
ENGROSSED SUBSTITUTE HOUSE BILL 1002

State of Washington

58th Legislature

2003 Regular Session

By House Committee on Fisheries, Ecology & Parks (originally sponsored by Representatives Hunt, Berkey, Cooper, Romero, Linville, Chase, Kagi, Wood, Simpson, Morrell, Rockefeller, Ruderman, Fromhold, Dickerson, Conway, Kessler, Cody, Jarrett, Voloria, O'Brien, Campbell, McDermott, Clibborn, Sullivan, Nixon, McIntire, Lantz, Moeller and Hudgins)

READ FIRST TIME 02/13/03.

1 AN ACT Relating to mercury reduction and education; adding a new
2 chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** The definitions in this section apply
5 throughout this chapter unless the context clearly requires otherwise.

6 (1) "Automotive mercury switch" includes a convenience switch, such
7 as a switch for a trunk or hood light, and a mercury switch in antilock
8 brake systems.

9 (2) "Department" means the department of ecology.

10 (3) "Director" means the director of the department of ecology.

11 (4) "Health care facility" includes a hospital, nursing home,
12 extended care facility, long-term care facility, clinical or medical
13 laboratory, state or private health or mental institution, clinic, or
14 health maintenance organization.

15 (5) "Manufacturer" includes any person, firm, association,
16 partnership, corporation, governmental entity, organization, or joint
17 venture that produces a mercury-added product or an importer or

1 domestic distributor of a mercury-added product produced in a foreign
2 country. In the case of a multicomponent product containing mercury,
3 the manufacturer is the last manufacturer to produce or assemble the
4 product. If the multicomponent product or mercury-added product is
5 produced in a foreign country, the manufacturer is the first importer
6 or domestic distributor.

7 (6) "Mercury-added button-cell battery" means a button-cell battery
8 to which the manufacturer intentionally introduces mercury for the
9 operation of the battery.

10 (7) "Mercury-added novelty" means a mercury-added product intended
11 mainly for personal or household enjoyment or adornment. Mercury-added
12 novelties include, but are not limited to, items intended for use as
13 practical jokes, figurines, adornments, toys, games, cards, ornaments,
14 yard statues and figures, candles, jewelry, holiday decorations, items
15 of apparel, and other similar products. Mercury-added novelty does not
16 include games, toys, or products that require a button-cell or lithium
17 battery, liquid crystal display screens, or a lamp that contains
18 mercury.

19 (8) "Mercury-added product" means a product, commodity, or
20 chemical, or a product with a component that contains mercury or a
21 mercury compound intentionally added to the product, commodity, or
22 chemical in order to provide a specific characteristic, appearance, or
23 quality, or to perform a specific function, or for any other reason.
24 Mercury-added products include, but are not limited to, mercury
25 thermometers, mercury thermostats, and mercury switches in motor
26 vehicles.

27 (9) "Mercury manometer" means a mercury-added product that is used
28 for measuring blood pressure.

29 (10) "Mercury thermometer" means a mercury-added product that is
30 used for measuring temperature.

31 (11) "Retailer" means a retailer of a mercury-added product.

32 NEW SECTION. **Sec. 2.** (1) Effective January 1, 2004, a
33 manufacturer, wholesaler, or retailer may not knowingly sell at retail
34 a fluorescent lamp if the fluorescent lamp contains mercury and was
35 manufactured after November 30, 2003, unless the fluorescent lamp is
36 labeled in accordance with the guidelines listed under subsection (2)

1 of this section. Primary responsibility for affixing labels required
2 under this section is on the manufacturer, and not on the wholesaler or
3 retailer.

4 (2) Except as provided in subsection (3) of this section, a lamp is
5 considered labeled pursuant to subsection (1) of this section if the
6 lamp has all of the following:

7 (a) A label affixed to the lamp that displays the internationally
8 recognized symbol for the element mercury; and

9 (b) A label on the lamp's packaging that: (i) Clearly informs the
10 purchaser that mercury is present in the item; (ii) explains that the
11 fluorescent lamp should be disposed of according to applicable federal,
12 state, and local laws; and (iii) provides a toll-free telephone number,
13 and a uniform resource locator internet address to a web site, that
14 contains information on applicable disposal laws.

15 (3) The manufacturer of a mercury-added lamp is in compliance with
16 the requirements of this section if the manufacturer is in compliance
17 with the labeling requirements of another state.

18 (4) The provisions of this section do not apply to products
19 containing mercury-added lamps.

20 NEW SECTION. **Sec. 3.** (1) The department shall develop and
21 implement a state plan for a permanent repository for mercury that is
22 certified under the federal resource conservation and recovery act.
23 The plan must include the identification of local jurisdictions that
24 are willing to host a mercury repository site.

25 (2) Prior to implementing the state plan for a permanent mercury
26 repository under subsection (1) of this section, the department shall
27 report to the legislature the details of the plan and the list of local
28 jurisdictions that are willing to host a mercury repository site.

29 (3) Mercury recovered after the establishment date of a permanent
30 repository under this section may not be sold for reuse.

31 NEW SECTION. **Sec. 4.** The department of health must develop an
32 educational plan for schools, local governments, businesses, and the
33 public on the proper disposal methods for mercury and mercury-added
34 products.

1 NEW SECTION. **Sec. 5.** A school may not purchase for use in a
2 primary or secondary classroom bulk elemental mercury or chemical
3 mercury compounds. By January 1, 2004, all primary and secondary
4 schools in the state must remove and properly dispose of all bulk
5 elemental mercury, chemical mercury, and bulk mercury compounds.

6 NEW SECTION. **Sec. 6.** (1) Effective January 1, 2004, no person may
7 sell, offer for sale, or distribute for sale or use in this state a
8 mercury-added novelty. A manufacturer of mercury-added novelties must
9 notify all retailers that sell the product about the provisions of this
10 section and how to properly dispose of any remaining mercury-added
11 novelty inventory.

12 (2)(a) Effective January 1, 2005, no person may sell, offer for
13 sale, or distribute for sale or use in this state a manometer used to
14 measure blood pressure or a thermometer that contains mercury. This
15 subsection (2)(a) does not apply to:

16 (i) An electronic thermometer with a button cell battery containing
17 mercury;

18 (ii) A thermometer that contains mercury and that is used for food
19 research and development or food processing, including meat, dairy
20 products, and pet food processing;

21 (iii) A thermometer that contains mercury and that is a component
22 of an animal agriculture climate control system or industrial
23 measurement system or for veterinary medicine until such a time as the
24 system is replaced or a nonmercury component for the system or
25 application is available;

26 (iv) A thermometer or manometer that contains mercury that is used
27 for calibration of other thermometers, manometers, apparatus, or
28 equipment, unless a nonmercury calibration standard is approved for the
29 application by the national institute of standards and technology;

30 (v) A thermometer that is provided by prescription. A manufacturer
31 of a mercury thermometer shall supply clear instructions on the careful
32 handling of the thermometer to avoid breakage and proper cleanup should
33 a breakage occur; or

34 (vi) A manometer sold or distributed to a hospital, or a health
35 care facility controlled by a hospital, if the hospital has adopted a
36 plan for mercury reduction promulgated by a state association of

1 hospitals that incorporates the goals of the mercury chemical action
2 plan developed by the department under section 302, chapter 371, Laws
3 of 2002.

4 (b) A manufacturer of thermometers that contain mercury must notify
5 all retailers that sell the product about the provisions of this
6 section and how to properly dispose of any remaining thermometer
7 inventory.

8 (3) Effective January 1, 2006, no person may sell, install, or
9 reinstall a commercial or residential thermostat that contains mercury
10 unless the manufacturer of the thermostat conducts or participates in
11 a thermostat recovery or recycling program designed to assist
12 contractors in the proper disposal of thermostats that contain mercury
13 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource
14 conservation and recovery act.

15 (4) No person may sell, offer for sale, or distribute for sale or
16 use in this state a motor vehicle manufactured after January 1, 2006,
17 if the motor vehicle contains an automotive mercury switch.

18 (5) Nothing in this section restricts the ability of a
19 manufacturer, importer, or domestic distributor from transporting
20 products through the state, or storing products in the state for later
21 distribution outside the state.

22 NEW SECTION. **Sec. 7.** (1) The department of general administration
23 must, by January 1, 2004, revise its rules, policies, and guidelines to
24 implement the purpose of this chapter.

25 (2) The department of general administration must give priority and
26 preference to the purchase of equipment, supplies, and other products
27 that contain no mercury-added compounds or components, unless: (a)
28 There is no economically feasible nonmercury-added alternative that
29 performs a similar function; or (b) the product containing mercury is
30 designed to reduce electricity consumption by at least forty percent
31 and there is no nonmercury or lower mercury alternative available that
32 saves the same or a greater amount of electricity as the exempted
33 product. In circumstances where a nonmercury-added product is not
34 available, preference must be given to the purchase of products that
35 contain the least amount of mercury added to the product necessary for
36 the required performance.

1 NEW SECTION. **Sec. 8.** The department is authorized to participate
2 in a regional or multistate clearinghouse to assist in carrying out any
3 of the requirements of this chapter. A clearinghouse may also be used
4 for examining notification and label requirements, developing education
5 and outreach activities, and maintaining a list of all mercury-added
6 products.

7 NEW SECTION. **Sec. 9.** A violation of this chapter is punishable by
8 a civil penalty not to exceed one thousand dollars for each violation
9 in the case of a first violation. Repeat violators are liable for a
10 civil penalty not to exceed five thousand dollars for each repeat
11 violation. Penalties collected under this section must be deposited in
12 the state toxics control account created in RCW 70.105D.070.

13 NEW SECTION. **Sec. 10.** Nothing in this chapter applies to
14 crematories as that term is defined in RCW 68.04.070.

15 NEW SECTION. **Sec. 11.** Any fiscal impact on the department or the
16 department of health that results from the implementation of this
17 chapter must be paid for out of funds that are appropriated by the
18 legislature from the state toxics control account for the
19 implementation of the department's persistent bioaccumulative toxic
20 chemical strategy.

21 NEW SECTION. **Sec. 12.** Nothing in this chapter applies to
22 prescription drugs regulated by the food and drug administration under
23 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),
24 to biological products regulated by the food and drug administration
25 under the public health service act (42 U.S.C. Sec. 262 et seq.), or to
26 any substance that may be lawfully sold over-the-counter without a
27 prescription under the federal food, drug, and cosmetic act (21 U.S.C.
28 Sec. 301 et seq.).

29 NEW SECTION. **Sec. 13.** Sections 1 through 12 of this act
30 constitute a new chapter in Title 70 RCW.

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