
SENATE BILL 5124

State of Washington

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

Read first time 01/15/2003. Referred to Committee on Natural Resources, Energy & Water.

1 AN ACT Relating to mercury reduction and education; adding a new
2 chapter to Title 70 RCW; and prescribing penalties.

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

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

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

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

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

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

15 (5) "Manufacturer" includes 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 button-cell battery" means a button-cell battery
6 to which the manufacturer intentionally introduces mercury for the
7 operation of the battery.

8 (7) "Mercury-added novelty" means a mercury-added product intended
9 mainly for personal or household enjoyment or adornment. Mercury-added
10 novelties include, but are not limited to, items intended for use as
11 practical jokes, figurines, adornments, toys, games, cards, ornaments,
12 yard statues and figures, candles, jewelry, holiday decorations, items
13 of apparel, and other similar products.

14 (8) "Mercury-added product" means a product, commodity, or
15 chemical, or a product with a component that contains mercury or a
16 mercury compound intentionally added to the product, commodity, or
17 chemical in order to provide a specific characteristic, appearance, or
18 quality, or to perform a specific function, or for any other reason.
19 Mercury-added products include, but are not limited to, mercury
20 thermometers, mercury thermostats, and mercury switches in motor
21 vehicles.

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

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

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

27 NEW SECTION. **Sec. 2.** Nothing in this chapter applies to
28 prescription drugs regulated by the food and drug administration under
29 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.),
30 to biological products regulated by the food and drug administration
31 under the public health service act (42 U.S.C. Sec. 262 et seq.), or to
32 any substance that may be lawfully sold over-the-counter without a
33 prescription under the federal food, drug, and cosmetic act (21 U.S.C.
34 Sec. 301 et seq.).

35 NEW SECTION. **Sec. 3.** (1) No later than one year after the
36 effective date of this section, every manufacturer listed under

1 subsection (4) of this section must develop a plan for ensuring that
2 their products that contain mercury are properly collected,
3 transported, and recycled. The plan must:

4 (a) Identify either an existing or new collection system through
5 which the used products can be returned for recycling or disposed of as
6 hazardous waste; and

7 (b) Identify a funding mechanism through which the manufacturer
8 will fund the collection system.

9 (2) Every manufacturer listed under subsection (4) of this section
10 is financially responsible for the collection and recycling systems
11 developed in the plan under subsection (1) of this section. All
12 collection and recycling must be conducted in a manner that prevents
13 the release of mercury into the environment. All collection and
14 recycling systems are subject to department approval. After the plan
15 is approved by the department, the manufacturer shall implement the
16 plan.

17 (3) The collection system plan must include:

18 (a) A public education program to inform the public about the
19 purpose of the collection program and how to participate in it;

20 (b) A targeted capture rate for products;

21 (c) A plan for implementing and financing the collection system;

22 (d) Documentation of the willingness of all necessary parties to
23 implement the proposed collection system;

24 (e) A description of performance measures to be utilized and
25 reported by the manufacturer of products identified in subsection (4)
26 of this section to demonstrate that the collection system is meeting
27 capture rate targets and other measures of program effectiveness; and

28 (f) A description of additional or alternative actions that will be
29 implemented to improve the collection system and its operation in the
30 event that the program targets are not met.

31 (4) This section applies to manufacturers of thermostats, motor
32 vehicle manufacturers, and manufacturers of lamps that contain mercury
33 and that have been offered or may be offered for sale or distributed
34 for sale or use in this state. Motor vehicle manufacturers are
35 responsible for meeting the requirements of this section for automotive
36 mercury switches only.

1 NEW SECTION. **Sec. 4.** (1) Effective January 1, 2004, a
2 manufacturer or wholesaler may not sell at retail in this state, to a
3 retailer in this state, or for use in this state, and a retailer may
4 not knowingly sell a lamp manufactured after November 30, 2003, at
5 retail if it contains mercury added during manufacture, unless the lamp
6 is labeled according to the guidelines listed under subsection (2) of
7 this section. The label must clearly inform the purchaser or consumer
8 that mercury is present in the item and that the item may not be
9 disposed of or placed in a waste stream destined for disposal until the
10 mercury is removed and reused, recycled, or otherwise managed to ensure
11 that it does not become part of solid waste or wastewater. Primary
12 responsibility for affixing labels required under this section is on
13 the manufacturer, and not on the wholesaler or retailer.

14 (2) A lamp is considered labeled under subsection (1) of this
15 section if it has all of the following:

16 (a) A durable label that is expected to last the life of the
17 product with the symbol "Hg" in no less than ten-point font and in the
18 same color as existing coloring on the lamp.

19 (b) A label on the package and an insert for the package that
20 contains "Hg- LAMP CONTAINS MERCURY" in a minimum ten-point font. The
21 insert must also contain the website address for a department of
22 ecology webpage that contains information on how to properly dispose of
23 the lamp and a toll-free number to call for information on proper
24 disposal.

25 (3) A manufacturer of lamps required to be labeled under subsection
26 (1) of this section shall fund a public education campaign in the state
27 to educate consumers on the meaning of the label and how to properly
28 dispose of the lamp.

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

35 (2)(a) Effective January 1, 2004, no person may sell, offer for
36 sale, or distribute for sale or use in this state a thermometer that
37 contains mercury. This subsection (2)(a) does not apply to:

1 (i) An electronic thermometer with a button cell battery containing
2 mercury if the battery is in compliance with section 3 of this act;

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

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

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

15 (b) A manufacturer of thermometers that contain mercury must notify
16 all retailers that sell the product about the provisions of this
17 section and how to properly dispose of any remaining thermometer
18 inventory.

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

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

28 (5) Effective January 1, 2004, a health care facility may not
29 purchase mercury manometers.

30 (6) Nothing in this section restricts the ability of a
31 manufacturer, importer, or domestic distributor from transporting
32 products through the state, or storing products in the state for later
33 distribution outside the state.

34 NEW SECTION. **Sec. 6.** (1) The department of general administration
35 must, by January 1, 2004, revise its rules, policies, and guidelines to
36 implement the purpose of this chapter.

1 (2) The department of general administration must give priority and
2 preference to the purchase of equipment, supplies, and other products
3 that contain no mercury-added compounds or components, unless: (a)
4 There is no economically feasible nonmercury-added alternative that
5 performs a similar function; or (b) the product containing mercury is
6 designed to reduce electricity consumption by at least forty percent
7 and there is no nonmercury or lower mercury alternative available that
8 saves the same or a greater amount of electricity as the exempted
9 product. In circumstances where a nonmercury-added product is not
10 available, preference must be given to the purchase of products that
11 contain the least amount of mercury added to the product necessary for
12 the required performance.

13 NEW SECTION. **Sec. 7.** The department is authorized to participate
14 in a regional or multistate clearinghouse to assist in carrying out any
15 of the requirements of this chapter. A clearinghouse may also be used
16 for examining notification and label requirements, developing education
17 and outreach activities, and maintaining a list of all mercury-added
18 products.

19 NEW SECTION. **Sec. 8.** A violation of this chapter or any rule
20 adopted under this chapter is punishable by a civil penalty not to
21 exceed one thousand dollars for each violation in the case of a first
22 violation. Repeat violators are liable for a civil penalty not to
23 exceed five thousand dollars for each repeat violation. Penalties
24 collected under this section must be deposited in the state toxics
25 control account created in RCW 70.105D.070.

26 NEW SECTION. **Sec. 9.** The department may adopt rules to implement
27 this chapter.

28 NEW SECTION. **Sec. 10.** Sections 1 through 9 of this act constitute
29 a new chapter in Title 70 RCW.

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