
Environment Committee

HB 1444

Brief Description: Concerning stewardship of household mercury-containing lights.

Sponsors: Representatives Hunt, Tharinger, Takko, Morris, Fey and Pollet.

Brief Summary of Bill

- Postpones the implementation deadline for the mercury-containing lights product stewardship program from January 1, 2013 until January 1, 2014, and initiates a sunset review of the program, effective January 1, 2024.
- Creates an environmental handling charge, of an amount to be determined, applied when mercury-containing lights are retailed.
- Grants limited immunity from federal and state antitrust laws to producers or an organization operating the stewardship program.

Hearing Date: 2/7/13

Staff: Jacob Lipson (786-7196).

Background:

In 2010, the Legislature passed a law requiring producers of mercury-containing lights to create a stewardship program responsible for the collection, recycling, and disposal of mercury-containing lights, including compact fluorescent lights. The program is to operate pursuant to either: (a) an independent plan or plans developed by producers; or (b) a state-developed plan which will contract with a stewardship organization. Producers of mercury-containing lights were given a program participation deadline of January 1, 2013, after which a producer who is not participating in a stewardship program whose plan has been approved by the Department of Ecology (DOE) is prohibited from selling mercury-containing lights. The DOE is responsible for reviewing and approving producer-submitted plans, and, after a stewardship program is operational, for ensuring programmatic compliance with the producer-submitted plan.

Components of the Mercury-Containing Lights Stewardship Program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

As of January 1, 2013, users of mercury-containing lights are required to recycle their mercury-containing lights through the product stewardship program, and are prohibited from disposing of mercury-containing lights through traditional waste collection systems. Under a stewardship program, collection sites must be registered with the DOE and are to be located in every city with a population of greater than 10,000, with at least one location per county.

Manufacturers of mercury-containing lights identified by the DOE as out of compliance with plan participation or program operation requirements will be prohibited from making sales in Washington, and retailers will likewise be forbidden to purchase and stock the products of non-compliant manufacturers.

Program Funding.

If producers elect to develop their own stewardship plan, the DOE's administrative costs will be covered by an annual \$5,000 registration fee. Producers additionally will designate a financing mechanism within their approved plan to allocate program operational costs among producers, which must pay for the full costs of program operation.

If producers do not develop a DOE-approved plan, producers are required to participate in a state-contracted plan. Under this scenario, the DOE charges producers a fee of \$15,000; of which \$5,000 is retained to cover administrative costs, with the remainder to be contracted for a product stewardship program to be operated by a product stewardship organization.

Under both the producer-developed plan scenario and the state-contracted plan scenario, it will be free for anyone to dispose of up to 15 lights every 90 days through the stewardship program.

Stewardship Plan Development and Program Implementation.

On November 16, 2012, the DOE issued a final rule governing the implementation of the mercury-containing light stewardship program. In advance of the January 1, 2013 stewardship program implementation deadline included in the 2010 authorizing legislation, the DOE contracted with a stewardship organization to develop and set up a mercury-containing lights stewardship program. There is not a mercury-containing light recycling program that is currently operating pursuant to the law.

Summary of Bill:

Timelines.

The program implementation deadline is changed from January 1, 2013 to January 1, 2014. For prospective program operators, the deadline for submitting a program operation plan is changed from January 1 the year before implementation to June 1 the year before implementation.

On January 1, 2024, the program is scheduled to be terminated, at which time it would undergo a sunset review by the Joint Legislative Audit and Review Committee (JLARC).

Program Alternatives.

The option for manufacturers to choose to participate in either an independently-operated stewardship program or DOE-contracted stewardship program is eliminated. Instead, a stewardship organization is to be created, and is to submit a plan to be approved by the DOE.

DOE Funding.

Each producer of mercury-containing lights pays the stewardship organization a fee of up to \$5,000, which is to be used to cover the DOE's administration and enforcement costs. The stewardship organization is required to consult with the DOE to project the DOE's anticipated enforcement and administration costs, in order to determine the magnitude of the fees charged to the stewardship organization. All fees collected by the stewardship organization for this purpose are to be paid to the DOE.

Program Operation Funding.

The stewardship organization's operational and administrative costs are to be financed by an environmental handling charge applied to consumer retail purchases of mercury-containing lights. The charge may, but is not required to, vary by the type of mercury-containing light.

The environmental handling charge may be collected by the stewardship organization from either:

- light producers, who may add the handling charge to the cost of the products they sell to customers; or
- light retailers, who may add the environmental handling charge to lights' retail prices.

The DOE, within 90 days of receiving payment from the stewardship organization for the DOE's administrative costs, is to determine the amount of the environmental handling charge in consultation with light producers, recyclers, and any stewardship organization. In determining the amount of the environmental handling charge, the DOE must consider the following:

- the anticipated number of mercury-containing lights sold at retail;
- the expected number of mercury-containing lights to be collected for recycling;
- the costs of collecting, transporting, and recycling mercury-containing lights from covered consumers to collection locations;
- the costs associated with informing consumers about the environmental handling charge; and
- the establishment of a reserve not to exceed 15 percent.

Procedures are also established for the periodic adjustment of the amount of the environmental handling charge.

Antitrust Immunity.

An intention is declared to exempt mercury-containing light producers, stewardship organizations, distributors, and retailers from state and federal antitrust laws for the purposes of the stewardship program. The DOE is also directed to actively supervise the conduct of the producers and stewardship organization.

Other Changes.

Parties whose primary business is retail sales are no longer exempted from the definition of "producer."

A requirement is added so that when stewardship organizations submit operational plans to the DOE, they must describe how the environmental handling charge will be determined, and the mechanism for collecting and remitting the environmental handling charge. The plan must also include a description of how the program will share information with consumers:

- regarding the environmental handling charge that has been added to the purchase price of mercury-containing lights;
- describing mercury-containing light collection opportunities; and
- promoting recycling and waste reduction.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.