

---

**SUBSTITUTE HOUSE BILL 1731**

---

**State of Washington**

**59th Legislature**

**2005 Regular Session**

**By** House Committee on Natural Resources, Ecology & Parks (originally sponsored by Representatives Hunt, Campbell, Wood, Nixon, Clibborn, Jarrett, McDermott, Blake, Williams, Pettigrew, Dickerson, Dunshee, Lovick, Upthegrove, Moeller, Darneille, Kenney, McCoy, Chase, Ormsby, Simpson, Miloscia and Schual-Berke)

READ FIRST TIME 03/04/05.

1       AN ACT Relating to the removal of mercury-added components in motor  
2 vehicles; amending RCW 70.95M.010 and 70.95M.080; adding new sections  
3 to chapter 70.95M RCW; prescribing penalties; and providing an  
4 effective date.

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

6       NEW SECTION. **Sec. 1.** (1) The legislature finds that protecting  
7 human health and the environment is of the utmost importance to the  
8 citizens of the state of Washington.

9       (2) Mercury is introduced into the environment in a variety of ways  
10 and although it is beyond the state's power to control all mercury  
11 emissions, there are many sources that can be controlled, including the  
12 mercury contained in automobiles.

13       (3) Mercury is or has historically been present in a number of auto  
14 components, including but not limited to: Hood and trunk light  
15 switches, antilock brake (ABS) sensors, lights, and navigational  
16 systems.

17       (4) The recycling of automobiles involves the crushing, shredding,  
18 and melting of auto scrap via thermal combustion. Preventing mercury

1 or mercury-added components from entering thermal combustion units is  
2 an effective way to reduce mercury emissions into the environment.

3 (5) It is the intent of this chapter is to reduce the quantity of  
4 mercury released into the environment by:

5 (a) Removing mercury containing light switches and antilock brake  
6 sensors from end-of-life vehicles in the state of Washington; and

7 (b) Creating a collection and recovery program for mercury-added  
8 components removed from vehicles in the state of Washington.

9 **Sec. 2.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read  
10 as follows:

11 The definitions in this section apply throughout this chapter  
12 unless the context clearly requires otherwise.

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

16 (2) "Capture rate" means the quantity of mercury removed,  
17 collected, or recovered stated as a percentage of the total mercury  
18 available from end-of-life vehicles, computed annually.

19 (3) "Department" means the department of ecology.

20 ~~((+3))~~ (4) "Director" means the director of the department of  
21 ecology.

22 ~~((+4))~~ (5) "End-of-life vehicle" means any motor vehicle that is  
23 sold, given, or otherwise conveyed to a motor vehicle crusher, motor  
24 vehicle recycler, or scrap recycling facility.

25 (6) "Health care facility" includes a hospital, nursing home,  
26 extended care facility, long-term care facility, clinical or medical  
27 laboratory, state or private health or mental institution, clinic,  
28 physician's office, or health maintenance organization.

29 ~~((+5))~~ (7) "Manufacturer" includes any person, firm, association,  
30 partnership, corporation, governmental entity, organization, or joint  
31 venture that:

32 (a) Produces a mercury-added product, other than a motor vehicle,  
33 or an importer or domestic distributor of a mercury-added product,  
34 other than a motor vehicle, produced in a foreign country. In the case  
35 of a multicomponent product containing mercury, other than a motor  
36 vehicle, the manufacturer is the last manufacturer to produce or

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

4 ~~((6))~~ (b) Produce or assemble a new motor vehicle that used  
5 mercury-added components, or in the case of an imported motor vehicle,  
6 the importer or domestic distributor of the motor vehicle.

7 (8) "Manufacturer-dealer warranty program" means an arrangement  
8 between a manufacturer and its franchisee, whereby the manufacturer  
9 agrees to reimburse the franchisee, at established rates, for labor or  
10 parts necessary to repair a vehicle pursuant to the manufacturer's  
11 original equipment warranty to the original purchaser of the vehicle.

12 (9) "Mercury-added button-cell battery" means a button-cell battery  
13 to which the manufacturer intentionally introduces mercury for the  
14 operation of the battery.

15 ~~((7))~~ (10) "Mercury-added component" means mercury-containing  
16 light switches and antilock brake system sensors, which were  
17 intentionally installed in the motor vehicle.

18 (11) "Mercury-added novelty" means a mercury-added product intended  
19 mainly for personal or household enjoyment or adornment. Mercury-added  
20 novelties include, but are not limited to, items intended for use as  
21 practical jokes, figurines, adornments, toys, games, cards, ornaments,  
22 yard statues and figures, candles, jewelry, holiday decorations, items  
23 of apparel, and other similar products. Mercury-added novelty does not  
24 include games, toys, or products that require a button-cell or lithium  
25 battery, liquid crystal display screens, or a lamp that contains  
26 mercury.

27 ~~((8))~~ (12) "Mercury-added product" means a product, commodity, or  
28 chemical, or a product with a component that contains mercury or a  
29 mercury compound intentionally added to the product, commodity, or  
30 chemical in order to provide a specific characteristic, appearance, or  
31 quality, or to perform a specific function, or for any other reason.  
32 Mercury-added products include, but are not limited to, mercury  
33 thermometers, mercury thermostats, and mercury switches in motor  
34 vehicles.

35 ~~((9))~~ (13) "Mercury manometer" means a mercury-added product that  
36 is used for measuring blood pressure.

37 ~~((10))~~ (14) "Mercury thermometer" means a mercury-added product  
38 that is used for measuring temperature.

1        ~~((11))~~ (15) "Motor vehicle" includes any automobile, van, truck,  
2 motor home, motorcycle, travel trailer, or bus.

3        (16) "Motor vehicle recycler" means any person or entity licensed  
4 under chapter 46.80 RCW and engaged in the business of either acquiring  
5 or dismantling, or both, motor vehicles for the primary purpose of  
6 resale of their parts or materials.

7        (17) "Retailer" means a retailer of a mercury-added product.

8        (18) "Scrap recycling facility" means a fixed location, where  
9 machinery and equipment are utilized for processing and manufacturing  
10 scrap metal into prepared grades and whose principal product is scrap  
11 iron, scrap steel, or nonferrous metallic scrap for sale for remelting  
12 purposes.

13        NEW SECTION.    **Sec. 3.** Manufacturers shall, individually or as part  
14 of a group, submit to the department for review and approval a plan to  
15 remove, collect, and recover mercury-added components before crushing  
16 or shredding motor vehicles. Manufacturers are responsible for  
17 ensuring that mercury-added components are properly removed, collected,  
18 and recovered from end-of-life vehicles.

19        (1)(a) Vehicle manufacturers shall develop and implement a system  
20 to remove, collect, and recover mercury-added components from end-of-  
21 life vehicles.

22        (b) The removal, collection, and recovery system must include, at  
23 a minimum, the following elements, which shall be described within the  
24 plan:

25        (i) An education program to inform the stakeholders about the  
26 purposes of the removal, collection, and recovery program and how to  
27 participate in it;

28        (ii) A plan for implementing and financing the system;

29        (iii) Documentation of the willingness of all necessary parties to  
30 implement the proposed system;

31        (iv) Information identifying:    The make, model, and year of  
32 vehicles containing mercury-added components; a description of the  
33 component; the locations of these components; and the safe, cost-  
34 effective, and environmentally sound methods for their removal from  
35 end-of-life vehicles;

36        (v) An overall mercury-added component capture rate of at least  
37 ninety percent, consistent with the principle that mercury-added

1 components must be removed, collected, and recovered unless the part is  
2 inaccessible because of significant damage to that part of the vehicle  
3 where the component is located;

4 (vi) A description of the performance measures that will be used  
5 and reported upon by the manufacturer (or group of manufacturers) to  
6 demonstrate that the system is meeting the capture rate as well as  
7 other measures of program effectiveness. The performance measures must  
8 include, but are not limited to: The number of mercury-added  
9 components collected from end-of-life vehicles and the number of  
10 vehicles processed for recycling; the amount of mercury collected; and  
11 the number of vehicles containing mercury-added components;

12 (vii) A process to ensure that, upon request, the motor vehicle  
13 recycler, scrap recycling facility, or mobile crusher provide to the  
14 department documentation to show that the mercury-added components have  
15 been removed. This process must ensure that the information is treated  
16 as confidential business information, and will be publicly released  
17 only in the aggregate;

18 (viii) A description of additional or alternative actions to be  
19 implemented to improve the system and its operation in the event that  
20 the program measures established in (b)(vi) of this subsection are not  
21 met;

22 (ix) A system to mark vehicles to be processed for shredding or  
23 crushing to indicate the presence or absence of mercury-added  
24 components;

25 (x) Training of employees on how to identify vehicles containing  
26 mercury-added components, how to remove them, how to handle and store  
27 them, human health risks associated with mercury, and spill response;

28 (xi) A plan to transfer mercury and mercury-added components that  
29 are removed, collected, and recovered from end-of-life vehicles to  
30 recycling, storage, or disposal facilities.

31 (c) In order to ensure that mercury-added components are removed  
32 and collected in a safe and consistent manner, manufacturers shall, to  
33 the extent practicable, utilize the existing end-of-life vehicle  
34 recycling infrastructure.

35 (d) Manufacturers shall indemnify, defend, and hold harmless motor  
36 vehicle recyclers and scrap recyclers for any liabilities arising from  
37 the release of the mercury from the mercury-added components after the

1 components are transferred to the manufacturer or its agent or  
2 contractor.

3 (2) The total cost of the removal, collection, and recovery system  
4 for mercury-added components must be borne by the manufacturers who  
5 installed mercury-added components in their vehicles. Costs include,  
6 but are not limited to, the following:

7 (a) Labor to remove mercury-added components. Labor must be  
8 reimbursed at the prevailing rate auto manufacturers use to reimburse  
9 automotive dealers for replacing faulty components under the  
10 manufacturer-dealer warranty program;

11 (b) Training as described in subsection (1)(b)(x) of this section;

12 (c) Packaging in which to transport mercury-added components to  
13 recycling, storage, or disposal facilities;

14 (d) Shipping of mercury-added components to recycling, storage, or  
15 disposal facilities;

16 (e) Proper recycling, storage, or disposal of mercury-added  
17 components;

18 (f) Public education materials and presentations;

19 (g) Maintenance of all appropriate systems and procedures to  
20 protect the environment from mercury contamination;

21 (h) State administrative costs associated with the oversight of the  
22 manufacturer's plan;

23 (i) Any additional costs for documentation required of motor  
24 vehicle recyclers and scrap recycling facilities.

25 (3) Nothing in this section restricts the ability of a  
26 manufacturer, importer, or domestic distributor from transporting  
27 products through the state, or storing products in the state for later  
28 distribution outside the state.

29 NEW SECTION. **Sec. 4.** Every effort must be made by vehicle  
30 manufacturers to ensure that mercury-added components are removed from  
31 vehicles before they are crushed or shredded.

32 (1) It is unlawful to shred or crush vehicles that have not had  
33 mercury-added components removed, except where removal is not possible  
34 because the mercury-added component is inaccessible due to significant  
35 damage to the part of the vehicle where the component is located. To  
36 comply with this section, automobile crushers or shredders may rely on,  
37 as reasonable evidence of removal, representations of certifications

1 from motor vehicle recyclers that mercury-added components have been  
2 removed. Crushed vehicle hulks imported from out of state may be  
3 shredded provided the scrap recycling facilities have, to the best of  
4 their abilities, ensured that their out-of-state suppliers have removed  
5 mercury-added components.

6 (2) It is unlawful for any person to represent that mercury-added  
7 components have been removed from a vehicle or vehicle hulk being sold,  
8 given, or otherwise conveyed for recycling if the mercury-added  
9 components have in fact not been removed.

10 NEW SECTION. **Sec. 5.** (1) Every manufacturer of motor vehicles  
11 sold in this state shall, individually or as part of a group, submit a  
12 plan to the department, within ninety days of the effective date of  
13 this section, describing a program meeting the requirements established  
14 in this chapter.

15 (2) The director shall:

16 (a) Determine within sixty days after receipt of a manufacturer's  
17 plan, whether the plan complies with this chapter. If the plan is  
18 approved, the director shall send a letter of approval and the  
19 manufacturer shall begin implementation within ninety days after  
20 receipt of the letter;

21 (b) In the event the plan is rejected, inform the manufacturer as  
22 to the reasons for rejection. The manufacturer has thirty days after  
23 receipt of the letter of disapproval to submit a new plan;

24 (c) Consider the manufacturer or manufacturers in violation of this  
25 chapter, subject to the penalties described in RCW 70.95M.080, if they  
26 fail to have an approved plan in place within two hundred forty days of  
27 the effective date of this section;

28 (d) Review any plan approved under this section three years after  
29 the original date of approval and every three years thereafter. The  
30 director may require modifications to the plan as appropriate;

31 (e) Make available to the public and to the legislature the reports  
32 required under this chapter.

33 (3) The manufacturers shall submit revised plans as directed within  
34 ninety days of receipt of notification by the department. The  
35 submission and review deadlines are as specified in subsection (2) of  
36 this section.

1        NEW SECTION.    **Sec. 6.** A manufacturer subject to this chapter  
2 shall, individually or as part of a group, annually report to the  
3 department concerning the performance of the manufacturer's plan. The  
4 report must include, but is not limited to:

5            (1) A detailed description and documentation of the capture rate  
6 achieved and how and where the mercury was recycled or otherwise  
7 appropriately managed;

8            (2) A plan to implement additional or alternative actions, if  
9 necessary, to improve the capture rate.

10        **Sec. 7.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read  
11 as follows:

12        A violation of this chapter is punishable by a civil penalty not to  
13 exceed one thousand dollars for each violation in the case of a first  
14 violation. Repeat violators of RCW 70.95M.020 and 70.95M.050 are  
15 liable for a civil penalty not to exceed five thousand dollars for each  
16 repeat violation. Penalties collected under this section must be  
17 deposited in the state toxics control account created in RCW  
18 70.105D.070. The civil penalties in this section are in addition to  
19 any other penalties authorized under other state or local laws  
20 governing the use of mercury in motor vehicles.

21        NEW SECTION.    **Sec. 8.** Sections 1 and 3 through 6 of this act are  
22 each added to chapter 70.95M RCW.

23        NEW SECTION.    **Sec. 9.** This act takes effect July 1, 2006.

--- END ---