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HOUSE BILL 2800

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives Chase, Hunt, Eickmeyer, Wood, and Goodman

Read first time 01/16/08. Referred to Committee on Select Committee on Environmental Health.

1            AN ACT Relating to managing the use and disposal of mercury-added  
2 products; amending RCW 70.95M.010, 70.95M.020, 70.95M.050, and  
3 70.95M.080; adding a new section to chapter 70.95M RCW; creating new  
4 sections; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds and declares the  
7 following:

8            (1) Mercury is a persistent, bioaccumulative toxin that can damage  
9 the central nervous and cardiovascular systems in humans;

10           (2) Mercury-added products, when broken or improperly disposed of,  
11 can release mercury into the environment;

12           (3) Mercury-added lamps in particular have been identified as a  
13 major source of mercury, which can be released during improper  
14 disposal;

15           (4) While the harmful effects of mercury have been identified, the  
16 state has not taken steps to prevent mercury-added products, including  
17 mercury-added lamps, from being disposed of in landfills;

18           (5) Many Washington counties, however, have recognized the harmful

1 effects of disposal of mercury-added lamps in waste facilities and have  
2 put lamp disposal bans in place;

3 (6) The rate of recycling of mercury-added lamps has been low in  
4 recent years, only about twenty percent of all fluorescent lamps are  
5 recycled each year in Washington state, while the remaining eighty  
6 percent continue to be disposed of in solid waste facilities;

7 (7) Mounting concerns about climate change are compelling some  
8 individuals and businesses to switch from traditional incandescent  
9 lighting sources to more efficient lighting sources, such as compact  
10 fluorescent lamps, which contain mercury; and

11 (8) As more individuals and businesses move towards using  
12 fluorescent lamps, the need to develop comprehensive new policies to  
13 prevent fluorescent lamps from being disposed of in solid waste  
14 facilities and to instead encourage the recycling of such products  
15 becomes more pressing.

16 Therefore, in order to continue to take steps to reduce the release  
17 of mercury, and to encourage the safe disposal of fluorescent lamps in  
18 the state, the legislature finds that the state should take action to  
19 prevent mercury-added products from being disposed of in solid waste  
20 facilities and to encourage widespread recycling of fluorescent lamps  
21 statewide.

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

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) (~~("Automotive mercury switch" includes a convenience switch,~~  
27 ~~such as a switch for a trunk or hood light, and a mercury switch in~~  
28 ~~antilock brake systems)) "Bulk mercury" includes any elemental,~~

29 nonamalgamated mercury, regardless of volume quantity or weight.

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

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

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

36 (5) "Manufacturer" includes any person, firm, association,  
37 partnership, corporation, governmental entity, organization, or joint

1 venture that produces a mercury-added product or an importer or  
2 domestic distributor of a mercury-added product produced in a foreign  
3 country. In the case of a multicomponent product containing mercury,  
4 the manufacturer is the last manufacturer to produce or assemble the  
5 product. If the multicomponent product or mercury-added product is  
6 produced in a foreign country, the manufacturer is the first importer  
7 or domestic distributor.

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

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

20 (8) "Mercury-added product" means a product, commodity, or  
21 chemical, or a product with a component that contains mercury or a  
22 mercury compound intentionally added to the product, commodity, or  
23 chemical in order to provide a specific characteristic, appearance, or  
24 quality, or to perform a specific function, or for any other reason.  
25 Mercury-added products include, but are not limited to, those products  
26 listed in the interstate mercury education and reduction clearinghouse  
27 mercury-added products database, mercury thermometers, mercury  
28 thermostats, button-cell batteries, mercury barometers, and mercury  
29 switches (~~(in motor vehicles)~~) or relays.

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

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

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

35 (12) "Switch" means any device, which may be referred to as a  
36 switch, sensor, valve, probe, control, transponder, or any other  
37 apparatus, that directly regulates or controls the flow of electricity,  
38 gas, or other compounds, such as relays or transponders. "Switch"

1 includes all components of the unit necessary to perform its flow  
2 control function. The term "automotive mercury switch" includes a  
3 convenience switch, such as a switch for a trunk or hood light, and a  
4 mercury switch in antilock brake systems. The term "utility switch"  
5 includes, but is not limited to, all devices that open or close an  
6 electrical circuit or a liquid or gas valve. The term "utility relay"  
7 includes, but is not limited to, all products or devices that open or  
8 close electrical contacts to control the operation of other devices in  
9 the same or another electrical circuit.

10 (13) "Wholesaler" means a wholesaler of a mercury-added product.

11 **Sec. 3.** RCW 70.95M.020 and 2003 c 260 s 3 are each amended to read  
12 as follows:

13 (1) Effective January 1, 2004, a manufacturer, wholesaler, or  
14 retailer may not knowingly sell at retail a fluorescent lamp if the  
15 fluorescent lamp contains mercury and was manufactured after November  
16 30, 2003, unless the fluorescent lamp is labeled in accordance with the  
17 guidelines listed under subsection (2) of this section. Primary  
18 responsibility for affixing labels required under this section is on  
19 the manufacturer, and not on the wholesaler or retailer.

20 (2) Except as provided in subsection (3) of this section, a lamp is  
21 considered labeled pursuant to subsection (1) of this section if the  
22 lamp has all of the following:

23 (a) A label affixed to the lamp that displays the internationally  
24 recognized symbol for the element mercury; and

25 (b) A label on the lamp's packaging that: (i) Clearly informs the  
26 purchaser that mercury is present in the item; (ii) explains that the  
27 fluorescent lamp should be disposed of according to applicable federal,  
28 state, and local laws; and (iii) provides a toll-free telephone number,  
29 and a uniform resource locator internet address to a web site, that  
30 contains information on applicable disposal laws.

31 (3) The manufacturer of a mercury-added lamp is in compliance with  
32 the requirements of this section if the manufacturer is in compliance  
33 with the labeling requirements of another state.

34 ~~((The provisions of this section do not apply to products~~  
35 ~~containing mercury added)) (a) Effective January 1, 2010, all state-~~

36 funded public agency facilities, including but not limited to learning  
37 institutions, must recycle their fluorescent lamps.

1       (b) Effective January 1, 2011, all commercial, industrial, and  
2 retail facilities and office buildings must recycle their fluorescent  
3 lamps.

4       **Sec. 4.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read  
5 as follows:

6       (1) Effective January 1, 2006, no person may sell, offer for sale,  
7 or distribute for sale or use in this state a mercury-added novelty.  
8 A manufacturer of mercury-added novelties must notify all retailers  
9 that sell the product about the provisions of this section and how to  
10 properly dispose of any remaining mercury-added novelty inventory.

11       (2)(a) Effective January 1, 2006, no person may sell, offer for  
12 sale, or distribute for sale or use in this state a manometer used to  
13 measure blood pressure or a thermometer that contains mercury. This  
14 subsection (2)(a) does not apply to:

15       (i) An electronic thermometer with a button-cell battery containing  
16 mercury;

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

20       (iii) A thermometer that contains mercury and that is a component  
21 of an animal agriculture climate control system or industrial  
22 measurement system or for veterinary medicine until such a time as the  
23 system is replaced or a nonmercury component for the system or  
24 application is available;

25       (iv) A thermometer or manometer that contains mercury that is used  
26 for calibration of other thermometers, manometers, apparatus, or  
27 equipment, unless a nonmercury calibration standard is approved for the  
28 application by the national institute of standards and technology;

29       (v) A thermometer that is provided by prescription. A manufacturer  
30 of a mercury thermometer shall supply clear instructions on the careful  
31 handling of the thermometer to avoid breakage and proper cleanup should  
32 a breakage occur; or

33       (vi) A manometer or thermometer sold or distributed to a hospital,  
34 or a health care facility controlled by a hospital, if the hospital has  
35 adopted a plan for mercury reduction consistent with the goals of the  
36 mercury chemical action plan developed by the department under section  
37 302, chapter 371, Laws of 2002.

1 (b) A manufacturer of thermometers that contain mercury must notify  
2 all retailers that sell the product about the provisions of this  
3 section and how to properly dispose of any remaining thermometer  
4 inventory.

5 (3) Effective January 1, 2006, no person may sell, install, or  
6 reinstall a commercial or residential thermostat that contains mercury  
7 unless the manufacturer of the thermostat conducts or participates in  
8 a thermostat recovery or recycling program designed to assist  
9 contractors in the proper disposal of thermostats that contain mercury  
10 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource  
11 conservation and recovery act.

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

15 (5) Nothing in this section restricts the ability of a  
16 manufacturer, importer, or domestic distributor from transporting  
17 products through the state, or storing products in the state for later  
18 distribution outside the state.

19 (6) Effective June 30, 2009, the sale or purchase of bulk mercury,  
20 including sales through the internet or sales by private parties, is  
21 prohibited. However, the prohibition in this subsection does not apply  
22 to sales to research facilities or industrial facilities that provide  
23 products or services to entities exempted from this chapter. The  
24 facilities described in this subsection must submit an inventory of  
25 their purchase and use of bulk mercury to the department on an annual  
26 basis, as well as any mercury waste generated from such actions.

27 (7) Effective January 1, 2009, the manufacture, wholesale, or  
28 retail of any mercury-added product is prohibited if a safer and  
29 environmentally benign alternative exists.

30 NEW SECTION. Sec. 5. A new section is added to chapter 70.95M RCW  
31 to read as follows:

32 (1) Effective January 1, 2012, a person may not dispose of mercury-  
33 added products in a manner other than by recycling or disposal as  
34 hazardous waste.

35 (2) Effective January 1, 2012, a person may not discharge mercury  
36 into water, wastewater treatment, or wastewater disposal systems. This

1 subsection applies, but is not limited to, reagents, medications,  
2 amalgam, and other mixtures that contain mercury.

3 (3) Effective January 1, 2012, mercury-added products may only be  
4 disposed of in a hazardous waste disposal or recycling facility  
5 approved by the department.

6 (4) At a minimum, owners and operators of solid waste management  
7 facilities are required to implement the following:

8 (a) Posting signs at the facility providing notice of the  
9 prohibition of the disposal and incineration of mercury-added products;

10 (b) Written notification to or contractual agreements with the  
11 facility's customers on a frequency, determined by the department,  
12 providing notice of the prohibition on the disposal and incineration of  
13 mercury-added products; and

14 (c) Implementation of procedures approved by the department for  
15 periodically monitoring incoming wastes to detect the presence of  
16 mercury-added products at the facility.

17 (5) If a formulated mercury-added product is a cosmetic or  
18 pharmaceutical product subject to the regulatory requirements relating  
19 to mercury of the federal food and drug administration, then the  
20 product is exempt from the requirements of this section.

21 **Sec. 6.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read  
22 as follows:

23 (1) In preparation for the full implementation of this chapter, the  
24 department shall make every effort to educate all persons regarding the  
25 requirements of this chapter. A violation of this chapter is  
26 punishable by a civil penalty not to exceed one thousand dollars for  
27 each violation in the case of a first violation. Repeat violators are  
28 liable for a civil penalty not to exceed five thousand dollars for each  
29 repeat violation. Penalties collected under this section must be  
30 deposited in the state toxics control account created in RCW  
31 70.105D.070.

32 (2) Households are exempt from the penalties under this section.

33 NEW SECTION. **Sec. 7.** (1) The department of ecology, in  
34 consultation with the solid waste advisory committee created under RCW  
35 70.95.040, shall conduct research and develop recommendations for  
36 implementing and financing a fluorescent lamp recycling program. The

1 department and the solid waste advisory committee shall consult with  
2 stakeholders including persons who represent retailers of fluorescent  
3 lamps, waste haulers, lamp recyclers, lamp manufacturers, cities,  
4 counties, environmental organizations, public interest organizations,  
5 and other interested parties that have a role or interest in the  
6 recycling of fluorescent lamps.

7 (2) The department of ecology shall identify and evaluate existing  
8 lamp recycling programs and encourage new pilot projects for lamp  
9 recycling, particularly those programs that exist in counties that  
10 prohibit the disposal of fluorescent lamps in solid waste facilities.  
11 In evaluating existing programs and new pilot projects, factors to be  
12 considered include:

13 (a) Urban versus rural recycling challenges and issues;

14 (b) The involvement of fluorescent lamp manufacturers;

15 (c) Different methods of financing the recycling programs for  
16 fluorescent lamps; and

17 (d) The impact of the approach on local governments, nonprofit  
18 organizations, waste haulers, and other stakeholders.

19 (3) The department of ecology shall also:

20 (a) Examine existing programs and infrastructure for reuse and  
21 recycling of fluorescent lamps;

22 (b) Compile information on fluorescent lamp recycling programs;

23 (c) Review existing data on the costs to collect, transport, and  
24 recycle fluorescent lamps;

25 (d) Develop a description of what could be accomplished voluntarily  
26 and what would require regulation or legislation if needed to implement  
27 the recommended statewide recycling program for fluorescent lamps;

28 (e) Develop and assess ways to establish and finance a statewide  
29 recycling program for fluorescent lamps; and

30 (f) Examine the need for and develop recommendations to address  
31 recycling services and financing options for charities, school  
32 districts, government agencies, and small businesses.

33 (4) The department of ecology shall report its findings and  
34 recommendations for implementing and financing a recycling program for  
35 fluorescent lamps to the appropriate committees of the legislature by  
36 December 1, 2008.



1 (5) This section expires September 1, 2009.

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