

MARYLAND RETAILERS ALLIANCE

The Voice of Retailing in Maryland



SB325 – Maryland Paint Stewardship Education, Energy, and the Environment Committee February 6, 2024

Position: Unfavorable

Background: HB1 would require sellers of paint in Maryland to establish and implement a paint disposal program which would be funded by an assessment levied on the sale of all architectural paint in state.

Comments: The Maryland Retailers Association continues to have many concerns with the proposed Paint Stewardship Program and all such stewardship programs for items that are difficult or impossible to recycle.

1. The Paint Stewardship Program, which would ostensibly award State taxing authority to a private entity, sets a dangerous precedent for charging additional fees for any consumer product deemed dangerous or difficult to dispose of (though architectural paint, as identified in the bill, is nontoxic and can be easily disposed of after being mixed with cat litter). A number of nonprofit groups have been established in the United States with the purpose of disposing of these products and are partnered under the Product Stewardship Institute (PSI) umbrella association. PSI's website includes a long list of materials that their 'partners' can dispose of and advertises that PSI's goals include getting legislation passed to establish programs for local disposal – that their partners, including PaintCare, can pick up the contracts for.
2. Though the bill includes language regarding the review of the Paint Stewardship Program and states that the total amount of the assessments collected may not surpass the cost of the program's operation, we continue to have concerns about the ability for any stewardship organization to only collect exactly as much funding as is required for operation. Assessment collection is based exclusively on the purchase of paint, and the law contains no mechanisms for ending fee collections once the program's needs have been met or for providing refunds to customers if assessments exceed the program's operational costs. We would also note that PaintCare, the nonprofit organization which operates paint stewardship programs in all other states that have enacted similar legislation, has historically reported revenues exceeding their operating expenses, as is visible on their 990 forms.
3. Paint stewardship programs claim to result in reduced costs for paint recycling, but other states have reported cost increases as programs expand and more collection locations open.

4. Paint stewardship programs may result in increased waste at drop-off sites due to collection limitations. PaintCare does not accept spray paint, nor does it recycle paint cans, leaving the collection site with the responsibility of disposing of cans and other paint materials that may be left behind by confused consumers. The fiscal analysis for the bill predicts a significant impact to small businesses even without considering the increased need for waste disposal and recycling.
5. Most if not all jurisdictions in Maryland already have collections or drop-off options for hazardous waste or other unusual trash items, and these options are funded through taxpayer dollars. Though the bill's fiscal note claims that local waste management costs will decrease over time as more jurisdictions participate in the program, it is unlikely that consumers will see a corresponding decrease in their local taxes and waste disposal prices. Additionally, the fiscal analysis predicts an increase in local expenditures as government entities are not exempt from paying the additional fee for paint.
6. The proposed Paint Stewardship Program has serious ethical implications regarding gatekeeping the market on paint and other items deemed difficult to dispose of. Paint stewardship programs in other states have been supported by national paint manufacturers who would see that such programs eliminate their competition in stores by banning paint manufacturers who do not participate in the program. Such behavior is unethical, and retailers across the country who operate in jurisdictions with similar programs have confirmed that the programs make it difficult for companies to remain competitive.

For these reasons, we must continue to urge an unfavorable report on the Paint Stewardship Program. Thank you for your consideration.