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SENATE BILL 6131

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State of Washington                      62nd Legislature                      2012 Regular Session

By Senators Chase, Delvin, and Kline

Read first time 01/12/12. Referred to Committee on Environment.

1            AN ACT Relating to clarifying certain issues with regard to the  
2 regulation of bulk mercury; and amending RCW 70.95M.010, 70.95M.050,  
3 and 70.95M.100.

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

5            **Sec. 1.** RCW 70.95M.010 and 2010 c 130 s 18 are each amended to  
6 read as follows:

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

9            (1) "Bulk mercury" includes any elemental, nonamalgamated mercury,  
10 regardless of volume quantity or weight and does not include mercury-  
11 added products as defined in this section or products containing  
12 mercury collected for recycling or disposal at a permitted disposal  
13 facility.

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 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 or relays.

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

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

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

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

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

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

12 **Sec. 2.** RCW 70.95M.050 and 2010 c 130 s 19 are each amended to  
13 read as follows:

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

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

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

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

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

33 (iv) A thermometer or manometer that contains mercury that is used  
34 for calibration of other thermometers, manometers, apparatus, or  
35 equipment, unless a nonmercury calibration standard is approved for the  
36 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       **Sec. 3.** RCW 70.95M.100 and 2003 c 260 s 12 are each amended to  
2 read as follows:

3       Nothing in this chapter applies to prescription drugs and devices  
4 regulated by the food and drug administration under the federal food,  
5 drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), to biological  
6 products regulated by the food and drug administration under the public  
7 health service act (42 U.S.C. Sec. 262 et seq.), or to any substance  
8 that may be lawfully sold over-the-counter without a prescription under  
9 the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.).

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