

**SSB 5543 - S AMD 122**

By Senators Pridemore, Hargrove

ADOPTED 02/15/2010

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 stewardship organization,  
14 unless the producer obtains department approval for an independent plan  
15 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 described  
25 in the plans required by section 4 of this act.

26 (2) Producers participating in the stewardship program required  
27 under section 3(2)(a) of this act must be assessed a fee by the  
28 stewardship organization to cover the cost of implementing the plan.  
29 Each producer shall pay fifteen thousand dollars to the department to  
30 contract for a product stewardship program to be operated by a product  
31 stewardship organization. The department shall retain five thousand  
32 dollars of the fifteen thousand dollars for administration and  
33 enforcement costs. Each producer participating in an approved  
34 independent plan shall pay an annual fee of five thousand dollars to  
35 the department for administration and enforcement costs.

36 (3) A producer or producers participating in an independent plan,

1 as permitted under section 3(2)(b) of this act, must pay the full cost  
2 of operation.

3 (4) The department shall adopt rules regarding how the product  
4 stewardship organization may adjust the fee above or below the limits  
5 provided in subsection (2) of this section should product stewardship  
6 program costs exceed available revenues.

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

11 (2) Mercury recovered from retorting must be recycled or placed in  
12 a properly permitted hazardous waste landfill, or placed in a properly  
13 permitted mercury repository.

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

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

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

31 (c) Maintain a worker safety plan at the collection location that  
32 describes the handling of the unwanted mercury-containing lights at the  
33 collection location and measures that will be taken to protect worker  
34 health and safety; and

35 (d) Use packaging and shipping material that will minimize the



1 release of mercury into the environment and minimize breakage and use  
2 mercury vapor barrier packaging if mercury-containing lights are  
3 transported by the United States postal service or a common carrier.

4 (2) A person who operates a curbside collection program or owns or  
5 operates a mail-back business participating in a product stewardship  
6 program for mercury-containing lights and uses the United States postal  
7 service or a common carrier for transport must register with the  
8 department and use mercury vapor barrier packaging for curbside  
9 collection and mail-back containers.

10 NEW SECTION. **Sec. 8.** As of January 1, 2013, no producer,  
11 wholesaler, retailer, electric utility, or other person may distribute,  
12 sell, or offer for sale mercury-containing lights for residential use  
13 to any person in this state unless the producer is participating in a  
14 product stewardship program under a plan approved by the department.

15 NEW SECTION. **Sec. 9.** (1) The department shall send a written  
16 warning and a copy of this chapter and any rules adopted to implement  
17 this chapter to a producer who is not participating in a product  
18 stewardship program approved by the department and whose mercury-  
19 containing lights are being sold in or into the state.

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

25 (3) If any producer fails to implement its approved plan, the  
26 department shall assess a penalty of up to five thousand dollars for  
27 the first violation along with notification that the producer must  
28 implement its plan within thirty days of the violation. After thirty  
29 days, any producer failing to implement their approved plan must be  
30 assessed a penalty of up to ten thousand dollars for the second and  
31 each subsequent violation. A subsequent violation occurs each thirty-  
32 day period that the producer fails to implement the approved plan.

33 (4) The department shall send a written warning to a producer that  
34 fails to submit a product stewardship plan, update or change the plan  
35 when required, or submit an annual report as required under this  
36 chapter. The written warning must include compliance requirements and

1 notification that the requirements must be met within sixty days. If  
2 requirements are not met within sixty days, the producer will be  
3 assessed a ten thousand dollar penalty per day of noncompliance  
4 starting with the first day of notice of noncompliance.

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

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

11 NEW SECTION. **Sec. 10.** (1) The department shall provide on its web  
12 site a list of all producers participating in a product stewardship  
13 plan that the department has approved and a list of all producers the  
14 department has identified as noncompliant with this chapter and any  
15 rules adopted to implement this chapter.

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

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

24 (4) The department shall serve, or send with delivery confirmation,  
25 a written warning explaining the violation to any person known to be  
26 distributing or selling mercury-containing lights in or into the state  
27 from producers who are not participating in a product stewardship  
28 program or who are not in compliance with this chapter and rules  
29 adopted under this chapter.

30 (5) Any person who continues to distribute or sell mercury-  
31 containing lights from a producer that is not participating in an  
32 approved product stewardship program sixty days after receiving a  
33 written warning from the department may be assessed a penalty two times  
34 the value of the products sold in violation of this chapter or five  
35 hundred dollars, whichever is greater. The penalty must be waived if  
36 the person verifies that the person has discontinued distribution or

1 sales of mercury-containing lights within thirty days of the date the  
2 penalty is assessed. A retailer may appeal penalties to the pollution  
3 control hearings board.

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

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

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

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

17 NEW SECTION. **Sec. 11.** All producers shall pay the department  
18 annual fees to cover the cost of administering and enforcing this  
19 chapter. The department may prioritize the work to implement this  
20 chapter if fees are not adequate to fund all costs of the program.

21 NEW SECTION. **Sec. 12.** The product stewardship programs account is  
22 created in the custody of the state treasurer. All funds received from  
23 producers under section 11 of this act and penalties collected under  
24 this chapter must be deposited in the account. Expenditures from the  
25 account may be used only for administering this chapter. Only the  
26 director of the department or the director's designee may authorize  
27 expenditures from the account. The account is subject to the allotment  
28 procedures under chapter 43.88 RCW, but an appropriation is not  
29 required for expenditures.

30 NEW SECTION. **Sec. 13.** (1) The department may adopt rules  
31 necessary to implement, administer, and enforce this chapter.

32 (2) The department may adopt rules to establish performance  
33 standards for product stewardship programs and may establish  
34 administrative penalties for failure to meet the standards.

1 (3) By December 31, 2010, and annually thereafter until December  
2 31, 2014, the department shall report to the appropriate committees of  
3 the legislature concerning the status of the product stewardship  
4 program and recommendations for changes to the provisions of this  
5 chapter.

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

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

23 (6) Beginning October 1, 2014, the department shall annually invite  
24 comments from retailers, consumer groups, electric utilities, the  
25 Northwest power and conservation council, and other interested parties  
26 regarding the availability of energy efficient nonmercury lighting to  
27 replace mercury-containing lighting within the state. If the  
28 department determines that evidence shows that energy efficient  
29 nonmercury-containing lighting is available and achieves similar energy  
30 savings as mercury lighting at similar cost, the department shall  
31 report this information by December 31st of each year to the  
32 appropriate committees of the legislature with recommendations for  
33 legislative changes to reduce mercury use in lighting.

34 (7) Beginning October 1, 2013, the department shall annually  
35 estimate the overall statewide recycling rate for mercury-containing  
36 lights and calculate that portion of the recycling rate attributable to  
37 the product stewardship program.

1 (8) The department may require submission of independent  
2 performance evaluations and report evaluations documenting the  
3 effectiveness of mercury vapor barrier packaging in preventing the  
4 escape of mercury into the environment. The department may restrict  
5 the use of packaging for which adequate documentation has not been  
6 provided. Restricted packaging may not be used in any product  
7 stewardship program required under this chapter.

8 NEW SECTION. **Sec. 14.** Nothing in this chapter changes or limits  
9 the authority of the Washington utilities and transportation commission  
10 to regulate collection of solid waste, including curbside collection of  
11 residential recyclable materials, nor does this chapter change or limit  
12 the authority of a city or town to provide such service itself or by  
13 contract under RCW 81.77.020.

14 NEW SECTION. **Sec. 15.** Nothing in this chapter changes the  
15 requirements of any entity regulated under chapter 70.105 RCW to comply  
16 with the requirements under that chapter.

17 NEW SECTION. **Sec. 16.** This chapter must be liberally construed to  
18 carry out its purposes and objectives.

19 **Sec. 17.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to  
20 read as follows:

21 The definitions in this section apply throughout this chapter  
22 unless the context clearly requires otherwise.

23 (1) (~~("Automotive mercury switch" includes a convenience switch,~~  
24 ~~such as a switch for a trunk or hood light, and a mercury switch in~~  
25 ~~antilock brake systems.))~~ "Bulk mercury" includes any elemental,  
26 nonamalgamated mercury, regardless of volume quantity or weight and  
27 does not include products containing mercury collected for recycling or  
28 disposal at a permitted disposal facility.

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

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

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

1 (5) "Manufacturer" includes any person, firm, association,  
2 partnership, corporation, governmental entity, organization, or joint  
3 venture that produces a mercury-added product or an importer or  
4 domestic distributor of a mercury-added product produced in a foreign  
5 country. In the case of a multicomponent product containing mercury,  
6 the manufacturer is the last manufacturer to produce or assemble the  
7 product. If the multicomponent product or mercury-added product is  
8 produced in a foreign country, the manufacturer is the first importer  
9 or domestic distributor.

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

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

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

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

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

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

37 (12) "Switch" means any device, which may be referred to as a  
38 switch, sensor, valve, probe, control, transponder, or any other

1 apparatus, that directly regulates or controls the flow of electricity,  
2 gas, or other compounds, such as relays or transponders. "Switch"  
3 includes all components of the unit necessary to perform its flow  
4 control function. "Automotive mercury switch" includes a convenience  
5 switch, such as a switch for a trunk or hood light, and a mercury  
6 switch in antilock brake systems. "Utility switch" includes, but is  
7 not limited to, all devices that open or close an electrical circuit,  
8 or a liquid or gas valve. "Utility relay" includes, but is not limited  
9 to, all products or devices that open or close electrical contacts to  
10 control the operation of other devices in the same or other electrical  
11 circuit.

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

13 **Sec. 18.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to  
14 read as follows:

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

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

24 (i) An electronic thermometer with a button-cell battery containing  
25 mercury;

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

29 (iii) A thermometer that contains mercury and that is a component  
30 of an animal agriculture climate control system or industrial  
31 measurement system or for veterinary medicine until such a time as the  
32 system is replaced or a nonmercury component for the system or  
33 application is available;

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

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

5 (vi) A manometer or thermometer sold or distributed to a hospital,  
6 or a health care facility controlled by a hospital, if the hospital has  
7 adopted a plan for mercury reduction consistent with the goals of the  
8 mercury chemical action plan developed by the department under section  
9 302, chapter 371, Laws of 2002.

10 (b) A manufacturer of thermometers that contain mercury must notify  
11 all retailers that sell the product about the provisions of this  
12 section and how to properly dispose of any remaining thermometer  
13 inventory.

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

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

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

28 (6) Effective June 30, 2012, the sale or purchase and delivery of  
29 bulk mercury is prohibited, including sales through the internet or  
30 sales by private parties. However, the prohibition in this subsection  
31 does not apply to immediate dangerous waste recycling facilities or  
32 treatment, storage, and disposal facilities as approved by the  
33 department and sales to research facilities, or industrial facilities  
34 that provide products or services to entities exempted from this  
35 chapter. The facilities described in this subsection must submit an  
36 inventory of their purchase and use of bulk mercury to the department  
37 on an annual basis, as well as any mercury waste generated from such  
38 actions.



1        NEW SECTION.    **Sec. 19.**    Sections 1 through 16 and 20 of this act  
2    constitute a new chapter in Title 70 RCW.

3        NEW SECTION.    **Sec. 20.**    If any provision of this act or its  
4    application to any person or circumstance is held invalid, the  
5    remainder of the act or the application of the provision to other  
6    persons or circumstances is not affected."

**SSB 5543** - S AMD

By Senators Pridemore, Hargrove

**ADOPTED 02/15/2010**

7        On page 1, line 1 of the title, after "reduction;" strike the  
8    remainder of the title and insert "amending RCW 70.95M.010 and  
9    70.95M.050; adding a new chapter to Title 70 RCW; and prescribing  
10    penalties."

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