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SENATE BILL 6538

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Pridemore and Nelson

Read first time 01/30/12. Referred to Committee on Environment.

1 AN ACT Relating to stewardship of household mercury-containing  
2 lamps; amending RCW 70.275.030; adding a new section to chapter 70.275  
3 RCW; and creating a new section.

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

5 NEW SECTION. **Sec. 1.** The legislature finds that additional  
6 flexibility may be needed for mercury lamp manufacturers to comply with  
7 the requirements of chapter 70.275 RCW in order to provide a  
8 sustainable funding mechanism and provide effective state protections  
9 to producer-operated programs as contemplated under chapter 70.275 RCW.

10 **Sec. 2.** RCW 70.275.030 and 2010 c 130 s 3 are each amended to read  
11 as follows:

12 (1) Every producer of mercury-containing lights sold in or into  
13 Washington state for residential use must fully finance and participate  
14 in a product stewardship program for that product, including the  
15 department's costs for administering and enforcing this chapter.

16 (2) Every producer must:

17 (a) Participate in a product stewardship program approved by the  
18 department and operated by a product stewardship organization

1 contracted by the department. All producers must finance and  
2 participate in the plan operated by the product stewardship  
3 organization, unless the producer obtains department approval for an  
4 independent plan as described in (b) of this subsection; or

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

7 (3) A producer, group of producers, product stewardship  
8 organization operated by producers, or product stewardship organization  
9 contracted by the department is authorized to include financing  
10 provisions that include an environmental handling charge passed on to  
11 the wholesaler, retailer, or retail customer at the time of sale of the  
12 household mercury-containing lamp.

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

27 ((+4)) (5) Product stewardship programs shall collect unwanted  
28 mercury-containing lights delivered from covered entities for reuse,  
29 recycling, processing, or final disposition, and not charge a fee when  
30 lights are dropped off or delivered into the program.

31 ((+5)) (6) Product stewardship programs shall provide, at a  
32 minimum, no cost services in all cities in the state with populations  
33 greater than ten thousand and all counties of the state on an ongoing,  
34 year-round basis.

35 ((+6)) (7) All product stewardship programs operated under  
36 approved plans must recover their fair share of unwanted covered  
37 products as determined by the department.

1        ~~((+7))~~ (8) The department or its designee may inspect, audit, or  
2 review audits of processing and disposal facilities used to fulfill the  
3 requirements of a product stewardship program.

4        ~~((+8))~~ (9) No product stewardship program required under this  
5 chapter may use federal or state prison labor for processing unwanted  
6 products.

7        ~~((+9))~~ (10) Product stewardship programs for mercury-containing  
8 lights must be fully implemented by January 1, 2013.

9        NEW SECTION. **Sec. 3.** A new section is added to chapter 70.275 RCW  
10 to read as follows:

11        A producer, group of producers, product stewardship organization  
12 operated by producers, or a product stewardship organization contracted  
13 by the department preparing, submitting, and implementing a spent  
14 household mercury-containing lamp cost-reimbursement program pursuant  
15 to this chapter, and lamp retailers, are granted immunity from federal  
16 and state antitrust laws for the limited purpose of establishing,  
17 implementing, and complying with the requirements of this chapter. The  
18 activities of the producer, group of producers, product stewardship  
19 organization operated by the producers, or product stewardship  
20 organization contracted by the department, and the lamp retailers that  
21 implement and comply with the provisions of this chapter, may not be  
22 considered to be in restraint of trade, a conspiracy, or combination  
23 thereof, or any other unlawful activity in violation of any provisions  
24 of federal or state antitrust laws.

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