
SECOND SUBSTITUTE SENATE BILL 6533

State of Washington 57th Legislature

2002 Regular Session

By Senate Committee on Ways & Means (originally sponsored by Senators Fraser, Eide, McAuliffe, Keiser and Kohl-Welles)

READ FIRST TIME 02/12/2002.

1 AN ACT Relating to mercury reduction and education; adding a new
2 chapter to Title 70 RCW; creating new sections; prescribing penalties;
3 providing effective dates; and declaring an emergency.

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

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

7 (1) "Dental amalgam" means a mixture of mercury, and an alloy of
8 silver, tin, and copper, used in dentistry.

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

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

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

15 (5) "Manufacturer" means any person, firm, association,
16 partnership, corporation, governmental entity, organization, or joint
17 venture that produces a mercury-added product or an importer or
18 domestic distributor of a mercury-added product produced in a foreign
19 country. In the case of a multicomponent product containing mercury,

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

5 (6) "Mercury-added product" means a product, commodity, or
6 chemical, or a product with a component that contains mercury or a
7 mercury compound intentionally added to the product, commodity, or
8 chemical in order to provide a specific characteristic, appearance, or
9 quality, or to perform a specific function, or for any other reason.
10 Mercury-added products include, but are not limited to, mercury
11 thermometers, mercury thermostats, and mercury switches in motor
12 vehicles.

13 NEW SECTION. **Sec. 2.** Nothing in this chapter applies to
14 prescription drugs regulated by the food and drug administration under
15 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),
16 to biological products regulated by the food and drug administration
17 under the public health service act (42 U.S.C. Sec. 262 et seq.), to
18 any substance that may be lawfully sold over-the-counter without a
19 prescription under the federal food, drug, and cosmetic act (21 U.S.C.
20 Sec. 301 et seq.), or to dental amalgam.

21 NEW SECTION. **Sec. 3.** (1) A person may not knowingly dispose of
22 mercury-added products in any manner other than by recycling the
23 product or disposing of the product as hazardous waste.

24 (2) When a mercury-added product is removed from service, the
25 mercury in the item must be source-separated for reuse or recycling,
26 stabilized for retirement, or otherwise managed to prevent its release
27 into the environment.

28 (3) A person may not knowingly send a multicomponent product
29 containing a mercury-added product, that has been intentionally
30 flattened, crushed, or baled, to a scrap processor, as defined in RCW
31 46.79.010, for recycling without first removing the mercury-added
32 product. A scrap processor may accept a multicomponent product,
33 knowing it contains a mercury-added product, if the processor takes
34 responsibility for removing the mercury-added product. This subsection
35 (3) does not apply to individuals disposing of mercury-added household
36 products.

1 (4) A person engaging in solid waste handling, including solid
2 waste storage, collection, transportation, treatment, utilization,
3 processing, incineration, and final disposal of solid wastes, may not
4 knowingly collect or accept for disposal solid waste that contains one
5 or more mercury-added products, unless the waste is collected at a
6 permitted household hazardous waste collection facility for the purpose
7 of recycling the household hazardous waste. A solid waste collector or
8 transporter will not be deemed to have knowingly accepted mercury-added
9 products if the solid waste collector or transporter has notified
10 customers in writing at least once a year that it is illegal to dispose
11 of mercury-added products in solid waste containers, and if no mercury-
12 added products are clearly visible and easily identifiable in the
13 container. A solid waste treatment, processing, incineration, or
14 disposal facility will not be deemed to have knowingly accepted a
15 mercury-added product for processing or disposal if the facility has
16 implemented the following:

17 (a) Posted signs at the solid waste management facility providing
18 notice of the prohibition of the disposal and incineration of mercury-
19 added products; and

20 (b) Provided written notification to or have contractual agreements
21 with the solid waste management facility's customers, providing notice
22 of the prohibition of the disposal and incineration of mercury-added
23 products.

24 (5) For the purposes of this section a person acts knowingly when:

25 (a) The person is aware of a fact, facts, or circumstances or
26 result described by a statute defining a prohibited act; or

27 (b) The person has information that would lead a reasonable person
28 in the same situation to believe that the existing facts are the facts
29 described by a statute defining a prohibited act.

30 (6) Every two years the department must make available to the
31 public information concerning the amount of mercury diverted from the
32 solid waste stream that would otherwise be sent to solid waste
33 management facilities for disposal or incineration.

34 (7) Those persons involved in the recycling, dismantling, or hulk
35 hauling of motor vehicles are exempt from this section. The department
36 shall assemble an advisory committee of parties concerned with and
37 involved in the recycling and waste disposal of motor vehicles to make
38 recommendations on the reduction and removal of mercury components from
39 the waste stream caused by the scrapping and dismantling of motor

1 vehicles. With the help of the advisory committee, the department
2 shall prepare recommendations to the legislature on how mercury
3 components may be reduced or eliminated from motor vehicle scrap, how
4 this will occur, and at what stage of the vehicle's life, as well as
5 the liable parties. The department's recommendations shall be
6 presented to the legislature no later than January 1, 2004.

7 NEW SECTION. **Sec. 4.** (1) No later than January 1, 2003, the
8 department, in consultation with the Washington hospital association
9 and other interested and affected parties, must develop the following
10 plans for mercury purchase and use at health care facilities:

11 (a) A mercury elimination plan for thermometers, thermostats,
12 manometers, and other mercury-added products for which alternatives are
13 available; and

14 (b) A mercury reduction plan for lab reagents, lights, batteries,
15 and other mercury-added products for which alternatives are not
16 available.

17 (2) For the purposes of this section, "health care facility" does
18 not include a clinic, physician's office, dentist's office,
19 veterinarian's office, or a clinic, physician's office, or dentist's
20 office located within a health maintenance organization.

21 NEW SECTION. **Sec. 5.** (1) The department must develop a plan and
22 proposed budget for a comprehensive public education, outreach, and
23 assistance program for households, hazardous waste generators,
24 municipalities, solid waste management districts, small businesses,
25 health care facilities, scrap metal facilities, dismantlers,
26 institutions of higher education, schools, and other interested groups.
27 The plan must: (a) Focus on the hazards of mercury, particularly those
28 associated with the consumption of mercury-contaminated fresh and
29 saltwater fish, the requirements and obligations of individuals,
30 manufacturers, and agencies under this chapter, and voluntary efforts
31 that individuals, institutions, and businesses can undertake to help
32 further reduce mercury in the environment; (b) include a mechanism for
33 providing information to retailers, wholesalers, and the public on
34 which products are mercury-added products and information on possible
35 nonmercury alternatives; (c) include a description of how manufacturers
36 of mercury-added products and other affected businesses will be
37 involved in the development and implementation of a public education

1 and technical assistance program; (d) describe how the program will
2 assist the municipalities and solid waste management districts in
3 developing, designing, and disseminating information for the public
4 about mercury-added products, source separation of waste mercury-added
5 products, and the collection programs that are available to the public;
6 and (e) describe how the program will be directed specifically at large
7 public and private institutions that use and discard substantial
8 numbers of waste mercury-added products, and at any other large users
9 of those products. The plan and proposed budget must be submitted to
10 the governor and the legislature by January 1, 2003.

11 (2) The department may develop an awards program to recognize the
12 accomplishments of manufacturers, municipalities, solid waste
13 management facilities, solid waste recycling facilities, household
14 hazardous waste collection facilities, citizens, or entities that go
15 beyond the minimum requirements established under this chapter and
16 excel at reducing or eliminating mercury in air emissions, solid waste,
17 and wastewater discharges.

18 NEW SECTION. **Sec. 6.** (1) The department of general administration
19 must, by July 1, 2003, revise its rules, policies, and guidelines to
20 implement the purpose of this chapter.

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

33 NEW SECTION. **Sec. 7.** The department is authorized to participate
34 in a regional or multistate clearinghouse to assist in carrying out any
35 of the requirements of this chapter. A clearinghouse may also be used
36 for examining notification and label requirements, developing education

1 and outreach activities, and maintaining a list of all mercury-added
2 products.

3 NEW SECTION. **Sec. 8.** The department may adopt rules to implement
4 this chapter.

5 NEW SECTION. **Sec. 9.** (1) The department must develop a planned
6 strategy for the elimination of mercury from the environment. This
7 strategy will be known as the mercury chemical action plan. The
8 development of the mercury chemical action plan will be a model for how
9 all future chemical action plans will be developed.

10 (2) The mercury chemical action plan must include, but is not
11 limited to: (a) Identifying current mercury uses in Washington; (b)
12 analyzing current state and federal laws, regulations, rules, and
13 voluntary measures that can be used to reduce or eliminate mercury and
14 mercury-added products; (c) identifying mercury reduction and
15 elimination options for mercury-added products; and (d) implementing
16 actions to reduce or eliminate mercury uses and releases.

17 (3) In developing the mercury chemical action plan, the department
18 must involve an advisory committee not to exceed twelve members
19 composed of adequate and balanced representation of local government,
20 business, agriculture, and environmental, public health, and community
21 groups. In addition, the department must invite and strongly encourage
22 any interested tribes or federal agencies to participate in the
23 advisory committee process. The advisory committee must be involved in
24 the development of the mercury chemical action plan. All information
25 that will serve as the basis for any decisions in the mercury chemical
26 action plan's development must be available to the advisory committee
27 members. The advisory committee has sixty days to provide input to the
28 department on the elements of the mercury chemical action plan. The
29 comments and suggestions made by the advisory committee must be
30 considered by the department; however, consensus of the advisory
31 committee is not necessary for the department to move forward in the
32 development of the mercury chemical action plan. All meetings of the
33 advisory committee are subject to the provisions of chapter 42.30 RCW.
34 The advisory committee for the mercury chemical action plan must be
35 established by April 15, 2002.

36 (4) By June 30, 2002, the department must develop and issue a draft
37 mercury chemical action plan in consultation with the advisory

1 committee. Following the release of the draft plan, the department
2 must allow for a sixty-day public comment period. The department must
3 reconvene the advisory committee following the comment period to
4 consider the public comments received.

5 (5) The final mercury chemical action plan, developed after
6 considering the public comments and the input of the advisory
7 committee, must outline actions for the department to take, including,
8 but not limited to the development of any rules that are within the
9 department's authority and recommending any legislation.

10 (6) The mercury chemical action plan must be finalized by December
11 1, 2002, and implementation must begin no later than January 1, 2003.

12 NEW SECTION. **Sec. 10.** Any fiscal impact on the department of
13 ecology that results from the implementation of this act shall be paid
14 for out of existing funds previously appropriated out of the state
15 toxics control account for the implementation of the department's
16 persistent, bioaccumulative toxic chemical strategy.

17 NEW SECTION. **Sec. 11.** The department of ecology shall: (1) Study
18 issues relating to the collection and recycling of mercury-added
19 products, including options for manufacturer responsibility for those
20 products; and (2) prepare a report to the appropriate legislative
21 committees specifying what mercury-added products currently have cost-
22 effective, nonmercury alternatives that are readily available.

23 NEW SECTION. **Sec. 12.** (1) Sections 1, 2, and 4 through 8 of this
24 act take effect July 1, 2002.

25 (2) Section 3 of this act takes effect January 1, 2003.

26 (3) Section 9 of this act is necessary for the immediate
27 preservation of the public peace, health, or safety, or support of the
28 state government and its existing public institutions, and takes effect
29 immediately.

30 NEW SECTION. **Sec. 13.** Sections 1 through 9 and 12 of this act
31 constitute a new chapter in Title 70 RCW.

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