
SUBSTITUTE HOUSE BILL 1799

State of Washington 61st Legislature 2009 Regular Session

By House Ways & Means (originally sponsored by Representatives Campbell, Pettigrew, Moeller, Chase, and Wood)

READ FIRST TIME 03/02/09.

1 AN ACT Relating to mercury reduction; amending RCW 70.95M.010,
2 70.95M.020, 70.95M.050, and 70.95M.080; adding a new section to chapter
3 70.95M RCW; creating a new section; repealing RCW 70.95M.090; and
4 providing an expiration date.

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

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

8 The definitions in this section apply throughout this chapter
9 unless the context clearly requires otherwise.

10 (1) (~~("Automotive mercury switch" includes a convenience switch,~~
11 ~~such as a switch for a trunk or hood light, and a mercury switch in~~
12 ~~antilock brake systems)) "Bulk mercury" includes any elemental,
13 nonamalgamated mercury, regardless of volume quantity or weight.~~

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

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

16 (4) "Health care facility" includes a hospital, nursing home,
17 extended care facility, long-term care facility, clinical or medical
18 laboratory, state or private health or mental institution, clinic,
19 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 general purpose lights" means mercury-added
14 lamps, bulbs, tubes, or other devices that provide functional
15 illumination in homes, offices, and outdoors.

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

25 ((+8)) (9) "Mercury-added product" means a product, commodity, or
26 chemical, or a product with a component that contains mercury or a
27 mercury compound intentionally added to the product, commodity, or
28 chemical in order to provide a specific characteristic, appearance, or
29 quality, or to perform a specific function, or for any other reason.
30 Mercury-added products include those products listed in the interstate
31 mercury education and reduction clearinghouse (IMERC) mercury-added
32 products database, but are not limited to, mercury thermometers,
33 mercury thermostats, mercury barometers, lamps, and mercury switches
34 ~~((in motor vehicles))~~ or relays.

35 ((+9)) (10) "Mercury manometer" means a mercury-added product that
36 is used for measuring blood pressure.

37 ((+10)) (11) "Mercury thermometer" means a mercury-added product
38 that is used for measuring temperature.

1 (~~(11)~~) (12) "Retailer" means a retailer of a mercury-added
2 product.

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

16 (14) "Wholesaler" means a wholesaler of a mercury-added product.

17 **Sec. 2.** RCW 70.95M.020 and 2003 c 260 s 3 are each amended to read
18 as follows:

19 (1) Effective January 1, 2004, a manufacturer, wholesaler, or
20 retailer may not knowingly sell (~~at retail~~) a fluorescent lamp if the
21 fluorescent lamp contains mercury and was manufactured after November
22 30, 2003, unless the fluorescent lamp is labeled in accordance with the
23 guidelines listed under subsection (2) of this section. Primary
24 responsibility for affixing labels required under this section is on
25 the manufacturer, and not on the wholesaler or retailer.

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

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

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

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

4 (~~(The provisions of this section do not apply to products~~
5 ~~containing mercury added lamps.))~~ (a) Effective July 1, 2011, all
6 state-funded public agency facilities, except public schools serving
7 children in grades K-12, must recycle their end-of-life mercury-added
8 general purpose lights. An exception process may be established by the
9 department to accommodate small local governments.

10 (b) Effective January 1, 2011, all commercial, industrial, and
11 retail facilities and office buildings must recycle their end-of-life
12 mercury-added general purpose lights.

13 **Sec. 3.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read
14 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, 2011, 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 **Sec. 4.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read
2 as follows:

3 (1) The department shall, to the extent practicable, make every
4 effort to educate all persons regarding the requirements of this
5 chapter, in preparation for its full implementation. A violation of
6 this chapter is punishable by a civil penalty not to exceed one
7 thousand dollars for each violation in the case of a first violation.
8 Repeat violators are liable for a civil penalty not to exceed five
9 thousand dollars for each repeat violation. Penalties collected under
10 this section must be deposited in the state toxics control account
11 created in RCW 70.105D.070.

12 (2) Households are exempt from penalties under this chapter.

13 NEW SECTION. **Sec. 5.** A new section is added to chapter 70.95M RCW
14 to read as follows:

15 (1) The department shall participate in national and global mercury
16 forums to advocate reduction of global emissions and permanent
17 isolation of elemental mercury.

18 (2) By July 1, 2010, the department, in consultation with the
19 United States environmental protection agency, shall study the
20 feasibility of the development of a national repository for mercury.
21 The department shall develop recommendations and provide its findings
22 to the appropriate committees of the legislature by December 1, 2010.

23 NEW SECTION. **Sec. 6.** (1) The department of ecology, in
24 consultation with the solid waste advisory committee created under RCW
25 70.95.040, shall conduct research and develop recommendations for the
26 implementation and financing of a convenient and effective
27 mercury-added general purpose light recycling program for residents,
28 small businesses, small government agencies, charities, and schools
29 throughout the state. The department of ecology and the solid waste
30 advisory committee shall consult with stakeholders including persons
31 who represent retailers of mercury-added general purpose lights, waste
32 haulers, mercury-added general purpose light recyclers, mercury-added
33 general purpose light manufacturers, cities, counties, environmental
34 organizations, public interest organizations, and other interested
35 parties that have a role or interest in the recycling of mercury-added
36 general purpose lights.

1 (2) The department of ecology shall assess ways for a convenient
2 and effective statewide recycling program for mercury-added general
3 purpose lights to be established and financed. Factors to be
4 considered include:

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

6 (b) The involvement of mercury-added general purpose light
7 manufacturers;

8 (c) Different methods of financing the recycling programs for
9 mercury-added general purpose lights;

10 (d) Methods to encourage the return of mercury-added general
11 purpose lights for recycling;

12 (e) The impact of the approach on local governments, nonprofit
13 organizations, waste haulers, and other stakeholders;

14 (f) Information obtained from existing mercury-added general
15 purpose light recycling programs, particularly those programs that
16 exist in counties that prohibit the disposal of mercury-added general
17 purpose lights in solid waste facilities, and information obtained from
18 existing infrastructure for recycling of mercury-added general purpose
19 lights; and

20 (g) Environmentally sound options for managing the mercury.

21 (3)(a) The department of ecology shall consider alternatives that
22 utilize the infrastructure and system established in chapter 81.77 RCW
23 when developing collection systems for general purpose mercury-added
24 lights.

25 (b) Nothing in this act changes or limits the authority of the
26 Washington utilities and transportation commission to regulate
27 collection of solid waste in the state of Washington, including
28 curbside collection or residential recyclable materials, nor does this
29 act change or limit the authority of a city or town to provide such
30 service itself or by contract under RCW 81.77.020.

31 (4) The department of ecology shall also develop a description of
32 what could be accomplished voluntarily and what would require the
33 adoption of rules or legislation if needed to implement the recommended
34 statewide recycling program for mercury-added general purpose lights.

35 (5) The department of ecology shall report its findings and
36 recommendations for implementing and financing a recycling program for
37 mercury-added general purpose lights to the appropriate committees of
38 the legislature by December 1, 2009.

1 (6) This section expires September 1, 2010.

2 NEW SECTION. **Sec. 7.** RCW 70.95M.090 (Crematories--
3 Nonapplicability of chapter) and 2003 c 260 s 10 are each repealed.

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