

SENATE BILL REPORT

SB 5124

As of January 20, 2003

Title: An act relating to mercury reduction and education.

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

Sponsors: Senators Swecker, Fraser, Carlson, Regala, Oke, B. Sheldon, Eide, Finkbeiner, Keiser, Rasmussen, Esser, Fairley, Kline, Spanel, Kohl-Welles, Franklin, Haugen and Thibaudeau.

Brief History:

Committee Activity: Natural Resources, Energy & Water: 1/23/03.

SENATE COMMITTEE ON NATURAL RESOURCES, ENERGY & WATER

Staff: Genevieve Pisarski (786-7488)

Background: Mercury, a naturally occurring element, is pervasive in the environment as a result of mining, industrial emissions, and disposal of consumer products. Once released, mercury circulates easily through air, water, and soil, exposing humans and other species to serious health risks. Bacteria and other processes convert released mercury into its most toxic form (methyl mercury), which is absorbed by plankton and, in turn, absorbed and bio-accumulated in other species and, through the food chain, absorbed and bio-accumulated in humans. Mercury is a potent neurotoxin. In the body, it affects the brain, spinal cord, kidneys, and liver and can cause blindness, deafness, behavioral problems, and death. Fetuses and small children are especially at risk.

Consumer products in which mercury is widely used include automobiles, thermometers, thermostats, switches, fluorescent light tubes, high intensity lamps, barometers, blood pressure measuring devices, and various toys and novelty items.

Measures to control release of mercury are being implemented by manufacturers, the states, and the federal government. Mercury switches are no longer used by European and Japanese automobiles manufacturers, and American automobile manufacturers will stop using them beginning with the 2004 model year. The National Electrical Manufacturers Association has announced a national program to label mercury-containing fluorescent and high intensity discharge (HID) lamps and their packaging. Twelve states, including Oregon and California, have adopted legislation to implement restrictions on the handling or use of mercury. Ten states besides Washington are considering legislation to introduce or expand restrictions. The United States Environmental Protection Agency's first chemical action plan is being developed for mercury. The Washington State Department of Ecology and Department of Health have developed a chemical action plan for mercury that includes recommendations for actions by state regulatory agencies and others.

Summary of Bill: No later than one year after the effective date of this act, manufacturers of mercury-containing thermostats, motor vehicles (in respect to automotive mercury switches only), and lamps that are sold, distributed for sale, or used in the state must develop a collection system plan for ensuring that their mercury-containing products are properly collected, transported, and recycled.

The collection system plan must identify an existing or new collection system for return, recycling, or hazardous waste disposal of the products and must identify a mechanism for the manufacturer to fund the system. The plan must include a public education program, a targeted capture rate for products, a plan for implementation and financing, documentation of the willingness of all necessary parties to participate, performance measures, and additional or alternative measures to be implemented if program targets are not met. The plan is subject to approval by the Department of Ecology.

Manufacturers required to develop a collection system plan must implement the plan after it is approved by the Department of Ecology and are financially responsible for the system. The collection and recycling must be done in a way that prevents release of mercury into the environment.

Effective January 1, 2004, every mercury-containing lamp sold by a manufacturer or wholesaler at retail or to a retailer in the state or for use in the state, or knowingly sold at retail by a retailer if manufactured after November 30, 2003 must be clearly labeled that it contains mercury and that it may not be disposed of until the mercury is removed and properly managed. Primary responsibility for labeling is on the manufacturer. Two requirements for labeling are specified: a durable label with the symbol "Hg" in not less than 10-point font and the same color as existing coloring on the lamp, and a label on the package and a package insert with the statement "Hg-LAMP CONTAINS MERCURY" in not less than 10-point font and a website and toll-free number for obtaining information on proper disposal. Manufacturers of lamps that must be labeled must fund a public education campaign in the state on the meaning of the label and proper disposal.

Effective January 1, 2004, no person may sell, offer for sale, or distribute for sale or use in the state a mercury-added novelty. A manufacturer of mercury-added novelties must notify all retailers that sell the product about the provisions of this act and how to properly dispose of any remaining mercury-added novelty inventory.

Effective January 1, 2004, no person may sell, offer for sale, or distribute for sale or use in the state a mercury-containing thermometer, with the exception of electronic thermometers whose button cell batteries are included in a collection system; thermometers used for food research and development or food and pet food processing; thermometers used for specified animal agricultural and veterinary uses; and thermometers used for specified calibration uses. Manufacturers of mercury-containing thermometers must notify retailers about the provisions of this act and proper disposal of remaining inventory.

Effective January 1, 2006, no person may sell, install, or reinstall a commercial or residential thermostat that contains mercury. Manufacturers must notify retailers about the provisions of this act and proper disposal of remaining inventory.

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

Effective January 1, 2004, a health care facility may not purchase mercury manometers.

By January 1, 2004, the Department of General Administration must revise its rules, policies, and guidelines to prevent release of mercury into the environment. The department must give priority and preference to purchase of equipment, supplies, and products that do not contain mercury, unless there is no economical alternative. If no alternative is available, preference must be given to products that contain the least amount of mercury.

None of the above requirements applies to prescription drugs, over-the-counter drugs, or biological products regulated by the federal Food and Drug Administration. Manufacturers, importers, and domestic distributors are not restricted from transporting or storing products for distribution outside the state. Regional and multistate clearinghouses may be used to comply with requirements. The Department of Ecology may adopt rules to implement requirements.

Violation of this act or any rule adopted under this act is punishable by a civil penalty not to exceed \$1,000 for each violation in the case of a first violation and \$5,000 for each repeat violation. Penalties collected under this section must be deposited in the state toxics control account created in RCW 70.105D.070.

Appropriation: None.

Fiscal Note: Requested on January 14, 2003.

Effective Date: Ninety days after adjournment of session in which bill is passed.