

1 **SHB 1002 - H AMD 0035 OUT OF ORDER 2/26/03**

2 By Representative Hunt

3 Strike everything after the enacting clause and insert the
4 following:

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

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

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

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

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

16 (5) "Manufacturer" includes any person, firm, association,
17 partnership, corporation, governmental entity, organization, or joint
18 venture that produces a mercury-added product or an importer or
19 domestic distributor of a mercury-added product produced in a foreign
20 country. In the case of a multicomponent product containing mercury,
21 the manufacturer is the last manufacturer to produce or assemble the
22 product. If the multicomponent product or mercury-added product is
23 produced in a foreign country, the manufacturer is the first importer
24 or domestic distributor.

25 (6) "Mercury-added button-cell battery" means a button-cell
26 battery to which the manufacturer intentionally introduces mercury for
27 the operation of the battery.

28 (7) "Mercury-added novelty" means a mercury-added product intended
29 mainly for personal or household enjoyment or adornment. Mercury-added
30 novelties include, but are not limited to, items intended for use as
31 practical jokes, figurines, adornments, toys, games, cards, ornaments,
32 yard statues and figures, candles, jewelry, holiday decorations, items
33 of apparel, and other similar products. Mercury-added novelty does not
34 include educational games, toys, or products that require a button-cell

1 or lithium battery, liquid crystal display screens, or a lamp that
2 contains mercury.

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

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

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

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

16 NEW SECTION. **Sec. 2.** (1) Effective January 1, 2004, a
17 manufacturer, wholesaler, or retailer may not knowingly sell at retail
18 a fluorescent lamp if the fluorescent lamp contains mercury and was
19 manufactured after November 30, 2003, unless the fluorescent lamp is
20 labeled in accordance with the guidelines listed under subsection (2)
21 of this section. Primary responsibility for affixing labels required
22 under this section is on the manufacturer, and not on the wholesaler or
23 retailer.

24 (2) A lamp is considered labeled pursuant to subsection (1) of
25 this section if the lamp has all of the following:

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

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

34 (3) A manufacturer of lamps required to be labeled under
35 subsection (1) of this section shall fund a public education campaign
36 in the state to educate consumers on the meaning of the label, how to
37 properly dispose of the lamp, and about the implications for mercury
38 emissions from using both fluorescent and incandescent lighting
39 products.

1 (4) The provisions of this section do not apply to products that
2 contain mercury-added lamps.

3 NEW SECTION. **Sec. 3.** (1) Effective January 1, 2004, no person
4 may sell, offer for sale, or distribute for sale or use in this state
5 a mercury-added novelty. A manufacturer of mercury-added novelties
6 must notify all retailers that sell the product about the provisions of
7 this section and how to properly dispose of any remaining mercury-added
8 novelty inventory.

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

13 (i) An electronic thermometer with a button cell battery
14 containing mercury;

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

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

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

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

31 (vi) A manometer sold or distributed to a hospital, or a health
32 care facility controlled by a hospital, if the hospital has adopted a
33 plan for mercury reduction promulgated by a state association of
34 hospitals that incorporates the goals of the mercury chemical action
35 plan developed by the department under section 302, chapter 371, Laws
36 of 2002.

37 (b) A manufacturer of thermometers that contain mercury must
38 notify all retailers that sell the product about the provisions of this

1 section and how to properly dispose of any remaining thermometer
2 inventory.

3 (3) Effective January 1, 2006, no person may sell, install, or
4 reinstall a commercial or residential thermostat that contains mercury.
5 A manufacturer of commercial or residential thermostats that contain
6 mercury must notify all retailers that sell the product about the
7 provisions of this section and how to properly dispose of any remaining
8 commercial or residential thermostat inventory.

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

12 (5) Nothing in this section restricts the ability of a
13 manufacturer, importer, or domestic distributor from transporting
14 products through the state, or storing products in the state for later
15 distribution outside the state.

16 NEW SECTION. **Sec. 4.** (1) The department of general
17 administration must, by January 1, 2004, revise its rules, policies,
18 and guidelines to implement the purpose of this chapter.

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

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

1 NEW SECTION. **Sec. 6.** A violation of this chapter is punishable
2 by a civil penalty not to exceed one thousand dollars for each
3 violation in the case of a first violation. Repeat violators are
4 liable for a civil penalty not to exceed five thousand dollars for each
5 repeat violation. Penalties collected under this section must be
6 deposited in the state toxics control account created in RCW
7 70.105D.070.

8 NEW SECTION. **Sec. 7.** Nothing in this chapter applies to
9 crematories as that term is defined in RCW 68.04.070.

10 NEW SECTION. **Sec. 8.** Nothing in this chapter applies to
11 prescription drugs regulated by the food and drug administration under
12 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),
13 to biological products regulated by the food and drug administration
14 under the public health service act (42 U.S.C. Sec. 262 et seq.), or to
15 any substance that may be lawfully sold over-the-counter without a
16 prescription under the federal food, drug, and cosmetic act (21 U.S.C.
17 Sec. 301 et seq.).

18 NEW SECTION. **Sec. 9.** Sections 1 through 8 of this act constitute
19 a new chapter in Title 70 RCW."

20 EFFECT: Adds physician's offices to the definition of "health
21 care facility," exempts products that contain mercury lamps from the
22 lamp labeling provisions of the bill, limits the sales prohibition
23 against manometers to only manometers that are used to measure blood
24 pressure or that are sold to hospitals that have adopted a plan for
25 mercury reduction, exempts prescription thermometers from the sales
26 prohibitions if the manufacturer provides handling and clean-up
27 instructions, and expressly exempts pharmaceuticals from the bill's
28 provisions.