
HOUSE BILL 2241

State of Washington

62nd Legislature

2012 Regular Session

By Representatives Moscoso, Appleton, Fitzgibbon, Jinkins, Pollet, Roberts, Dickerson, and Kenney

Read first time 01/10/12. Referred to Committee on Environment.

1 AN ACT Relating to reducing the introduction of lead into the
2 aquatic environment; and amending RCW 70.95M.010, 70.95M.050,
3 70.95M.060, 70.95M.070, and 70.95M.090.

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

5 **Sec. 1.** RCW 70.95M.010 and 2010 c 130 s 18 are each amended to
6 read as follows:

7 The definitions in this section apply throughout this chapter
8 unless the context clearly requires otherwise.

9 (1) "Bulk mercury" includes any elemental, nonamalgamated mercury,
10 regardless of volume quantity or weight and does not include products
11 containing mercury collected for recycling or disposal at a permitted
12 disposal facility.

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

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

15 (4) "Health care facility" includes a hospital, nursing home,
16 extended care facility, long-term care facility, clinical or medical
17 laboratory, state or private health or mental institution, clinic,
18 physician's office, or health maintenance organization.

1 (5) "Manufacturer" includes any person, firm, association,
2 partnership, corporation, governmental entity, organization, or joint
3 venture that produces a mercury-added or prohibited lead product or an
4 importer or domestic distributor of a mercury-added or prohibited lead
5 product produced in a foreign country. In the case of a multicomponent
6 product containing mercury or lead, the manufacturer is the last
7 manufacturer to produce or assemble the product. If the multicomponent
8 product or mercury-added or prohibited lead product is produced in a
9 foreign country, the manufacturer is the first importer or domestic
10 distributor.

11 (6) "Mercury-added button-cell battery" means a button-cell battery
12 to which the manufacturer intentionally introduces mercury for the
13 operation of the battery.

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

23 (8) "Mercury-added product" means a product, commodity, or
24 chemical, or a product with a component that contains mercury or a
25 mercury compound intentionally added to the product, commodity, or
26 chemical in order to provide a specific characteristic, appearance, or
27 quality, or to perform a specific function, or for any other reason.
28 Mercury-added products include those products listed in the interstate
29 mercury education and reduction clearinghouse mercury-added products
30 database, but are not limited to, mercury thermometers, mercury
31 thermostats, mercury barometers, lamps, and mercury switches or relays.

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

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

36 (11) "Retailer" means a retailer of a mercury-added or prohibited
37 lead product.

1 (12) "Switch" means any device, which may be referred to as a
2 switch, sensor, valve, probe, control, transponder, or any other
3 apparatus, that directly regulates or controls the flow of electricity,
4 gas, or other compounds, such as relays or transponders. "Switch"
5 includes all components of the unit necessary to perform its flow
6 control function. "Automotive mercury switch" includes a convenience
7 switch, such as a switch for a trunk or hood light, and a mercury
8 switch in antilock brake systems. "Utility switch" includes, but is
9 not limited to, all devices that open or close an electrical circuit,
10 or a liquid or gas valve. "Utility relay" includes, but is not limited
11 to, all products or devices that open or close electrical contacts to
12 control the operation of other devices in the same or other electrical
13 circuit.

14 (13) "Wholesaler" means a wholesaler of a mercury-added or
15 prohibited lead product.

16 (14) "Prohibited lead product" includes both of the following, but
17 excludes any product being used for the purposes of commercial fishing:

18 (a) Lead weighted fishing hook with the lead portion having a mass
19 of one ounce or less or a size of less than one inch along its shortest
20 axis; and

21 (b) Fishing sinker containing more than one-half of one percent
22 lead by weight if the lead portion of the sinker has a mass of one
23 ounce or less or a size of less than one inch along its shortest axis.

24 **Sec. 2.** RCW 70.95M.050 and 2010 c 130 s 19 are each amended to
25 read as follows:

26 (1) Effective January 1, 2006, no person may sell, offer for sale,
27 or distribute for sale or use in this state a mercury-added novelty.
28 A manufacturer of mercury-added novelties must notify all retailers
29 that sell the product about the provisions of this section and how to
30 properly dispose of any remaining mercury-added novelty inventory.

31 (2)(a) Effective January 1, 2006, no person may sell, offer for
32 sale, or distribute for sale or use in this state a manometer used to
33 measure blood pressure or a thermometer that contains mercury. This
34 subsection (2)(a) does not apply to:

35 (i) An electronic thermometer with a button-cell battery containing
36 mercury;

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

4 (iii) A thermometer that contains mercury and that is a component
5 of an animal agriculture climate control system or industrial
6 measurement system or for veterinary medicine until such a time as the
7 system is replaced or a nonmercury component for the system or
8 application is available;

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

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

17 (vi) A manometer or thermometer sold or distributed to a hospital,
18 or a health care facility controlled by a hospital, if the hospital has
19 adopted a plan for mercury reduction consistent with the goals of the
20 mercury chemical action plan developed by the department under section
21 302, chapter 371, Laws of 2002.

22 (b) A manufacturer of thermometers that contain mercury must notify
23 all retailers that sell the product about the provisions of this
24 section and how to properly dispose of any remaining thermometer
25 inventory.

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

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

36 (5) Nothing in this section restricts the ability of a
37 manufacturer, importer, or domestic distributor from transporting

1 products through the state, or storing products in the state for later
2 distribution outside the state.

3 (6) Effective June 30, 2012, the sale or purchase and delivery of
4 bulk mercury is prohibited, including sales through the internet or
5 sales by private parties. However, the prohibition in this subsection
6 does not apply to immediate dangerous waste recycling facilities or
7 treatment, storage, and disposal facilities as approved by the
8 department and sales to research facilities, or industrial facilities
9 that provide products or services to entities exempted from this
10 chapter. The facilities described in this subsection must submit an
11 inventory of their purchase and use of bulk mercury to the department
12 on an annual basis, as well as any mercury waste generated from such
13 actions.

14 (7) Effective January 1, 2014, a person may not sell, offer for
15 sale, or purchase a prohibited lead product. The first entity located
16 in Washington in the stream of commerce for a prohibited lead product,
17 if not the ultimate retailer, must notify all retailers that sell its
18 product about the provisions of this section and how to properly
19 dispose of any remaining prohibited lead products in inventory.

20 **Sec. 3.** RCW 70.95M.060 and 2003 c 260 s 7 are each amended to read
21 as follows:

22 (1) The department of (~~general administration must, by January 1,~~
23 ~~2005, revise its~~) enterprise services must maintain rules, policies,
24 and guidelines to implement the purpose of this chapter.

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

1 (3) The department of enterprise services is under no requirement
2 to revise rules or take other actions in regards to prohibited lead
3 products.

4 **Sec. 4.** RCW 70.95M.070 and 2003 c 260 s 8 are each amended to read
5 as follows:

6 (1) The department is authorized to participate in a regional or
7 multistate clearinghouse to assist in carrying out any of the
8 requirements of this chapter. A clearinghouse may also be used for
9 examining notification and label requirements, developing education and
10 outreach activities, and maintaining a list of all mercury-added
11 products.

12 (2) This section does not apply to prohibited lead products.

13 **Sec. 5.** RCW 70.95M.090 and 2003 c 260 s 10 are each amended to
14 read as follows:

15 (1) Nothing in this chapter applies to:

16 (a) Crematories as that term is defined in RCW 68.04.070; or

17 (b) Lead shot or other firearm ammunition.

18 (2) Nothing in this chapter may be interpreted as granting the
19 department expanded authority over the regulation of lead shot or other
20 firearm ammunition.

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