
HOUSE BILL 1731

State of Washington

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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

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1 AN ACT Relating to the removal of mercury-added components in motor
2 vehicles; adding a new chapter to Title 70 RCW; and prescribing
3 penalties.

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

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

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

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

16 (4) The recycling of automobiles involves the crushing, shredding,
17 and melting of auto scrap via thermal combustion. Preventing mercury
18 or mercury-added components from entering thermal combustion units is
19 an effective way to reduce mercury emissions into the environment.

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

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

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

7 NEW SECTION. **Sec. 2.** The definitions in this section apply
8 throughout this chapter unless the context clearly requires otherwise.

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

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

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

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

17 (5) "Manufacturer" includes any person, firm, association,
18 partnership, corporation, governmental entity, organization,
19 combination, or joint venture that produced or assembled a new motor
20 vehicle that used mercury-added components, or in the case of an
21 imported motor vehicle, the importer or domestic distributor of the
22 motor vehicle.

23 (6) "Manufacturer-dealer warranty program" means an arrangement
24 between a manufacturer and its franchisee, whereby the manufacturer
25 agrees to reimburse the franchisee, at established rates, for labor or
26 parts necessary to repair a vehicle pursuant to the manufacturer's
27 original equipment warranty to the original purchaser of the vehicle.

28 (7) "Mercury-added component" means mercury-containing light
29 switches and antilock brake system sensors, which were intentionally
30 installed in the motor vehicle.

31 (8) "Motor vehicle" includes any automobile, van, truck, motor
32 home, motorcycle, travel trailer, or bus.

33 (9) "Motor vehicle recycler" means any person or entity licensed
34 under chapter 46.80 RCW and engaged in the business of either acquiring
35 or dismantling, or both, motor vehicles for the primary purpose of
36 resale of their parts or materials.

1 (10) "Scrap recycling facility" means a fixed location, where
2 machinery and equipment are utilized for processing and manufacturing
3 scrap metal into prepared grades and whose principal product is scrap
4 iron, scrap steel, or nonferrous metallic scrap for sale for remelting
5 purposes.

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

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

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

18 (i) An education program to inform the stakeholders about the
19 purposes of the removal, collection, and recovery program and how to
20 participate in it;

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

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

24 (iv) Information identifying: The make, model, and year of
25 vehicles containing mercury-added components; a description of the
26 component; the locations of these components; and the safe, cost-
27 effective, and environmentally sound methods for their removal from
28 end-of-life vehicles;

29 (v) An overall mercury-added component capture rate of at least
30 ninety percent, consistent with the principle that mercury-added
31 components must be removed, collected, and recovered unless the part is
32 inaccessible because of significant damage to that part of the vehicle
33 where the component is located;

34 (vi) A description of the performance measures that will be used
35 and reported upon by the manufacturer (or group of manufacturers) to
36 demonstrate that the system is meeting the capture rate as well as
37 other measures of program effectiveness. The performance measures must

1 include, but are not limited to: The number of mercury-added
2 components collected from end-of-life vehicles and the number of
3 vehicles processed for recycling; the amount of mercury collected; and
4 the number of vehicles containing mercury-added components;

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

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

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

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

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

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

28 (d) Manufacturers shall indemnify, defend, and hold harmless motor
29 vehicle recyclers and scrap recyclers for any liabilities arising from
30 the release of the mercury from the mercury-added components after the
31 components are transferred to the manufacturer or its agent or
32 contractor.

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

37 (a) Labor to remove mercury-added components. Labor must be

1 reimbursed at the prevailing rate auto manufacturers use to reimburse
2 automotive dealers for replacing faulty components under the
3 manufacturer-dealer warranty program;

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

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

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

9 (e) Proper recycling, storage, or disposal of mercury-added
10 components;

11 (f) Public education materials and presentations;

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

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

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

18 (3) Nothing in this section restricts the ability of a
19 manufacturer, importer, or domestic distributor from transporting
20 products through the state, or storing products in the state for later
21 distribution outside the state.

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

25 (1) It is unlawful to shred or crush vehicles that have not had
26 mercury-added components removed, except where removal is not possible
27 because the mercury-added component is inaccessible due to significant
28 damage to the part of the vehicle where the component is located. To
29 comply with this section, automobile crushers or shredders may rely on,
30 as reasonable evidence of removal, representations of certifications
31 from motor vehicle recyclers that mercury-added components have been
32 removed. Crushed vehicle hulks imported from out of state may be
33 shredded provided the scrap recycling facilities have, to the best of
34 their abilities, ensured that their out-of-state suppliers have removed
35 mercury-added components.

36 (2) It is unlawful for any person to represent that mercury-added

1 components have been removed from a vehicle or vehicle hulk being sold,
2 given, or otherwise conveyed for recycling if the mercury-added
3 components have in fact not been removed.

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

9 (2) The director shall:

10 (a) Determine within sixty days after receipt of a manufacturer's
11 plan, whether the plan complies with this chapter. If the plan is
12 approved, the director shall send a letter of approval and the
13 manufacturer shall begin implementation within ninety days after
14 receipt of the letter;

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

18 (c) Consider the manufacturer or manufacturers in violation of this
19 chapter, subject to the penalties described in section 7 of this act,
20 if they fail to have an approved plan in place within two hundred forty
21 days of the effective date of this section;

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

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

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

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

35 (1) A detailed description and documentation of the capture rate

1 achieved and how and where the mercury was recycled or otherwise
2 appropriately managed;

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

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

12 NEW SECTION. **Sec. 8.** Sections 1 through 7 of this act constitute
13 a new chapter in Title 70 RCW.

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