

FINAL BILL REPORT

ESHB 1002

PARTIAL VETO

C 260 L 03

Synopsis as Enacted

Brief Description: Reducing the release of mercury into the environment.

Sponsors: 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, Veloria, O'Brien, Campbell, McDermott, Clibborn, Sullivan, Nixon, McIntire, Lantz, Moeller and Hudgins).

House Committee on Fisheries, Ecology & Parks

Background:

Mercury has been identified by the United States Environmental Protection Agency (EPA) as being included in a group of chemicals known as persistent bioaccumulative toxins (PBTs). Individuals within this family of toxins are known to break down very slowly when released into the environment and increase in concentration as they move up the food chain.

The 2000 Legislature directed the Department of Ecology (DOE) to develop a proposed long-term strategy to address PBTs in Washington, which was presented to the Legislature in 2001. The 2001 Legislature appropriated \$800,000 from the State Toxics Control Account specifically for the implementation of the strategy. Both the DOE and the EPA have identified mercury as the number one PBT priority.

During the 2002 session, the Legislature earmarked the \$800,000 for the DOE to develop a chemical action plan for mercury. In doing so, the Legislature provided the DOE with specific directions as to how the plan should be developed. These directions were intended to serve as a model for the development of future chemical action plans for other PBTs. The mercury action plan is required to, at a minimum:

- identify current uses for mercury in Washington;
- analyze current state and federal regulations and voluntary measures that can be used to reduce mercury;
- identify mercury reduction and elimination options; and
- implement actions to reduce or eliminate mercury uses and releases.

The final mercury action plan was scheduled to be completed in December 2002, with

implementation set to begin no later than February 1, 2003. The final plan was directed to outline the actions that the DOE will take, including the development of any new rules or legislative recommendations.

Summary:

A new chapter is created in the Revised Code of Washington to regulate mercury and mercury-added products. New regulations include requirements for the labeling of certain mercury-added lamps, prohibitions on the sale of certain mercury-added products, and directions to the Department of General Administration (GA) regarding the purchase of mercury-added products.

Labeling

As of January 1, 2004, all fluorescent lamps and lamp packaging manufactured after November 20, 2003, must be specifically labeled if they contain mercury. The label on the lamp must bear the international chemical symbol for mercury, and the packaging label must clearly inform the consumer that the lamp contains mercury, explain that the lamp must be disposed of according to state, local, and federal laws, and provide a toll-free phone number and Internet address where disposal information can be obtained. The primary responsibility for labeling a mercury-added lamp belongs to the manufacturer. If a lamp is labeled in a way that meets the requirements of another state, the manufacturer is exempt from Washington's labeling requirement.

Sale Prohibitions

The sale of certain mercury-containing products is prohibited. As of January 1, 2006, the sale of mercury-added novelties and mercury-containing thermometers and manometers is prohibited. The manufacturers of these products are required to notify all retailers about the prohibition and provide information about the proper disposal of remaining inventory.

Mercury-added novelties are products intended mainly for personal or household enjoyment or adornment. They include figurines, toys, games, cards, ornaments, jewelry, apparel, and other items. The definition expressly excludes games and toys that require certain batteries or liquid crystal display screens.

The prohibition on the sale of thermometers and manometers that include mercury does not apply to certain types of instruments. The exempt items include thermometers with a button-cell battery, thermometers used for food research or food processing, thermometers that are used in an animal agricultural climate control system, veterinary medicine, or an industrial measurement system, thermometers and manometers used for the calibration of other thermometers or equipment, prescription thermometers, and manometers used for blood pressure measuring. In addition, the prohibition on the sale

of thermometers and manometers does not extend to hospital-controlled facilities that have adopted a mercury reduction plan.

A prohibition on the sale and installation of certain mercury-containing thermostats and motor vehicles containing an automotive mercury switch takes effect on January 1, 2006. Items that are prohibited from sale are still allowed to be transported through the state or stored within the state for later distribution elsewhere.

State Agency Directions

By January 1, 2005, the GA must revise its rules and policies to give preference and priority to the purchase of items that do not contain mercury. The GA may only purchase mercury-containing products if there is no economically feasible non-mercury alternative or if the mercury-containing product is engineered to reduce electricity consumption by at least 40 percent. If there is not a substitute to a mercury-containing product available, the GA must give preference to products that contain the least amount of mercury necessary for the required performance.

The DOE is authorized to participate in clearinghouses to assist it in implementation of the mercury regulations. These clearinghouses may also be used for examining label requirements, developing public education, and maintaining a list of all mercury-added products. The DOE is also directed to petition the EPA for the creation of a permanent mercury repository.

The Department of Health is required to develop an education plan for schools, local governments, businesses, and the public on the proper disposal methods for all bulk elemental mercury compounds. In addition, schools, by 2006, will be prohibited from purchasing elemental mercury and must remove and dispose of any mercury used in science classrooms.

Any fiscal impacts of these provisions on the DOE must be paid for by funds appropriated from the State Toxics Control Account for the implementation of the DOE's PBT strategy.

Penalties

A violation of the new chapter regulating mercury is punishable by a civil penalty not to exceed \$1,000 for each violation. Repeat violators may be assessed a fine of up to \$5,000. All fees collected are deposited into the State Toxics Control Account.

Votes on Final Passage:

House 97 0
Senate 47 1 (Senate amended)

House 97 0 (House concurred)

Effective: July 27, 2003

Partial Veto Summary: The Governor vetoed the intent section, which stated that fish caught in Washington waters were safe to eat and should be protected from any degrading influence.