
ENGROSSED SUBSTITUTE SENATE BILL 5543

State of Washington

61st Legislature

2010 Regular Session

By Senate Environment, Water & Energy (originally sponsored by Senators Pridemore, Oemig, Rockefeller, Fairley, Murray, Kline, Keiser, Shin, Regala, Franklin, McAuliffe, Fraser, Ranker, and Kohl-Welles)

READ FIRST TIME 02/05/10.

1 AN ACT Relating to mercury reduction; amending RCW 70.95M.010 and
2 70.95M.050; adding a new chapter to Title 70 RCW; and prescribing
3 penalties.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that:

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

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

15 (3) The purpose of this act is to achieve a statewide goal of
16 recycling all end-of-life mercury-containing lights by 2020 through
17 expanded public education, a uniform statewide requirement to recycle
18 all mercury-containing lights, and the development of a comprehensive,
19 safe, and convenient collection system that includes use of residential

1 curbside collection programs, mail-back containers, increased support
2 for household hazardous waste facilities, and a network of additional
3 collection locations;

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

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

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

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

15 (2) "Covered entities" means:

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

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

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

27 (a) The activity of accumulating any amount of mercury-containing
28 lights at a location other than the location where the lights are used
29 by covered entities, and includes curbside collection activities,
30 household hazardous waste facilities, and other registered drop-off
31 locations; and

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

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

36 (5) "Final disposition" means the point beyond which no further

1 processing takes place and materials from mercury-containing lights
2 have been transformed for direct use as a feedstock in producing new
3 products, or disposed of or managed in permitted facilities.

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

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

12 (8) "Mercury vapor barrier packaging" means sealable containers
13 that are specifically designed for the storage, handling, and transport
14 of mercury-containing lights in order to prevent the escape of mercury
15 into the environment by volatilization or any other means, and that
16 meet the requirements for transporting by the United States postal
17 service or a common carrier.

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

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

25 (11) "Person" means a sole proprietorship, partnership,
26 corporation, nonprofit corporation or organization, limited liability
27 company, firm, association, cooperative, or other legal entity located
28 within or outside Washington state.

29 (12) "Processing" means recovering materials from unwanted products
30 for use as feedstock in new products. Processing must occur at
31 permitted facilities.

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

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

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

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

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

8 (14) "Product stewardship" means a requirement for a producer of
9 mercury-containing lights to manage and reduce adverse safety, health,
10 and environmental impacts of the product throughout its life cycle,
11 including financing and providing for the collection, transporting,
12 reusing, recycling, processing, and final disposition of their
13 products.

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

17 (16) "Product stewardship program" or "program" means the methods,
18 systems, and services financed and provided by producers of mercury-
19 containing lights generated by covered entities that addresses product
20 stewardship and includes collecting, transporting, reusing, recycling,
21 processing, and final disposition of unwanted mercury-containing
22 lights, including a fair share of orphan products.

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

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

28 (b) "Recycling" does not include energy recovery or energy
29 generation by means of combusting unwanted products with or without
30 other waste.

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

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

35 (21) "Retailer" means a person who offers mercury-containing lights
36 for sale at retail through any means including, but not limited to,
37 remote offerings such as sales outlets, catalogs, or the internet, but

1 does not include a sale that is a wholesale transaction with a
2 distributor or a retailer.

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

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

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

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

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

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

23 (2) Every producer must:

24 (a) Participate in a product stewardship program approved by the
25 department and operated by a product stewardship organization
26 contracted by the department. All producers must finance and
27 participate in the plan operated by the stewardship organization,
28 unless the producer obtains department approval for an independent plan
29 as described in (b) of this subsection; or

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

32 (3) A producer, group of producers, or product stewardship
33 organization funded by producers must pay all administrative and
34 operational costs associated with their program or programs, except for
35 the collection costs associated with curbside and mail-back collection
36 programs. For curbside and mail-back programs, a producer, group of
37 producers, or product stewardship organization shall finance the costs

1 of transporting mercury-containing lights from accumulation points and
2 for processing mercury-containing lights collected by curbside and
3 mail-back programs. For collection locations, including household
4 hazardous waste facilities, charities, retailers, government recycling
5 sites, or other suitable locations, a producer, group of producers, or
6 product stewardship organization shall finance the costs of collection,
7 transportation, and processing of mercury-containing lights collected
8 at the collection locations.

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

13 (5) Product stewardship programs shall provide, at a minimum, no
14 cost services in all cities in the state with populations greater than
15 ten thousand and all counties of the state on an ongoing, year-round
16 basis.

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

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

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

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

27 NEW SECTION. **Sec. 4.** (1) A producer, group of producers, or
28 product stewardship program submitting a proposed product stewardship
29 plan under section 3(2)(b) of this act must submit that plan by January
30 1st of the year prior to the planned implementation.

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

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

35 (b) The management and organization of the product stewardship
36 program that will oversee the collection, transportation, and
37 processing services;

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

5 (d) How the product stewardship program will seek to use businesses
6 within the state, including transportation services, retailers,
7 collection sites and services, existing curbside collection services,
8 existing mail-back services, and processing facilities;

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

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

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

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

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

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

22 (4) At least two years from the start of the product stewardship
23 program and once every four years thereafter, a producer, group of
24 producers, or product stewardship organization operating a product
25 stewardship program must update its product stewardship plan and submit
26 the updated plan to the department for review and approval according to
27 rules adopted by the department.

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

34 NEW SECTION. **Sec. 5.** (1) All producers that sell mercury-
35 containing lights in or into the state of Washington are responsible
36 for financing the mercury-containing light recycling program described
37 in the plans required by section 4 of this act.

1 (2) Producers participating in the stewardship program required
2 under section 3(2)(a) of this act must be assessed a fee by the
3 stewardship organization to cover the cost of implementing the plan.
4 Each producer shall pay fifteen thousand dollars to the department to
5 contract for a product stewardship program to be operated by a product
6 stewardship organization. The department shall retain five thousand
7 dollars of the fifteen thousand dollars for administration and
8 enforcement costs. Each producer participating in an approved
9 independent plan shall pay an annual fee of five thousand dollars to
10 the department for administration and enforcement costs.

11 (3) A producer or producers participating in an independent plan,
12 as permitted under section 3(2)(b) of this act, must pay the full cost
13 of operation.

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

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

22 (2) Mercury recovered from retorting must be recycled or placed in
23 a properly permitted hazardous waste landfill, or placed in a properly
24 permitted mercury repository.

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

30 (a) Register with the department as a collector of unwanted
31 mercury-containing lights. Until the department adopts rules for
32 collectors, the collector must provide to the department the legal name
33 of the person or entity owning and operating the collection location,
34 the address and phone number of the collection location, and the name,
35 address, and phone number of the individual responsible for operating

1 the collection location and update any changes in this information
2 within thirty days of the change;

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

7 (c) Maintain a worker safety plan at the collection location that
8 describes the handling of the unwanted mercury-containing lights at the
9 collection location and measures that will be taken to protect worker
10 health and safety; and

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

15 (2) A person who operates a curbside collection program or owns or
16 operates a mail-back business participating in a product stewardship
17 program for mercury-containing lights and uses the United States postal
18 service or a common carrier for transport must register with the
19 department and use mercury vapor barrier packaging for curbside
20 collection and mail-back containers.

21 NEW SECTION. **Sec. 8.** 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. 9.** (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. 10.** (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. 11.** 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. 12.** The product stewardship programs account is
33 created in the custody of the state treasurer. All funds received from
34 producers under section 11 of this act and penalties collected under
35 this chapter must be deposited in the account. Expenditures from the
36 account may be used only for administering this chapter. Only the

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

5 NEW SECTION. **Sec. 13.** (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, 2013, 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. 14.** 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. 15.** 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. 16.** This chapter must be liberally construed to
27 carry out its purposes and objectives.

28 **Sec. 17.** 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. 18.** 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. 19. Sections 1 through 16 and 20 of this act
13 constitute a new chapter in Title 70 RCW.

14 NEW SECTION. Sec. 20. 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.

--- END ---