
SECOND SUBSTITUTE HOUSE BILL 1731

State of Washington

59th Legislature

2006 Regular Session

By House Committee on Appropriations (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 02/08/06.

1 AN ACT Relating to the removal of mercury-added components in motor
2 vehicles; amending RCW 70.95M.010 and 42.56.270; adding new sections to
3 chapter 70.95M RCW; prescribing penalties; providing an effective date;
4 and providing an expiration date.

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

6 NEW SECTION. **Sec. 1.** (1) It is the intent of this act to reduce
7 the quantity of mercury released into the environment by:

8 (a) Removing mercury switches from end-of-life vehicles in the
9 state of Washington; and

10 (b) Creating a collection and recovery program for mercury switches
11 that have been removed from end-of-life vehicles in the state of
12 Washington.

13 (2) A memorandum of understanding, dated January 10, 2006, and
14 entered into jointly by the department of ecology, automotive recyclers
15 of Washington, and the end-of-life vehicle solutions corporation,
16 established a mercury switch assembly collection system. To the
17 maximum extent possible and in keeping with the requirements of this
18 chapter, elements of that memorandum of understanding must be utilized.

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

3 The definitions in this section apply throughout this chapter
4 unless the context clearly requires otherwise.

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

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

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

12 (~~(3)~~) (4) "Director" means the director of the department of
13 ecology.

14 (~~(4)~~) (5) "End-of-life vehicle" means any motor vehicle that is
15 sold, given, or otherwise conveyed to a motor vehicle recycler or scrap
16 recycling facility.

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

21 (~~(5)~~) (7) "Manufacturer" includes any person, firm, association,
22 partnership, corporation, governmental entity, organization, or joint
23 venture that:

24 (a) Produces a mercury-added product, other than a motor vehicle,
25 or an importer or domestic distributor of a mercury-added product
26 produced in a foreign country, other than a motor vehicle. In the case
27 of a multicomponent product containing mercury other than a motor
28 vehicle, the manufacturer is the last manufacturer to produce or
29 assemble the product. If the multicomponent product or mercury-added
30 product is produced in a foreign country, the manufacturer is the first
31 importer or domestic distributor;

32 (b) Is the last person in the production or assembly process of a
33 new motor vehicle that utilizes mercury switches, or in the case of an
34 imported vehicle, the importer or domestic distributor of the motor
35 vehicle.

36 (~~(6)~~) (8) "Mercury-added button-cell battery" means a button-cell
37 battery to which the manufacturer intentionally introduces mercury for
38 the operation of the battery.

1 (~~(7)~~) (9) "Mercury-added novelty" means a mercury-added product
2 intended mainly for personal or household enjoyment or adornment.
3 Mercury-added novelties include, but are not limited to, items intended
4 for use as practical jokes, figurines, adornments, toys, games, cards,
5 ornaments, yard statues and figures, candles, jewelry, holiday
6 decorations, items of apparel, and other similar products. Mercury-
7 added novelty does not include games, toys, or products that require a
8 button-cell or lithium battery, liquid crystal display screens, or a
9 lamp that contains mercury.

10 (~~(8)~~) (10) "Mercury-added product" means a product, commodity, or
11 chemical, or a product with a component that contains mercury or a
12 mercury compound intentionally added to the product, commodity, or
13 chemical in order to provide a specific characteristic, appearance, or
14 quality, or to perform a specific function, or for any other reason.
15 Mercury-added products include, but are not limited to, mercury
16 thermometers, mercury thermostats, and mercury switches in motor
17 vehicles.

18 (~~(9)~~) (11) "Mercury antilock braking system sensor" means the
19 mercury-containing switch installed in a vehicle's antilock braking
20 system.

21 (12) "Mercury light switch assembly" means a convenience light
22 switch assembly that contains a mercury switch. A mercury light switch
23 assembly may include the housing, the mercury switch, a socket for a
24 light bulb, and other attached components such as wires and a mounting
25 bracket.

26 (13) "Mercury manometer" means a mercury-added product that is used
27 for measuring blood pressure.

28 (~~(10)~~) (14) "Mercury switch" means a mercury-containing capsule,
29 commonly known as a "bullet," that is part of a motor vehicle mercury
30 light switch assembly or part of an antilock braking system assembly.

31 (15) "Mercury thermometer" means a mercury-added product that is
32 used for measuring temperature.

33 (~~(11)~~) (16) "Motor vehicle" includes any passenger automobile,
34 van, or truck with a gross weight rating of less than twelve thousand
35 pounds.

36 (17) "Motor vehicle recycler" means any person or entity required
37 to be licensed under chapter 46.80 RCW and is engaged in the business

1 of acquiring or dismantling, or both acquiring and dismantling, motor
2 vehicles for the primary purpose of resale of their parts or materials.

3 (18) "Person" means any individual, corporation, company, firm,
4 partnership, association, trust, joint stock company or trust, venture,
5 or municipal, state, or federal government or agency, or any other
6 legal entity, however organized.

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

8 (20) "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 (21) "Vehicle crusher" means any person who engages in the business
14 of operating a fixed or transportable car crusher.

15 NEW SECTION. Sec. 3. Manufacturers shall individually, or as part
16 of a group, develop a system to facilitate and fund the removal,
17 collection, and disposal or recycling of mercury switches before
18 end-of-life vehicles are crushed or shredded, as required by this
19 chapter.

20 (1)(a) The removal, collection, and disposal system must include,
21 at a minimum, the following elements:

22 (i) An education program to inform vehicle recyclers, scrap
23 recycling facilities, vehicle crushers, and other stakeholders about
24 the purposes of the program to facilitate their participation;

25 (ii) Information providing guidance as to which vehicles may
26 contain mercury switch assemblies, where they are located, and
27 recommended procedures for removing the mercury switch assemblies;

28 (iii) A goal of achieving an overall capture rate of at least
29 ninety percent of mercury light switch assemblies, consistent with the
30 principle that they must be removed unless they are not reasonably
31 accessible due to significant damage to the section of the vehicle
32 where the mercury light switch assemblies are located;

33 (iv) Performance measures will be used and reported by the
34 manufacturer or group of manufacturers to demonstrate that the system
35 is meeting the capture rate and other measures of program
36 effectiveness. The performance measures must include, but are not
37 limited to: The number of mercury light switch assemblies collected

1 from end-of-life vehicles and the number of vehicles processed for
2 recycling; the amount of mercury collected; the number of vehicles
3 containing mercury light switch assemblies; and identification of
4 barriers to implementation of the program, and steps to be taken to
5 address those barriers;

6 (v) A process to ensure that, upon request, the motor vehicle
7 recycler or scrap recycling facility provide documentation to the
8 department to show that the mercury light switch assemblies have been
9 removed. This process must ensure that the information is treated as
10 confidential business information, and will be released publicly only
11 in the aggregate;

12 (vi) A marking system to indicate the presence or absence of
13 mercury light switch assemblies in vehicles to be processed for
14 shredding or crushing;

15 (vii) Training of employees on how to identify vehicles containing
16 mercury light switch assemblies and how to remove, handle, and store
17 them, on the human health risks associated with mercury, and on spill
18 response;

19 (viii) A plan to collect and transport mercury light switch
20 assemblies and other mercury switches to disposal or recycling
21 facilities.

22 (b) Manufacturers shall, to the extent practicable, utilize the
23 existing end-of-life vehicle recycling infrastructure in order to
24 ensure that mercury light switch assemblies are removed and collected
25 in a safe and consistent manner and elements of the memorandum of
26 understanding must be utilized to the extent possible.

27 (c) Each manufacturer or any entity carrying out the
28 responsibilities for a group of manufacturers under this act shall
29 provide proof to the department that it is maintaining a minimum of
30 twenty-four million dollars of pollution liability insurance coverage
31 for the collection, transportation, recycling, or disposal of the
32 mercury from the mercury switches.

33 (2) The total cost for the removal, collection, and disposal or
34 recycling of mercury switches or mercury light switch assemblies must
35 be borne by the manufacturers who installed them in their vehicles.
36 Costs include, but are not limited to the following:

37 (a) A minimum of three dollars for each mercury switch, mercury
38 light switch assembly, or mercury antilock braking system sensor

1 assembly removed by and collected from a vehicle recycling facility
2 pursuant to this section as partial compensation for the labor and
3 other costs incurred by a vehicle recycler;

4 (b) A minimum of three dollars for each mercury switch, mercury
5 light switch assembly, or mercury antilock braking system sensor
6 assembly removed by and collected from a scrap recycling facility
7 pursuant to this section as partial compensation for the labor and
8 other costs incurred by a scrap recycler;

9 (c) One dollar for each mercury switch, mercury light switch
10 assembly, or mercury antilock braking system sensor assembly removed by
11 and collected from a vehicle recycler or scrap recycler pursuant to
12 this section as partial compensation to the department for costs
13 incurred in administering and enforcing provisions of this chapter;

14 (d) Training as described in subsection (1)(a)(vii) of this
15 section;

16 (e) Collection containers for mercury switches, mercury switch
17 assemblies, and mercury antilock braking system sensors to be
18 collected;

19 (f) Costs for the collection and transportation system to allow for
20 the periodic collection and replacement of filled containers;

21 (g) Engagement of a qualified hazardous waste management contractor
22 to carry out storage, recycling, or disposal of the mercury;

23 (h) An outreach program to encourage participation that includes,
24 but is not limited to, direct mailings, workshops, and site visits;

25 (i) Maintenance of all appropriate systems and procedures to
26 protect the environment from mercury contamination from mercury
27 switches removed and collected under this act;

28 (j) Any additional costs for documentation required of motor
29 vehicle recyclers, vehicle crushers, and scrap recycling facilities.

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

34 NEW SECTION. **Sec. 4.** (1) Every reasonable effort must be made by
35 vehicle manufacturers to facilitate the removal of mercury light switch
36 assemblies from vehicles before they are crushed or shredded.

1 (2) It is unlawful to shred or crush vehicles that have not had
2 mercury light switch assemblies removed, except when the part is not
3 reasonably accessible due to significant damage to the section of the
4 vehicle where the mercury light switch assembly is located. To comply
5 with this section, vehicle crushers or shredders may rely on, as
6 reasonable evidence of removal, representations of certifications from
7 motor vehicle recyclers that mercury light switch assemblies have been
8 removed. Crushed vehicle hulks imported from out-of-state may be
9 shredded provided that the scrap recycling facilities have, to the best
10 of their abilities, ensured that their out-of-state suppliers have
11 removed mercury light switch assemblies.

12 (3) It is unlawful for any person to represent that mercury light
13 switch assemblies have been removed from a vehicle or vehicle hulk
14 being sold, given, or otherwise conveyed for recycling if the mercury
15 light switch assemblies have not been removed.

16 NEW SECTION. **Sec. 5.** (1) Every manufacturer of motor vehicles
17 sold in this state shall, individually or as part of a group, submit a
18 plan to the department, within ninety days of the effective date of
19 this section, describing a program that meets the requirements
20 established in this act.

21 (2) The director shall approve or disapprove the entire plan.

22 (a) If the entire plan is approved, the manufacturers shall
23 implement the plan on July 1, 2006.

24 (b) If the entire plan is disapproved, the director shall inform
25 the manufacturers as to the reasons for the disapproval. The
26 manufacturers have ninety days to submit a new plan.

27 (c) The manufacturers are considered in violation of this chapter
28 if they fail to have an approved plan in place by October 1, 2006, and
29 are subject to the penalties in section 7 of this act.

30 (d) The director shall periodically review any plan approved under
31 this section and may require modifications to the plan as appropriate.

32 (e) The director shall make available to the public and to the
33 legislature reports required under this act.

34 NEW SECTION. **Sec. 6.** A manufacturer subject to this chapter
35 shall, individually or as part of a group, report to the department
36 concerning the performance of the manufacturer's plan. The report must

1 include, but is not limited to: (1) A detailed description and
2 documentation of how the capture rate was achieved and how and where
3 the mercury was disposed or recycled; (2) a plan to implement
4 additional or alternative actions, if necessary, to improve the capture
5 rate.

6 NEW SECTION. **Sec. 7.** A violation of sections 3 through 6 of this
7 act is punishable by a civil penalty not to exceed one thousand dollars
8 per violation per day. Penalties collected under this section must be
9 deposited in the state toxics control account created in RCW
10 70.105D.070. The civil penalties in this section are in addition to
11 any other penalties authorized under other state or local laws
12 governing the use of mercury in motor vehicles.

13 **Sec. 8.** RCW 42.56.270 and 2005 c 274 s 407 are each amended to
14 read as follows:

15 The following financial, commercial, and proprietary information is
16 exempt from disclosure under this chapter:

17 (1) Valuable formulae, designs, drawings, computer source code or
18 object code, and research data obtained by any agency within five years
19 of the request for disclosure when disclosure would produce private
20 gain and public loss;

21 (2) Financial information supplied by or on behalf of a person,
22 firm, or corporation for the purpose of qualifying to submit a bid or
23 proposal for (a) a ferry system construction or repair contract as
24 required by RCW 47.60.680 through 47.60.750 or (b) highway construction
25 or improvement as required by RCW 47.28.070;

26 (3) Financial and commercial information and records supplied by
27 private persons pertaining to export services provided under chapters
28 43.163 and 53.31 RCW, and by persons pertaining to export projects
29 under RCW 43.23.035;

30 (4) Financial and commercial information and records supplied by
31 businesses or individuals during application for loans or program
32 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,
33 or during application for economic development loans or program
34 services provided by any local agency;

35 (5) Financial information, business plans, examination reports, and

1 any information produced or obtained in evaluating or examining a
2 business and industrial development corporation organized or seeking
3 certification under chapter 31.24 RCW;

4 (6) Financial and commercial information supplied to the state
5 investment board by any person when the information relates to the
6 investment of public trust or retirement funds and when disclosure
7 would result in loss to such funds or in private loss to the providers
8 of this information;

9 (7) Financial and valuable trade information under RCW 51.36.120;

10 (8) Financial, commercial, operations, and technical and research
11 information and data submitted to or obtained by the clean Washington
12 center in applications for, or delivery of, program services under
13 chapter 70.95H RCW;

14 (9) Financial and commercial information requested by the public
15 stadium authority from any person or organization that leases or uses
16 the stadium and exhibition center as defined in RCW 36.102.010;

17 (10) Financial information, including but not limited to account
18 numbers and values, and other identification numbers supplied by or on
19 behalf of a person, firm, corporation, limited liability company,
20 partnership, or other entity related to an application for a liquor
21 license, gambling license, or lottery retail license;

22 (11) Proprietary data, trade secrets, or other information that
23 relates to: (a) A vendor's unique methods of conducting business; (b)
24 data unique to the product or services of the vendor; or (c)
25 determining prices or rates to be charged for services, submitted by
26 any vendor to the department of social and health services for purposes
27 of the development, acquisition, or implementation of state purchased
28 health care as defined in RCW 41.05.011; (~~and~~)

29 (12)(a) When supplied to and in the records of the department of
30 community, trade, and economic development:

31 (i) Financial and proprietary information collected from any person
32 and provided to the department of community, trade, and economic
33 development pursuant to RCW 43.330.050(8) and 43.330.080(4); and

34 (ii) Financial or proprietary information collected from any person
35 and provided to the department of community, trade, and economic
36 development or the office of the governor in connection with the
37 siting, recruitment, expansion, retention, or relocation of that
38 person's business and until a siting decision is made, identifying

1 information of any person supplying information under this subsection
2 and the locations being considered for siting, relocation, or expansion
3 of a business;

4 (b) When developed by the department of community, trade, and
5 economic development based on information as described in (a)(i) of
6 this subsection, any work product is not exempt from disclosure;

7 (c) For the purposes of this subsection, "siting decision" means
8 the decision to acquire or not to acquire a site;

9 (d) If there is no written contact for a period of sixty days to
10 the department of community, trade, and economic development from a
11 person connected with siting, recruitment, expansion, retention, or
12 relocation of that person's business, information described in (a)(ii)
13 of this subsection will be available to the public under this chapter;
14 and

15 (13) Records obtained from individual motor vehicle recyclers,
16 vehicle crushers, and scrap recycling facilities under section
17 3(1)(a)(v) of this act.

18 NEW SECTION. Sec. 9. Sections 1 and 3 through 7 of this act are
19 each added to chapter 70.95M RCW.

20 NEW SECTION. Sec. 10. Section 8 of this act takes effect July 1,
21 2006.

22 NEW SECTION. Sec. 11. This act expires January 1, 2025.

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