

## Paint Stewardship Legislation Discussion: H.823, S.542, S.551

### VERMONT'S YEAR-ROUND DROP-OFF SITES\*

Site Type	2015	2016	2017	2018	2019	2020	2021	2022
HHW Facility	4	4	4	4	4	4	4	4
Paint Retailer	<b>63</b>	<b>64</b>	<b>63</b>	<b>65</b>	<b>67</b>	<b>73</b>	<b>75</b>	<b>69</b>
Recycling Center	1	1	1	1	1	1	1	1
Transfer Station	5	5	5	5	5	6	6	6
Total Sites	73	74	73	75	77	84	86	80

- - Data from Vermont's PaintCare Annual Reports.

**Note:** the number of paint retailers participating from year to year varies, suggesting that if a retail store does not find the program to be a benefit to their store they can simply withdraw from the program.

## What Products are Covered?

Updated — May 2021



Products covered by the PaintCare program and accepted for drop-off are defined as interior and exterior architectural coatings sold in containers of 5 gallons or smaller. They do not include aerosol products (spray cans), industrial maintenance (IM), original equipment manufacturer (OEM), or specialty coatings.

### PaintCare Products

These products have a fee when purchased and are accepted for free at drop-off sites:

- Interior and exterior architectural paints: latex, acrylic, water-based, alkyd, oil-based, enamel (including textured coatings)
- Deck coatings, floor paints (including elastomeric)
- Primers, sealers, undercoaters
- Stains
- Shellacs, lacquers, varnishes, urethanes (single component)
- Waterproofing concrete/masonry/wood sealers and repellents (not tar or bitumen-based)
- Metal coatings, rust preventatives
- Field and lawn paints

### Non-PaintCare Products

These products do not have a fee when purchased and are not accepted at drop-off sites:

- Paint thinners, mineral spirits, solvents
- Aerosol paints (spray cans)
- Auto and marine paints
- Art and craft paints
- Caulking compounds, epoxies, glues, adhesives
- Paint additives, colorants, tints, resins
- Wood preservatives (containing pesticides)
- Roof patch and repair
- Asphalt, tar and bitumen-based products
- 2-component coatings
- Deck cleaners
- Traffic and road marking paints
- Industrial Maintenance (IM) coatings
- Original Equipment Manufacturer (OEM) (shop application) paints and finishes

Note: Containers that are leaking, empty, or without the original printed manufacturer's label are not accepted at drop-off sites.

## About the PaintCare Fee

Updated — January 2023



Paint stewardship laws require retailers to add a fee to architectural paint products and make sure they are not selling unregistered brands of architectural paint.

### PaintCare

PaintCare is a nonprofit organization established by the American Coatings Association to implement manufacturer-led paint stewardship programs in states that pass paint stewardship laws. PaintCare currently operates programs in California, Colorado, Connecticut, District of Columbia, Maine, Minnesota, New York, Oregon, Rhode Island, Vermont, and Washington. The main goal of PaintCare is to decrease paint waste and recycle more postconsumer paint by setting up convenient drop-off sites in each state.

### What is the recovery fee and how does it work?

The PaintCare program is funded through a paint stewardship fee called the PaintCare fee. The PaintCare fee is applied to the purchase price of architectural paint. The fee funds collection, transportation, and processing of unused

postconsumer (leftover) architectural paint, public education about proper paint management, and administrative costs. The fee is paid to PaintCare by paint manufacturers. This fee is then added to the wholesale and retail purchase price of paint, passing the cost of managing postconsumer paint to everyone who purchases paint. This reduces local and state government costs for paint management and provides a funding source for a more convenient, statewide paint management program.

### Do retailers have to pass on the fee?

Yes, each state or jurisdiction's law requires retailers to pass on the fee to consumers, ensuring a level playing field for all parties. This requirement includes paint sold online on any e-commerce websites.

### Recommendations for Contractors

#### Preparing Estimates

When estimating jobs, contractors should take the PaintCare fee into account by checking with suppliers to make sure their quotes for paint products include the fee.

#### Pass Fee to Customers

PaintCare suggests that painting contractors pass on the fee to customers in order to recoup the fee they pay. Tell customers that quotes include the PaintCare fee and that the fee funds a statewide paint recycling program.

### How much is the fee?

The PaintCare fee is based on container size and varies from one program to another:

	Half pint or smaller	Larger than half pint up to smaller than 1 gallon	Larger than 1 gallon up to 2 gallons	Larger than 2 gallons up to 5 gallons
California	\$0.00	\$0.30	\$0.65	\$1.50
Colorado	\$0.00	\$0.35	\$0.75	\$1.60
Connecticut	\$0.00	\$0.35	\$0.75	\$1.60
District of Columbia	\$0.00	\$0.30	\$0.70	\$1.60
Maine	\$0.00	\$0.35	\$0.75	\$1.60
Minnesota	\$0.00	\$0.49	\$0.99	\$1.99
New York	\$0.00	\$0.45	\$0.95	\$1.95
Oregon	\$0.00	\$0.45	\$0.95	\$1.95
Rhode Island	\$0.00	\$0.35	\$0.75	\$1.60
Vermont	\$0.00	\$0.49	\$0.99	\$1.99
Washington	\$0.00	\$0.45	\$0.95	\$1.95

March 16, 2023

The Honorable Rebecca Rausch, Senate Chair  
Joint Committee on Environment and Natural Resources  
24 Beacon Street  
State House, Room 218  
Boston, MA 02133

***RE: Senate Bill S.542 — An Act to Establish Safe Paint Stewardship  
Senate Bill S.551 — An Act Relative to Paint Recycling***

Dear Chairwoman Rausch,

On behalf of Aubuchon Company, I would like to express our support for the above noted senate Bills, regarding paint recycling. We have reviewed the wording of the proposed legislation and have found no issue with either version. Aubuchon Company, headquartered in Westminister, Massachusetts has over 100 stores throughout the Northeast. We believe strongly in the importance of customer service and believe this bill supports that commitment without causing any hardship based on our positive experience with paint stewardship in our participating stores. Therefore, as Chairwoman, I respectfully request that you share our experience with your committee and encourage a favorable vote for a paint recycling measure.

Aubuchon currently has participating retail paint collection sites for PaintCare in Vermont, Maine, Connecticut and most recently, New York. Our results to date have all been positive. Our retail outlets have noted no issues with the program and welcome the increased foot traffic this Bill has generated; PaintCare once notified has provided tote pickup service reliably within 2-5 days, depending on the state; and managing fee collection and prescribed distribution of collected fees has been relatively easy. Of particular importance to Aubuchon Hardware, as noted above, is that this program allows us to provide a service to our customers that they appreciate and is part of our mission. We have heard that those objecting to this legislation have contended that this law will disadvantage the non-big box retailers, but we have not found this to be true. We have also had no customer complaints that I am aware of regarding the PaintCare fee.

In summary, Aubuchon supports a Massachusetts Senate Paint Stewardship bill and we look forward to working with PaintCare to provide this proven effective paint stewardship program to our customers in the Commonwealth.

Sincerely,

*Joseph Houssan*

Joseph Houssan  
VP Purchasing

Cc: Senator Susan Moran, 24 Beacon Street, State House, Room 506, Boston, MA 02133  
Senator Patrick O'Connor, 24 Beacon Street, State House, Room 419, Boston, MA 02133

April 5th, 2024

The Honorable Aaron Michlewitz, Chair  
The Honorable Ann-Margaret Ferrante, Vice Chair  
House Committee on Ways and Means  
24 Beacon Street  
State House  
Boston, MA 02133

**RE: *House Bill H.823 — An Act Relative to Paint Recycling***  
***Senate Bill S.551 — An Act Relative to Paint Recycling***  
***(both contained within H.4263 before House Ways and Means)***

Dear Chair Michlewitz, Vice Chair Ferrante, Assistant Vice Chair Haddad, and Members of House Ways and Means,


On behalf of Home Décor Group, LLC, I would like to express our endorsement of the language from the paint recycling bills H.823/S.551. Headquartered in Peabody, MA, Home Décor Group operates over 24 stores across the Northeast, including 21 locations in Massachusetts. We firmly believe that this bill aligns with our commitment to customer service without posing any undue challenges. I respectfully urge you, as House Ways and Means Committee leadership, to share our experiences with your committee, advocating for a favorable vote for paint recycling legislation.

Home Décor Group has heard positive feedback from fellow retailers in neighboring states that have implemented PaintCare. Their results to date have been positive. PaintCare, once notified, has provided pickup service reliably within 2-5 days, depending on the state; and managing fee collection and prescribed distribution of collected fees has been relatively easy. We would welcome the increased foot traffic in our stores that this program has generated for retailers in RI, VT, ME, NY, and CT.

Of particular significance to Home Décor Group is the opportunity this program affords us to provide a valued service to our customers, aligning with our mission. Our experience contradicts the claim that this legislation places small, independent retailers at a disadvantage.

In conclusion, Home Décor Group stands in support of a Massachusetts paint stewardship law, and we look forward to working with PaintCare to deliver this proven, effective program to our customers in the Commonwealth. I implore you, our elected state leaders, to take all necessary actions to pass the paint stewardship bill language from H.823/S.551 into law.

Thank you for your attention to this matter and for your public service.  
Sincerely,

  
Michael Tapper  
Owner/Vice President

## June 14, 2023 MMA testimony urging Environment and Natural Resources Committee to support product stewardship legislation

The Honorable Daniel Cahill, House Chair  
The Honorable Rebecca Rausch, Senate Chair  
Joint Committee on Environment and Natural Resources  
State House, Boston

Dear Chair Cahill, Chair Rausch, and Distinguished Members of the Committee,

On behalf of the cities and towns of the Commonwealth, the Massachusetts Municipal Association (MMA) is pleased to offer its support for several bills at today's hearing of the Joint Committee on Environment and Natural Resources. The challenges currently facing waste management systems across the Commonwealth are pressing, and our members recognize the need for creative, dependable solutions. Several of these solutions form the basis of the bills currently pending before the Committee.

This session, the MMA continues to support product stewardship legislation, to require that manufacturers be held responsible for their products' end-of-life recycling needs. Compared to relying solely on municipal waste management solutions, product stewardship can strengthen incentives for producers to incorporate environmental considerations into packaging and product designs. Extended producer responsibility (EPR) is a form of product stewardship that would be required for certain products or materials.

Over the past decade, cities and towns in the Commonwealth have seen significant increases to the cost of their solid waste and recycling contracts. These costs threaten local budgets and the financial sustainability of waste and recycling programs in Massachusetts, especially for resource-challenged communities. Municipalities continue to rise to the challenge to provide these services while navigating a changing regulatory landscape focused on waste reduction at the source, beneficial reuse, and increased recycling, despite a lack of financial accountability by the manufacturers whose products generate this waste.

Extended producer responsibility is one lever to institute accountability and bolster recycling opportunities statewide. Today, the Massachusetts Municipal Association wishes to affirm its support for several extended producer responsibility bills that the Committee will consider this session.

The MMA strongly supports **H. 823 and S. 551, An Act relative to paint recycling**, as well as **S. 542, An Act establishing safe paint stewardship**. EPR programs for paint have demonstrated that leftover, unwanted paint can be safely and sustainably diverted from waste streams with an added cost-saving benefit for municipalities. Paint recycling, when made accessible to all residents in Massachusetts, will help to reduce disposal costs for municipalities and minimize pollution and mismanagement of paint. H. 823, S. 551, and S. 542 are consistent with paint stewardship programs established in 10 states across the nation, including Maine, Vermont, New York, Connecticut and Rhode Island. This legislation will allow Massachusetts to join this existing network that supports paint recycling and take advantage of the benefits: states with EPR for paint have reused or recycled more than 70% of latex paint collected, saving taxpayers nearly \$300 million to date.

The MMA also supports several bills which would institute extended producer responsibility for mattresses. **H. 881, An Act to establish a mattress recycling program in the Commonwealth**, as well as **H. 916 and S. 513, An Act to assess the future of mattress recycling in the Commonwealth**, would bolster mattress recycling systems statewide. While the MassDEP waste ban on mattresses sparked the development of mattress recycling facilities across the state, it has also highlighted the disparities residents encounter in their efforts to recycle these bulky items. Extended producer responsibility for mattresses can be a solution that responds to municipal concerns about varied and patchwork pricing, service gaps where residents are left to the private market for recycling services, and a lack of stable municipal funding to support new recycling programs and contracts. EPR would help streamline this system, while standardizing costs across the Commonwealth.

- Continue to work with recycling facilities, haulers, and municipalities to ensure that materials collected can be handled through the existing recycling infrastructure.

### ***Policies and regulations***

- Implement new waste bans on textiles and mattresses with grant and assistance programs to support and drive this infrastructure.
- Support the development of **producer responsibility approaches** for materials that are difficult and expensive to manage in local programs, **including paint**, electronics and carpet.
- Support the development of a hauler recycling requirement that ensures a level playing field and consistent access to recycling, especially for residents not served by municipal programs.

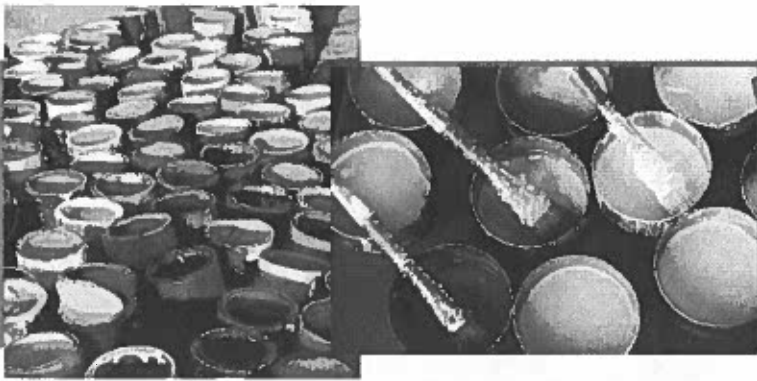
#### **Pay As You Throw (PAYT) Fast Facts**

- 153 Massachusetts municipalities, representing nearly 30 percent of the state's population have PAYT programs in place.
- Average per household trash generation rates are up to 40 percent lower in municipalities with PAYT than non-PAYT communities.
- If all of Massachusetts municipalities adopted PAYT, that would reduce trash disposal by more than 400,000 tons annually.

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# WIDE SPREAD SUPPORT ACROSS MASSACHUSETTS

## PAINT STEWARDSHIP HAS BROAD SUPPORT

The following municipalities, businesses, and organizations have signed an endorsement of paint stewardship. They are constituents from across Massachusetts. Municipalities representing 31% of the state population have voiced their support.

### Local Governments

City of Boston\*  
 County of Barnstable\*  
 (representing 15 municipalities)  
 City of Springfield\*  
 South Shore Recycling Cooperative\*  
 (representing 18 municipalities)  
 City of Cambridge  
 City of Lynn\*  
 City of New Bedford  
 City of Newton\*  
 City of Somerville  
 City of Malden\*  
 City of Brookline\*  
 City of Revere  
 City of Chicopee\*  
 City of Peabody\*  
 Town of Arlington  
 City of Salem  
 Franklin County Solid Waste Management  
 District (representing 21 municipalities)  
 City of Pittsfield\*  
 City of Westfield\*  
 City of Leominster  
 City of Fitchburg  
 City of Woburn  
 Town of Braintree  
 City of Holyoke\*  
 Northern Berkshire Solid Waste Management  
 District (representing 14 municipalities) \*  
 Town of Falmouth  
 City of Gloucester\*  
 City of Northampton\*  
 Town of Middleborough  
 Town of Danvers\*  
 Town of Ludlow\*  
 Bourne Recycling Committee  
 Town of Marblehead  
 Town of Grafton\*  
 City of Newburyport\*  
 Town of Somerset\*  
 City of Greenfield\*  
 Town of Webster\*  
 Town of Auburn\*  
 Town of Abington

### Local Governments

Town of Swampscott  
 Town of East Longmeadow\*  
 City of Easthampton\*  
 Town of Longmeadow\*  
 Town of Wilbraham\*  
 Ipswich Waste Reduction Advisory Committee  
 Town of Kingston  
 City of North Adams\*  
 Hilltown Resource Management Cooperative\*  
 (representing 10 municipalities)  
 Town of Tyngsborough  
 Town of Boxford  
 Town of Adams\*  
 Town of West Boylston\*  
 Town of Williamstown\*  
 Town of Great Barrington\*  
 Town of Rockport\*  
 Town of Harvard  
 Town of Dalton\*  
 Town of Granby\*  
 Town of Lee\*  
 Town of Sherborn  
 Town of Manchester-by-the-Sea\*  
 Town of Lenox\*  
 Town of Wenham\*  
 Town of Sheffield\*  
 Town of Ashby  
 Town of Lanesborough\*  
 Town of Stockbridge\*  
 Town of Shutesbury  
 Town of Hinsdale\*  
 Town of Becket\*  
 Town of Clarksburg\*  
 Town of Otis\*  
 Town of Egremont\*  
 Town of West Stockbridge\*  
 Town of Chesterfield  
 Town of Windsor\*  
 Town of Worthington\*  
 Town of Florida\*  
 Town of Savoy\*  
 Town of Plainfield\*

### Businesses

Aubuchon Hardware  
 Home Decor Group  
 Recolor Paints  
 Allonnia  
 Black Earth Compost Clean-Seas, Inc.  
 Helpsy  
 Manchester Marine  
 NEC Solar  
 Pinto Recycling, Inc

### Non-Government Organizations

Massachusetts Municipal Association\*  
 American Coatings Association  
 Product Stewardship Institute, Inc.  
 National Stewardship Action Council  
 League of Women Voters of Massachusetts  
 Keep Massachusetts Beautiful  
 Connecticut River Conservancy  
 Seaside Sustainability  
 Green Newton  
 Cape Cod Anti-Litter Coalition, Inc.  
 Cape Cod's Faith Communities Environmental Network  
 Energy and Climate Committees of the  
 Cape and Islands  
 350 Mass Berkshires  
 Salem Sound Coastwatch  
 Keep Salem Beautiful  
 Zero Waste Arlington  
 Greening Greenfield  
 Zero Waste Melrose  
 Lee Greener Gateway Committee  
 Saugus Action Volunteers for the Environment  
 Sheffield Saves  
 Shutesbury Recycling and Solid Waste Committee  
 Sustainability Committee of Tyngsboro, MA  
 Wachusett Earthday, Inc  
 Zero Waste Amherst  
 First Parish Church of Stow and  
 Acton Climate Task Force

\*Municipalities that have passed a resolution or endorsement letter motion in support of product stewardship

## Those objecting to the Paint Stewardship legislation

The MRF in Springfield operated by the national corporation, Waste Management Recyclers of America, objects primarily to the plastics legislation that will extend the number of plastic bottles that will have a mandated deposit, which they feel will meaningfully decrease their profitability. Consequently, they have taken a position of opposition to all EPR legislation.

Lobbyist reports from the 2019-202 and 2021-2022 legislative sessions show both the Retailers Association of Massachusetts and the National Federation of Independent Business were opposed to the bill. During the 2019-2020 session the Northeastern Retail Lumber Dealers Association was also opposed. Their reasons were not available from these reports.

However, in a November 25, 2015 Lowell Sun article the interview of a VP of the Retailers Association of Massachusetts shared the Associations concerns about Paint Stewardship. (A similar interview was also reported in the April 17, 2023 Berkshire Eagle article.)

- Concern:** That passage of the paint stewardship bill could lead to similar recovery fees or takeback programs for an array of products, such as thermostats, tires, carpets, mattresses and televisions, potentially driving up consumer costs and burdening retailers.

**Response:** Solid Waste disposal is a huge problem, and we certainly hope that paint stewardship is a model that helps eliminate other items from the solid waste stream and brings relief to communities. Additionally, implementing well thought out Stewardship programs like that for paint will save residents and communities money and is cost transparent to manufacturers. Also, a properly designed program, which includes retailer input in its creation, will also present minimum burden to retailers.
- Concern:** The stewardship program would hurt local paint sellers, putting them at a competitive disadvantage with internet sellers and stores in New Hampshire that do not charge sales tax or paint assessment fees.

**Response:** A study by CT DEP showed that CT residents did not travel to Massachusetts to acquire paint without the fee. Internet paint sellers do collect the Paint Stewardship fee from residents of states with Paint Stewardship laws.
- Concern:** Most RAM members and most consumers would argue that this is not a fee at all, but rather a TAX.

**Response:** The collected money does not go to the a State's general fund as a true tax would. Further PaintCare operates as a non-profit organization making no profit, which the state confirms through an annual 3<sup>rd</sup> party audit of PaintCare's financial records.
- Concern:** Smaller paint retailers, like Ace, TrueValue, Carr, Aubuchon or Sherwin Williams, will be disadvantaged by the law and will be compelled to participate whether they wish to or not.

**Response:** Retailers and transfer stations participate on a voluntary basis. Loews, Home Depot, and Walmart typically decline participation and small retailers typically do become collection points. The smaller paint retailers in CT, NY, and VT that I have spoken to have found the program requires minimal effort and significantly increases their foot traffic, which they like. To become a collection site retailers or transfer stations must complete the simple 2-page application form on the PaintCare website.

Overall consumers in our neighboring states with Paint Stewardship find the minimal fee charged is more than offset by the ease of discarding unused paint. Our neighboring states all feel strongly that PaintCare is a benefit. The MassDEP believes that this program is essential to the success of their plan for a 90% reduction in waste by 2050.

**THOMAS B. IRWIN, DO, SM, ChE**

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