURAL PAINT TO ANY PERSON IN THE STATE, UNLESS
22 THE PRODUCER OF THE BRAND OR A REPRESENTATIVE ORGANIZATION OF WHICH
23 THE PRODUCER IS A MEMBER IS IMPLEMENTING AN APPROVED PAINT
24 STEWARDSHIP PROGRAM;

25 (II) A PRODUCER SHALL ADD THE PAINT STEWARDSHIP
26 ASSESSMENT ESTABLISHED UNDER AN APPROVED PAINT STEWARDSHIP PROGRAM
27 TO THE COST OF ALL ARCHITECTURAL PAINT SOLD TO RETAILERS AND
28 DISTRIBUTED IN THE STATE; AND

29 (III) EACH RETAILER OR DISTRIBUTER SHALL ADD A PAINT
30 STEWARDSHIP ASSESSMENT TO THE PURCHASE PRICE OF ALL ARCHITECTURAL
31 PAINT SOLD IN THE STATE.

32 (D) A PRODUCER OR REPRESENTATIVE ORGANIZATION PARTICIPATING IN
33 AN APPROVED PAINT STEWARDSHIP PROGRAM SHALL PROVIDE CONSUMERS WITH
34 EDUCATIONAL MATERIALS REGARDING THE PROGRAM THAT INCLUDE:

1 **(1) INFORMATION REGARDING AVAILABLE END-OF-LIFE**
2 **MANAGEMENT OPTIONS FOR ARCHITECTURAL PAINT OFFERED THROUGH THE**
3 **PROGRAM; AND**

4 **(2) INFORMATION THAT NOTIFIES CONSUMERS THAT AN**
5 **ASSESSMENT TO COVER THE COSTS OF IMPLEMENTING THE PROGRAM IS INCLUDED**
6 **IN THE PURCHASE PRICE OF ALL ARCHITECTURAL PAINT SOLD IN THE STATE.**

7 **(E) FOLLOWING THE IMPLEMENTATION OF THE PAINT STEWARDSHIP**
8 **PROGRAM, A RETAILER COMPLIES WITH THE REQUIREMENTS OF THIS SECTION IF,**
9 **ON THE DATE THE ARCHITECTURAL PAINT WAS ORDERED FROM THE PRODUCER OR**
10 **ITS AGENT, THE PRODUCER OF THE PAINT BRAND IS LISTED ON THE DEPARTMENT'S**
11 **WEBSITE AS IMPLEMENTING OR PARTICIPATING IN AN APPROVED PAINT**
12 **STEWARDSHIP PROGRAM.**

13 **(F) A POSTCONSUMER PAINT COLLECTION SITE THAT IS IDENTIFIED IN THE**
14 **PLAN MAY NOT CHARGE AN ADDITIONAL FEE FOR THE DISPOSAL OF PAINT WHEN IT**
15 **IS OFFERED FOR DISPOSAL.**

16 **(G) A PRODUCER OR REPRESENTATIVE ORGANIZATION THAT ORGANIZES**
17 **THE COLLECTION, TRANSPORT, AND PROCESSING OF POSTCONSUMER PAINT IN**
18 **ACCORDANCE WITH AN APPROVED PAINT STEWARDSHIP PROGRAM SHALL BE**
19 **IMMUNE FROM LIABILITY FOR ANY CLAIM OF A VIOLATION OF ANTITRUST,**
20 **RESTRAINT OF TRADE, OR UNFAIR TRADE PRACTICE ARISING FROM CONDUCT**
21 **UNDERTAKEN IN ACCORDANCE WITH THE PROGRAM.**

22 **(H) BEGINNING APRIL 1, 2022, AND ANNUALLY THEREAFTER, THE**
23 **PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL SUBMIT A REPORT TO THE**
24 **DEPARTMENT THAT DETAILS THE PAINT STEWARDSHIP PROGRAM, INCLUDING:**

25 **(1) A DESCRIPTION OF THE METHODS USED TO COLLECT,**
26 **TRANSPORT, AND PROCESS POSTCONSUMER PAINT IN THE STATE;**

27 **(2) THE VOLUME OF POSTCONSUMER PAINT COLLECTED IN THE**
28 **STATE;**

29 **(3) THE VOLUME AND TYPE OF POSTCONSUMER PAINT COLLECTED IN**
30 **THE STATE BY METHOD OF DISPOSITION, INCLUDING REUSE, RECYCLING, AND**
31 **OTHER METHODS OF PROCESSING OR DISPOSAL, THAT INCLUDES AN ACCOUNTING**
32 **OF THE VOLUME OF POSTCONSUMER PAINT COLLECTED IN THE STATE FOR EACH**
33 **COUNTY IN THE STATE;**

1 **(4) THE TOTAL COST OF IMPLEMENTING AND ADMINISTERING THE**
2 **PROGRAM, AS DETERMINED BY AN INDEPENDENT FINANCIAL AUDIT FUNDED BY THE**
3 **PAINT STEWARDSHIP ASSESSMENT; AND**

4 **(5) SAMPLES OF EDUCATIONAL MATERIALS USED TO INFORM**
5 **CONSUMERS OF ARCHITECTURAL PAINT.**

6 **(I) (1) THE DEPARTMENT SHALL REVIEW THE ANNUAL REPORT**
7 **REQUIRED UNDER SUBSECTION (H) OF THIS SECTION AND:**

8 **(I) EVALUATE THE TOTAL COSTS OF THE PAINT STEWARDSHIP**
9 **PROGRAM, INCLUDING ALL EXPENSES AND REVENUES, TO DETERMINE WHETHER**
10 **THE PAINT STEWARDSHIP ASSESSMENT MEETS OR EXCEEDS THE COSTS OF THE**
11 **PROGRAM IN ACCORDANCE WITH SUBSECTION (A)(5) OF THIS SECTION; AND**

12 **(II) DETERMINE WHETHER THE PLAN IS BEING IMPLEMENTED**
13 **IN ACCORDANCE WITH SUBSECTION (A) OF THIS SECTION.**

14 **(2) IF THE DEPARTMENT DETERMINES THAT THE PAINT**
15 **STEWARDSHIP ANNUAL REPORT, INCLUDING THE PAINT STEWARDSHIP**
16 **ASSESSMENT, COMPLIES WITH THE REQUIREMENTS OF SUBSECTION (A) OF THIS**
17 **SECTION, THE DEPARTMENT SHALL APPROVE THE ANNUAL REPORT.**

18 **(3) THE PRODUCER OR REPRESENTATIVE ORGANIZATION SHALL**
19 **MAKE THE APPROVED ANNUAL REPORT AVAILABLE TO THE PUBLIC.**

20 **(J) (1) FINANCIAL, PRODUCTION, OR SALES DATA REPORTED TO THE**
21 **DEPARTMENT BY A PRODUCER OR THE REPRESENTATIVE ORGANIZATION SHALL BE**
22 **KEPT CONFIDENTIAL BY THE DEPARTMENT AND MAY NOT BE SUBJECT TO PUBLIC**
23 **INSPECTION.**

24 **(2) THE DEPARTMENT MAY RELEASE SUMMARY DATA THAT DOES**
25 **NOT DISCLOSE FINANCIAL, PRODUCTION, OR SALES DATA OF A PRODUCER,**
26 **RETAILER, OR REPRESENTATIVE ORGANIZATION.**

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
28 1, 2020.