

**ESSB 5543** - H COMM AMD

By Committee on Environmental Health

ADOPTED 03/02/2010

1 Strike everything after the enacting clause and insert the  
2 following:

3 "NEW SECTION. **Sec. 1.** The legislature finds that:

4 (1) Mercury is an essential component of many energy efficient  
5 lights. Improper disposal methods will lead to mercury releases that  
6 threaten the environment and harm human health. Spent mercury lighting  
7 is a hard to collect waste product that is appropriate for product  
8 stewardship;

9 (2) Convenient and environmentally sound product stewardship  
10 programs for mercury-containing lights that include collecting,  
11 transporting, and recycling mercury-containing lights will help protect  
12 Washington's environment and the health of state residents;

13 (3) The purpose of this act is to achieve a statewide goal of  
14 recycling all end-of-life mercury-containing lights by 2020 through  
15 expanded public education, a uniform statewide requirement to recycle  
16 all mercury-containing lights, and the development of a comprehensive,  
17 safe, and convenient collection system that includes use of residential  
18 curbside collection programs, mail-back containers, increased support  
19 for household hazardous waste facilities, and a network of additional  
20 collection locations;

21 (4) Product producers must play a significant role in financing no-  
22 cost collection and processing programs for mercury-containing lights;  
23 and

24 (5) Providers of premium collection services such as residential  
25 curbside and mail-back programs may charge a fee to cover the  
26 collection costs for these more convenient forms of collection.

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

1 (1) "Brand" means a name, symbol, word, or mark that identifies a  
2 product, rather than its components, and attributes the product to the  
3 owner of the brand as the producer.

4 (2) "Covered entities" means:

5 (a) A single-family or a multifamily household generator and  
6 persons that deliver no more than fifteen mercury-containing lights to  
7 registered collectors for a product stewardship program during a  
8 ninety-day period; and

9 (b) A single-family or a multifamily household generator and  
10 persons that utilize a registered residential curbside collection  
11 program or a mail-back program for collection of mercury-containing  
12 lights and that discards no more than fifteen mercury-containing lights  
13 into those programs during a ninety-day period.

14 (3) "Collection" or "collect" means, except for persons involved in  
15 mail-back programs:

16 (a) The activity of accumulating any amount of mercury-containing  
17 lights at a location other than the location where the lights are used  
18 by covered entities, and includes curbside collection activities,  
19 household hazardous waste facilities, and other registered drop-off  
20 locations; and

21 (b) The activity of transporting mercury-containing lights in the  
22 state, where the transporter is not a generator of unwanted mercury-  
23 containing lights, to a location for purposes of accumulation.

24 (4) "Department" means the department of ecology.

25 (5) "Final disposition" means the point beyond which no further  
26 processing takes place and materials from mercury-containing lights  
27 have been transformed for direct use as a feedstock in producing new  
28 products, or disposed of or managed in permitted facilities.

29 (6) "Hazardous substances" or "hazardous materials" means those  
30 substances or materials identified by rules adopted under chapter  
31 70.105 RCW.

32 (7) "Mail-back program" means the use of a prepaid postage  
33 container with mercury vapor barrier packaging that is used for the  
34 collection and recycling of mercury-containing lights from covered  
35 entities as part of a product stewardship program and is transported by  
36 the United States postal service or a common carrier.

37 (8) "Mercury vapor barrier packaging" means sealable containers  
38 that are specifically designed for the storage, handling, and transport

1 of mercury-containing lights in order to prevent the escape of mercury  
2 into the environment by volatilization or any other means, and that  
3 meet the requirements for transporting by the United States postal  
4 service or a common carrier.

5 (9) "Mercury-containing lights" means lamps, bulbs, tubes, or other  
6 devices that contain mercury and provide functional illumination in  
7 homes, businesses, and outdoor stationary fixtures.

8 (10) "Orphan product" means a mercury-containing light that lacks  
9 a producer's brand, or for which the producer is no longer in business  
10 and has no successor in interest, or that bears a brand for which the  
11 department cannot identify an owner.

12 (11) "Person" means a sole proprietorship, partnership,  
13 corporation, nonprofit corporation or organization, limited liability  
14 company, firm, association, cooperative, or other legal entity located  
15 within or outside Washington state.

16 (12) "Processing" means recovering materials from unwanted products  
17 for use as feedstock in new products. Processing must occur at  
18 permitted facilities.

19 (13) "Producer" means a person that:

20 (a) Has or had legal ownership of the brand, brand name, or cobrand  
21 of a mercury-containing light sold in or into Washington state, except  
22 for persons whose primary business is retail sales;

23 (b) Imports or has imported mercury-containing lights branded by a  
24 producer that meets the requirements of (a) of this subsection and  
25 where that producer has no physical presence in the United States;

26 (c) If (a) and (b) of this subsection do not apply, makes or made  
27 an unbranded mercury-containing light that is sold or has been sold in  
28 or into Washington state; or

29 (d)(i) Sells or sold at wholesale or retail a mercury-containing  
30 light; (ii) does not have legal ownership of the brand; and (iii)  
31 elects to fulfill the responsibilities of the producer for that  
32 product.

33 (14) "Product stewardship" means a requirement for a producer of  
34 mercury-containing lights to manage and reduce adverse safety, health,  
35 and environmental impacts of the product throughout its life cycle,  
36 including financing and providing for the collection, transporting,  
37 reusing, recycling, processing, and final disposition of their  
38 products.

1 (15) "Product stewardship plan" or "plan" means a detailed plan  
2 describing the manner in which a product stewardship program will be  
3 implemented.

4 (16) "Product stewardship program" or "program" means the methods,  
5 systems, and services financed and provided by producers of mercury-  
6 containing lights generated by covered entities that addresses product  
7 stewardship and includes collecting, transporting, reusing, recycling,  
8 processing, and final disposition of unwanted mercury-containing  
9 lights, including a fair share of orphan products.

10 (17) "Recovery" means the collection and transportation of unwanted  
11 mercury-containing lights under this chapter.

12 (18)(a) "Recycling" means transforming or remanufacturing unwanted  
13 products into usable or marketable materials for use other than  
14 landfill disposal or incineration.

15 (b) "Recycling" does not include energy recovery or energy  
16 generation by means of combusting unwanted products with or without  
17 other waste.

18 (19) "Reporting period" means the period commencing January 1st and  
19 ending December 31st in the same calendar year.

20 (20) "Residuals" means nonrecyclable materials left over from  
21 processing an unwanted product.

22 (21) "Retailer" means a person who offers mercury-containing lights  
23 for sale at retail through any means including, but not limited to,  
24 remote offerings such as sales outlets, catalogs, or the internet, but  
25 does not include a sale that is a wholesale transaction with a  
26 distributor or a retailer.

27 (22)(a) "Reuse" means a change in ownership of a mercury-containing  
28 light or its components, parts, packaging, or shipping materials for  
29 use in the same manner and purpose for which it was originally  
30 purchased, or for use again, as in shipping materials, by the generator  
31 of the shipping materials.

32 (b) "Reuse" does not include dismantling of products for the  
33 purpose of recycling.

34 (23) "Stakeholder" means a person who may have an interest in or be  
35 affected by a product stewardship program.

36 (24) "Stewardship organization" means an organization designated by  
37 a producer or group of producers to act as an agent on behalf of each  
38 producer to operate a product stewardship program.

1 (25) "Unwanted product" means a mercury-containing light no longer  
2 wanted by its owner or that has been abandoned, discarded, or is  
3 intended to be discarded by its owner.

4 NEW SECTION. **Sec. 3.** (1) Every producer of mercury-containing  
5 lights sold in or into Washington state for residential use must fully  
6 finance and participate in a product stewardship program for that  
7 product, including the department's costs for administering and  
8 enforcing this chapter.

9 (2) Every producer must:

10 (a) Participate in a product stewardship program approved by the  
11 department and operated by a product stewardship organization  
12 contracted by the department. All producers must finance and  
13 participate in the plan operated by the product stewardship  
14 organization, unless the producer obtains department approval for an  
15 independent plan as described in (b) of this subsection; or

16 (b) Finance and operate, either individually or jointly with other  
17 producers, a product stewardship program approved by the department.

18 (3) A producer, group of producers, or product stewardship  
19 organization funded by producers must pay all administrative and  
20 operational costs associated with their program or programs, except for  
21 the collection costs associated with curbside and mail-back collection  
22 programs. For curbside and mail-back programs, a producer, group of  
23 producers, or product stewardship organization shall finance the costs  
24 of transporting mercury-containing lights from accumulation points and  
25 for processing mercury-containing lights collected by curbside and  
26 mail-back programs. For collection locations, including household  
27 hazardous waste facilities, charities, retailers, government recycling  
28 sites, or other suitable locations, a producer, group of producers, or  
29 product stewardship organization shall finance the costs of collection,  
30 transportation, and processing of mercury-containing lights collected  
31 at the collection locations.

32 (4) Product stewardship programs shall collect unwanted mercury-  
33 containing lights delivered from covered entities for reuse, recycling,  
34 processing, or final disposition, and not charge a fee when lights are  
35 dropped off or delivered into the program.

36 (5) Product stewardship programs shall provide, at a minimum, no

1 cost services in all cities in the state with populations greater than  
2 ten thousand and all counties of the state on an ongoing, year-round  
3 basis.

4 (6) All product stewardship programs operated under approved plans  
5 must recover their fair share of unwanted covered products as  
6 determined by the department.

7 (7) The department or its designee may inspect, audit, or review  
8 audits of processing and disposal facilities used to fulfill the  
9 requirements of a product stewardship program.

10 (8) No product stewardship program required under this chapter may  
11 use federal or state prison labor for processing unwanted products.

12 (9) Product stewardship programs for mercury-containing lights must  
13 be fully implemented by January 1, 2013.

14 NEW SECTION. **Sec. 4.** (1) A producer, group of producers, or  
15 product stewardship program submitting a proposed product stewardship  
16 plan under section 3(2)(b) of this act must submit that plan by January  
17 1st of the year prior to the planned implementation.

18 (2) The department shall establish rules for plan content. Plans  
19 must include but are not limited to:

20 (a) All necessary information to inform the department about the  
21 plan operator and participating producers and their brands;

22 (b) The management and organization of the product stewardship  
23 program that will oversee the collection, transportation, and  
24 processing services;

25 (c) The identity of collection, transportation, and processing  
26 service providers, including a description of the consideration given  
27 to existing residential curbside collection infrastructure and mail-  
28 back systems as an appropriate collection mechanism;

29 (d) How the product stewardship program will seek to use businesses  
30 within the state, including transportation services, retailers,  
31 collection sites and services, existing curbside collection services,  
32 existing mail-back services, and processing facilities;

33 (e) A description of how the public will be informed about the  
34 recycling program;

35 (f) A description of the financing system required under section 5  
36 of this act;

1 (g) How mercury and other hazardous substances will be handled for  
2 collection through final disposition;

3 (h) A public review and comment process; and

4 (i) Any other information deemed necessary by the department to  
5 ensure an effective mercury light product stewardship program that is  
6 in compliance with all applicable laws and rules.

7 (3) All plans submitted to the department must be made available  
8 for public review on the department's web site and at the department's  
9 headquarters.

10 (4) At least two years from the start of the product stewardship  
11 program and once every four years thereafter, a producer, group of  
12 producers, or product stewardship organization operating a product  
13 stewardship program must update its product stewardship plan and submit  
14 the updated plan to the department for review and approval according to  
15 rules adopted by the department.

16 (5) Each product stewardship program shall submit an annual report  
17 to the department describing the results of implementing their plan for  
18 the prior year. The department may adopt rules for reporting  
19 requirements. All reports submitted to the department must be made  
20 available for public review on the department's web site and at the  
21 department's headquarters.

22 NEW SECTION. **Sec. 5.** (1) All producers that sell mercury-  
23 containing lights in or into the state of Washington are responsible  
24 for financing the mercury-containing light recycling program required  
25 by section 3 of this act.

26 (2) Each producer shall pay fifteen thousand dollars to the  
27 department to contract for a product stewardship program to be operated  
28 by a product stewardship organization. The department shall retain  
29 five thousand dollars of the fifteen thousand dollars for  
30 administration and enforcement costs.

31 (3) A producer or producers participating in an independent plan,  
32 as permitted under section 3(2)(b) of this act, must pay the full cost  
33 of operation. Each producer participating in an approved independent  
34 plan shall pay an annual fee of five thousand dollars to the department  
35 for administration and enforcement costs.

1        NEW SECTION.    **Sec. 6.**    (1) All mercury-containing lights collected  
2 in the state by product stewardship programs or other collection  
3 programs must be recycled and any process residuals must be managed in  
4 compliance with applicable laws.

5        (2) Mercury recovered from retorting must be recycled or placed in  
6 a properly permitted hazardous waste landfill, or placed in a properly  
7 permitted mercury repository.

8        NEW SECTION.    **Sec. 7.**    (1) Except for persons involved in  
9 registered mail-back programs, a person who collects unwanted mercury-  
10 containing lights in the state, receives funding through a product  
11 stewardship program for mercury-containing lights, and who is not a  
12 generator of unwanted mercury-containing lights must:

13        (a) Register with the department as a collector of unwanted  
14 mercury-containing lights. Until the department adopts rules for  
15 collectors, the collector must provide to the department the legal name  
16 of the person or entity owning and operating the collection location,  
17 the address and phone number of the collection location, and the name,  
18 address, and phone number of the individual responsible for operating  
19 the collection location and update any changes in this information  
20 within thirty days of the change;

21        (b) Maintain a spill and release response plan at the collection  
22 location that describes the materials, equipment, and procedures that  
23 will be used to respond to any mercury release from an unwanted  
24 mercury-containing light;

25        (c) Maintain a worker safety plan at the collection location that  
26 describes the handling of the unwanted mercury-containing lights at the  
27 collection location and measures that will be taken to protect worker  
28 health and safety; and

29        (d) Use packaging and shipping material that will minimize the  
30 release of mercury into the environment and minimize breakage and use  
31 mercury vapor barrier packaging if mercury-containing lights are  
32 transported by the United States postal service or a common carrier.

33        (2) A person who operates a curbside collection program or owns or  
34 operates a mail-back business participating in a product stewardship  
35 program for mercury-containing lights and uses the United States postal  
36 service or a common carrier for transport must register with the



1 department and use mercury vapor barrier packaging for curbside  
2 collection and mail-back containers.

3 NEW SECTION. **Sec. 8.** Effective January 1, 2013:

4 (1) All persons, residents, government, commercial, industrial, and  
5 retail facilities and office buildings must recycle their end-of-life  
6 mercury-containing lights.

7 (2) No mercury-containing lights may knowingly be placed in waste  
8 containers for disposal at incinerators, waste to energy facilities, or  
9 landfills.

10 (3) No mercury-containing lights may knowingly be placed in a  
11 container for mixed recyclables unless there is a separate location or  
12 compartment for the mercury-containing lights that complies with local  
13 government collection standards or guidelines.

14 (4) No owner or operator of a solid waste facility may be found in  
15 violation of this section if the facility has posted in a conspicuous  
16 location a sign stating that mercury-containing lights must be recycled  
17 and are not accepted for disposal.

18 (5) No solid waste collector may be found in violation of this  
19 section for mercury-containing lights placed in a disposal container by  
20 the generator of the mercury-containing light.

21 NEW SECTION. **Sec. 9.** As of January 1, 2013, no producer,  
22 wholesaler, retailer, electric utility, or other person may distribute,  
23 sell, or offer for sale mercury-containing lights for residential use  
24 to any person in this state unless the producer is participating in a  
25 product stewardship program under a plan approved by the department.

26 NEW SECTION. **Sec. 10.** (1) The department shall send a written  
27 warning and a copy of this chapter and any rules adopted to implement  
28 this chapter to a producer who is not participating in a product  
29 stewardship program approved by the department and whose mercury-  
30 containing lights are being sold in or into the state.

31 (2) A producer not participating in a product stewardship program  
32 approved by the department whose mercury-containing lights continue to  
33 be sold in or into the state sixty days after receiving a written  
34 warning from the department shall be assessed a penalty of up to one  
35 thousand dollars for each violation. A violation is one day of sales.

1 (3) If any producer fails to implement its approved plan, the  
2 department shall assess a penalty of up to five thousand dollars for  
3 the first violation along with notification that the producer must  
4 implement its plan within thirty days of the violation. After thirty  
5 days, any producer failing to implement their approved plan must be  
6 assessed a penalty of up to ten thousand dollars for the second and  
7 each subsequent violation. A subsequent violation occurs each thirty-  
8 day period that the producer fails to implement the approved plan.

9 (4) The department shall send a written warning to a producer that  
10 fails to submit a product stewardship plan, update or change the plan  
11 when required, or submit an annual report as required under this  
12 chapter. The written warning must include compliance requirements and  
13 notification that the requirements must be met within sixty days. If  
14 requirements are not met within sixty days, the producer will be  
15 assessed a ten thousand dollar penalty per day of noncompliance  
16 starting with the first day of notice of noncompliance.

17 (5) Penalties prescribed under this section must be reduced by  
18 fifty percent if the producer complies within thirty days of the second  
19 violation notice.

20 (6) A producer may appeal penalties prescribed under this section  
21 to the pollution control hearings board created under chapter 43.21B  
22 RCW.

23 NEW SECTION. **Sec. 11.** (1) The department shall provide on its web  
24 site a list of all producers participating in a product stewardship  
25 plan that the department has approved and a list of all producers the  
26 department has identified as noncompliant with this chapter and any  
27 rules adopted to implement this chapter.

28 (2) Product wholesalers, retailers, distributors, and electric  
29 utilities must check the department's web site or producer-provided  
30 written verification to determine if producers of products they are  
31 selling in or into the state are in compliance with this chapter.

32 (3) No one may distribute or sell mercury-containing lights in or  
33 into the state from producers who are not participating in a product  
34 stewardship program or who are not in compliance with this chapter and  
35 rules adopted under this chapter.

36 (4) The department shall serve, or send with delivery confirmation,  
37 a written warning explaining the violation to any person known to be

1 distributing or selling mercury-containing lights in or into the state  
2 from producers who are not participating in a product stewardship  
3 program or who are not in compliance with this chapter and rules  
4 adopted under this chapter.

5 (5) Any person who continues to distribute or sell mercury-  
6 containing lights from a producer that is not participating in an  
7 approved product stewardship program sixty days after receiving a  
8 written warning from the department may be assessed a penalty two times  
9 the value of the products sold in violation of this chapter or five  
10 hundred dollars, whichever is greater. The penalty must be waived if  
11 the person verifies that the person has discontinued distribution or  
12 sales of mercury-containing lights within thirty days of the date the  
13 penalty is assessed. A retailer may appeal penalties to the pollution  
14 control hearings board.

15 (6) The department shall adopt rules to implement this section.

16 (7) A sale or purchase of mercury-containing lights as a casual or  
17 isolated sale as defined in RCW 82.04.040 is not subject to the  
18 provisions of this section.

19 (8) A person primarily engaged in the business of reuse and resale  
20 of a used mercury-containing light is not subject to the provisions of  
21 this section when selling used working mercury-containing lights, for  
22 use in the same manner and purpose for which it was originally  
23 purchased.

24 (9) In-state distributors, wholesalers, and retailers in possession  
25 of mercury-containing lights on the date that restrictions on the sale  
26 of the product become effective may exhaust their existing stock  
27 through sales to the public.

28 NEW SECTION. **Sec. 12.** All producers shall pay the department  
29 annual fees to cover the cost of administering and enforcing this  
30 chapter. The department may prioritize the work to implement this  
31 chapter if fees are not adequate to fund all costs of the program.

32 NEW SECTION. **Sec. 13.** The product stewardship programs account is  
33 created in the custody of the state treasurer. All funds received from  
34 producers under this chapter and penalties collected under this chapter  
35 must be deposited in the account. Expenditures from the account may be  
36 used only for administering this chapter. Only the director of the

1 department or the director's designee may authorize expenditures from  
2 the account. The account is subject to the allotment procedures under  
3 chapter 43.88 RCW, but an appropriation is not required for  
4 expenditures.

5 NEW SECTION. **Sec. 14.** (1) The department may adopt rules  
6 necessary to implement, administer, and enforce this chapter.

7 (2) The department may adopt rules to establish performance  
8 standards for product stewardship programs and may establish  
9 administrative penalties for failure to meet the standards.

10 (3) By December 31, 2010, and annually thereafter until December  
11 31, 2014, the department shall report to the appropriate committees of  
12 the legislature concerning the status of the product stewardship  
13 program and recommendations for changes to the provisions of this  
14 chapter.

15 (4) Beginning October 1, 2014, the department shall annually invite  
16 comments from local governments, communities, and citizens to report  
17 their satisfaction with services provided by product stewardship  
18 programs. This information must be used by the department to determine  
19 if the plan operator is meeting convenience requirements and in  
20 reviewing proposed updates or changes to product stewardship plans.

21 (5) Beginning October 1, 2014, the department shall annually invite  
22 comments from retailers, consumer groups, electric utilities, the  
23 Northwest power and conservation council, and other interested parties  
24 regarding the impacts of the requirements of this chapter on the  
25 availability or purchase of energy efficient lighting within the state.  
26 If the department determines that evidence shows the requirements of  
27 this chapter have resulted in negative impacts on the availability or  
28 purchase of energy efficient lighting in the state, the department  
29 shall report this information by December 31st of each year to the  
30 appropriate committees of the legislature with recommendations for  
31 changes to the provisions of this chapter.

32 (6) Beginning October 1, 2014, the department shall annually invite  
33 comments from retailers, consumer groups, electric utilities, the  
34 Northwest power and conservation council, and other interested parties  
35 regarding the availability of energy efficient nonmercury lighting to  
36 replace mercury-containing lighting within the state. If the  
37 department determines that evidence shows that energy efficient

1 nonmercury-containing lighting is available and achieves similar energy  
2 savings as mercury lighting at similar cost, the department shall  
3 report this information by December 31st of each year to the  
4 appropriate committees of the legislature with recommendations for  
5 legislative changes to reduce mercury use in lighting.

6 (7) Beginning October 1, 2014, the department shall annually  
7 estimate the overall statewide recycling rate for mercury-containing  
8 lights and calculate that portion of the recycling rate attributable to  
9 the product stewardship program.

10 (8) The department may require submission of independent  
11 performance evaluations and report evaluations documenting the  
12 effectiveness of mercury vapor barrier packaging in preventing the  
13 escape of mercury into the environment. The department may restrict  
14 the use of packaging for which adequate documentation has not been  
15 provided. Restricted packaging may not be used in any product  
16 stewardship program required under this chapter.

17 NEW SECTION. **Sec. 15.** Nothing in this chapter changes or limits  
18 the authority of the Washington utilities and transportation commission  
19 to regulate collection of solid waste, including curbside collection of  
20 residential recyclable materials, nor does this chapter change or limit  
21 the authority of a city or town to provide such service itself or by  
22 contract under RCW 81.77.020.

23 NEW SECTION. **Sec. 16.** Nothing in this chapter changes the  
24 requirements of any entity regulated under chapter 70.105 RCW to comply  
25 with the requirements under that chapter.

26 NEW SECTION. **Sec. 17.** This chapter must be liberally construed to  
27 carry out its purposes and objectives.

28 **Sec. 18.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to  
29 read as follows:

30 The definitions in this section apply throughout this chapter  
31 unless the context clearly requires otherwise.

32 (1) (~~"Automotive mercury switch" includes a convenience switch,~~  
33 ~~such as a switch for a trunk or hood light, and a mercury switch in~~  
34 ~~antilock brake systems.)) "Bulk mercury" includes any elemental,~~

1 nonamalgamated mercury, regardless of volume quantity or weight and  
2 does not include products containing mercury collected for recycling or  
3 disposal at a permitted disposal facility.

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

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

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

10 (5) "Manufacturer" includes any person, firm, association,  
11 partnership, corporation, governmental entity, organization, or joint  
12 venture that produces a mercury-added product or an importer or  
13 domestic distributor of a mercury-added product produced in a foreign  
14 country. In the case of a multicomponent product containing mercury,  
15 the manufacturer is the last manufacturer to produce or assemble the  
16 product. If the multicomponent product or mercury-added product is  
17 produced in a foreign country, the manufacturer is the first importer  
18 or domestic distributor.

19 (6) "Mercury-added button-cell battery" means a button-cell battery  
20 to which the manufacturer intentionally introduces mercury for the  
21 operation of the battery.

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

31 (8) "Mercury-added product" means a product, commodity, or  
32 chemical, or a product with a component that contains mercury or a  
33 mercury compound intentionally added to the product, commodity, or  
34 chemical in order to provide a specific characteristic, appearance, or  
35 quality, or to perform a specific function, or for any other reason.  
36 Mercury-added products include those products listed in the interstate  
37 mercury education and reduction clearinghouse mercury-added products

1 database, but are not limited to, mercury thermometers, mercury  
2 thermostats, mercury barometers, lamps, and mercury switches (~~in motor~~  
3 ~~vehicles~~) or relays.

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

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

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

9 (12) "Switch" means any device, which may be referred to as a  
10 switch, sensor, valve, probe, control, transponder, or any other  
11 apparatus, that directly regulates or controls the flow of electricity,  
12 gas, or other compounds, such as relays or transponders. "Switch"  
13 includes all components of the unit necessary to perform its flow  
14 control function. "Automotive mercury switch" includes a convenience  
15 switch, such as a switch for a trunk or hood light, and a mercury  
16 switch in antilock brake systems. "Utility switch" includes, but is  
17 not limited to, all devices that open or close an electrical circuit,  
18 or a liquid or gas valve. "Utility relay" includes, but is not limited  
19 to, all products or devices that open or close electrical contacts to  
20 control the operation of other devices in the same or other electrical  
21 circuit.

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

23 **Sec. 19.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to  
24 read as follows:

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

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

34 (i) An electronic thermometer with a button-cell battery containing  
35 mercury;

36 (ii) A thermometer that contains mercury and that is used for food

1 research and development or food processing, including meat, dairy  
2 products, and pet food processing;

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

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

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

16 (vi) A manometer or thermometer sold or distributed to a hospital,  
17 or a health care facility controlled by a hospital, if the hospital has  
18 adopted a plan for mercury reduction consistent with the goals of the  
19 mercury chemical action plan developed by the department under section  
20 302, chapter 371, Laws of 2002.

21 (b) A manufacturer of thermometers that contain mercury must notify  
22 all retailers that sell the product about the provisions of this  
23 section and how to properly dispose of any remaining thermometer  
24 inventory.

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

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

35 (5) Nothing in this section restricts the ability of a  
36 manufacturer, importer, or domestic distributor from transporting  
37 products through the state, or storing products in the state for later  
38 distribution outside the state.



1       (6) Effective June 30, 2012, the sale or purchase and delivery of  
2 bulk mercury is prohibited, including sales through the internet or  
3 sales by private parties. However, the prohibition in this subsection  
4 does not apply to immediate dangerous waste recycling facilities or  
5 treatment, storage, and disposal facilities as approved by the  
6 department and sales to research facilities, or industrial facilities  
7 that provide products or services to entities exempted from this  
8 chapter. The facilities described in this subsection must submit an  
9 inventory of their purchase and use of bulk mercury to the department  
10 on an annual basis, as well as any mercury waste generated from such  
11 actions.

12       NEW SECTION. Sec. 20. Sections 1 through 17 and 21 of this act  
13 constitute a new chapter in Title 70 RCW.

14       NEW SECTION. Sec. 21. If any provision of this act or its  
15 application to any person or circumstance is held invalid, the  
16 remainder of the act or the application of the provision to other  
17 persons or circumstances is not affected."

18       Correct the title.

EFFECT: Adds that by January 1, 2013, all users of mercury-  
containing lights must recycle these lights and prohibits the disposal  
of mercury-containing lights in waste incinerators, landfills, or mixed  
recyclable containers; removes authority of the department of ecology  
to adopt rules allowing a product stewardship organization to adjust  
fees paid by producers to implement a product stewardship program and  
administer and enforce the law on recycling mercury-containing lights;  
and corrects references and removes unnecessary language.

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