



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

Testimony for the Assembly Committee on Transportation

Assembly Bill 131

Thursday, March 25, 2021

Thank you Chairman Plumer and committee members for holding a public hearing and giving me the opportunity to testify on Assembly Bill 131, legislation recommended by the Speaker's Task Force on Water Quality that prohibits the sale and use of coal tar-based sealant products and sealants that contain high levels of polycyclic aromatic hydrocarbons.

This bill passed the Assembly unanimously last session and passed unanimously out of committee in the Senate. Unfortunately, the pandemic prevented its passage in the full Senate.

Polycyclic aromatic hydrocarbons (PAHs) are persistent organic compounds that come from both natural and man-made sources. Tar-based pavement sealants are a primary source of toxic PAH pollution in Wisconsin.

Research has shown that PAHs are especially harmful to human health and animals that live in our lakes and rivers. Over time, coal tar sealants get worn down by exposure to sunlight and vehicle traffic and, as the sealant wears away, it releases PAHs into the environment.

A large portion of this pollution – which amounts to millions of pounds of PAHs every year – comes in the form of toxic dust and sediment and is carried into homes on shoes and children's toys; settles in the soil of nearby lawns, gardens and playgrounds; or washes off during rainstorms into storm sewers and waterways. The United States Geological Survey also states that coal tar sealants release more airborne PAHs every year than the entire U.S. vehicle fleet.

According to the U.S. Environmental Protection Agency, at least six of the PAHs found in coal tar pavement sealants are probable human carcinogens and one PAH – benzo[a]pyrene – is a known carcinogen. The American Medical Association, which supports a ban on these products, says people exposed to coal tar sealants on a regular basis have a 38 times higher chance of developing cancer.

The EPA has also confirmed that coal tar pavement sealants release hundreds of times more PAHs into the environment than other kinds of sealants. Furthermore, the EPA has issued fact sheets urging consumers and businesses to be aware of the risks these sealants pose and to choose safer alternatives.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

In the past 10 years, coal tar has also been cited as a hazardous substance by the Occupational Safety and Health Administration, American Conference of Governmental Industrial Hygienists, U.S. Department of Transportation, National Institute for Occupational Safety and Health, National Toxicology Program, International Agency for Research on Cancer and National Fire Protection Agency.

The EPA believes that choosing to ban coal tar sealants may be the most cost-effective way for communities to deal with the pollution impacts of these products.

Under AB 131, the sale of coal tar-based sealant products and sealants that contain high levels of PAHs would be banned starting approximately six months after the legislation is signed into law. A ban on the use of these products would begin approximately one year after the bill takes effect.

I strongly believe a ban is both feasible and needed because there are safer, cost-competitive alternatives to PAH tar-based sealants that are currently available. Modern asphalt-based pavement sealants contain up to 1,000 times lower PAH levels while also having similar life expectancies.

In the past, coal tar sealants were more durable than asphalt based sealants and did not need to be reapplied as frequently. As industry experts who will be testifying here today will clearly state, that is no longer true. While some users cling to this outdated belief, modern asphalt based sealants last as long, if not longer, than coal tar based sealants.

Speaking of that, you will soon be hearing from some opponents of this bill. While I respect that people can disagree on certain things, some groups are trying to defeat this legislation by spreading a lot of misinformation. To counter those claims, Thomas Ennis of Coal Tar Free America has put together a document that I have shared with all of you.

Furthermore, prohibiting these products will not only protect the environment, it will help save a significant amount of taxpayer dollars. Recently, the Environmental Protection Agency ordered the cleanup of the Milwaukee River Estuary to dredge PCB's and PAH's in the sediment. This project is expected to cost more than \$300 million. Unlike other similar cleanup projects, there is no business that can be held responsible, so the cost will fall entirely on taxpayers.



JOEL KITCHENS

STATE REPRESENTATIVE • 1ST ASSEMBLY DISTRICT

A recent study in the Milwaukee area found that 77 percent of PAH pollution in local streambed sediment came from coal tar-based sealants. Undoubtedly, this cleanup project is the tip of the iceberg.

As you can see, there is no acceptable reason why we should allow the continued use of PAH sealants. We should be following the lead of Minnesota, Washington, Maine and Washington, D.C., which have all enacted bans on these sealants. A growing number of municipalities in Wisconsin – including Sturgeon Bay, Green Bay, De Pere, Wauwatosa, West Allis, Elm Grove, Milwaukee and Manitowoc among others – already have a ban in place and several others are currently considering similar restrictions. Our bill would ensure that everyone is on a level playing field.

I want to thank you for taking the time to listen to my testimony and I hope you consider supporting AB 131. I would be happy to answer any questions if you have them.