

E2SHB 1185 - S AMD 870

By Senator Hunt

ADOPTED 03/01/2024

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025
4 the state's stewardship program for the end-of-life management of
5 mercury-containing lights is statutorily scheduled to undergo review
6 and termination or possible extension under chapter 43.131 RCW, the
7 sunset act. If the mercury-containing lights product stewardship
8 program were allowed to sunset as scheduled, Washington residents
9 would lose a consistent, convenient, and safe way to return unwanted
10 mercury-containing lights, which will remain in use for years as
11 existing inventory winds down, even as the lighting industry has
12 moved away from most mercury-containing lights. Mercury-containing
13 lights present such a significant health risk that other states have
14 recently restricted their sale, which represents a solution to reduce
15 the public health impacts of new lighting products, but does not
16 address the end-of-life management issues associated with the
17 existing light bulbs currently in use.

18 (2) The state's existing mercury-containing lights program, which
19 was first enacted over a decade ago, contains policy provisions,
20 including the establishment of a per-bulb fee attached to the sale of
21 mercury-containing lights, that are now recognized as not
22 representing the best practices for the design of stewardship
23 programs.

24 (3) Therefore, it is the intent of the legislature to:

25 (a) Restrict the sale of most mercury-containing lights;

26 (b) Extend the implementation of the stewardship program for
27 mercury-containing lights; and

28 (c) Modernize key elements of the state's mercury-containing
29 lights stewardship program.

30 **Sec. 2.** RCW 70A.230.020 and 2003 c 260 s 3 are each amended to
31 read as follows:

1 (1) Effective January 1, 2004, a manufacturer, wholesaler, or
2 retailer may not knowingly sell at retail a fluorescent lamp if the
3 fluorescent lamp contains mercury and was manufactured after November
4 30, 2003, unless the fluorescent lamp is labeled in accordance with
5 the guidelines listed under subsection (2) of this section. Primary
6 responsibility for affixing labels required under this section is on
7 the manufacturer, and not on the wholesaler or retailer.

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

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

13 (b) A label on the lamp's packaging that: (i) Clearly informs the
14 purchaser that mercury is present in the item; (ii) explains that the
15 fluorescent lamp should be disposed of according to applicable
16 federal, state, and local laws; and (iii) provides a toll-free
17 telephone number, and a uniform resource locator internet address to
18 a website, that contains information on applicable disposal laws.

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

22 (4) The provisions of this section do not apply to products
23 containing mercury-added lamps.

24 (5) (a) Except as provided in (b) of this subsection, beginning
25 January 1, 2029, a manufacturer, wholesaler, or retailer may not
26 knowingly sell a compact fluorescent lamp or linear fluorescent lamp.

27 (b) In-state distributors, wholesalers, and retailers in
28 possession of compact fluorescent lamps or linear fluorescent lamps
29 on January 1, 2029, may exhaust their existing stock through sales to
30 the public until July 1, 2029.

31 (6) The provisions of subsection (5) of this section do not apply
32 to:

33 (a) A special purpose mercury-containing light;

34 (b) The products specified in RCW 70A.230.110; or

35 (c) The sale or purchase of compact fluorescent lamps or linear
36 fluorescent lamps as a casual or isolated sale as defined in RCW
37 82.04.040.

38 (7) A violation of this section is punishable by a civil penalty
39 not to exceed \$1,000 for each violation in the case of a first
40 violation. Repeat violators are liable for a civil penalty not to

1 exceed \$5,000 for each repeat violation. Penalties collected under
2 this section must be deposited in the model toxics control operating
3 account created in RCW 70A.305.180. Penalties imposed under this
4 section are appealable to the pollution control hearings board
5 established in chapter 43.21B RCW.

6 (8) The department may adopt rules to implement, administer, and
7 enforce the requirements of this section.

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

10 (a) "Compact fluorescent lamp" means a compact low-pressure,
11 mercury-containing, electric-discharge light source in which a
12 fluorescent coating transforms some of the ultraviolet energy
13 generated by the mercury discharge into visible light, and includes
14 all of the following characteristics:

15 (i) One base (end cap) of any type including, but not limited to,
16 screw, bayonet, two pins, and four pins;

17 (ii) Integrally ballasted or nonintegrally ballasted;

18 (iii) Light emission between a correlated color temperature of
19 1700K and 24000K and a Duv of +0.024 and -0.024 in the international
20 commission on illumination (CIE) uniform color space (CAM02-UCS);

21 (iv) All tube diameters and all tube lengths;

22 (v) All lamp sizes and shapes for directional and nondirectional
23 installations including, but not limited to, PL, spiral, twin tube,
24 triple twin, 2D, U-bend, and circular.

25 (b) "Linear fluorescent lamp" means a low-pressure, mercury-
26 containing, electric-discharge light source in which a fluorescent
27 coating transforms some of the ultraviolet energy generated by the
28 mercury discharge into visible light, and includes all of the
29 following characteristics:

30 (i) Two bases (end caps) of any type including, but not limited
31 to, single-pin, two-pin, and recessed double contact;

32 (ii) Light emission between a correlated color temperature of
33 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

34 (iii) All tube diameters including, but not limited to, T5, T8,
35 T10, and T12;

36 (iv) All tube lengths from 0.5 to 8.0 feet, inclusive; and

37 (v) All lamp shapes including, but not limited to, linear, U-
38 bend, and circular.

39 (c) "Special purpose mercury-containing light" includes any of
40 the following lights that contain mercury:

1 (i) A lamp designed and marketed exclusively for image capture
2 and projection, including photocopying, printing, either directly or
3 in preprocessing, lithography, film and video projection, and
4 holography; or

5 (ii) A lamp that has a high proportion of ultraviolet light
6 emission and is one of the following:

7 (A) A lamp with high ultraviolet content that has ultraviolet
8 power greater than two milliwatts per kilolumen (mW/klm);

9 (B) A lamp for germicidal use, such as the destruction of DNA,
10 that emits a peak radiation of approximately 253.7 nanometers;

11 (C) A lamp designed and marketed exclusively for disinfection or
12 fly trapping from which either the radiation power emitted between
13 250 and 315 nanometers represents at least five percent of, or the
14 radiation power emitted between 315 and 400 nanometers represents at
15 least 20 percent of, the total radiation power emitted between 250
16 and 800 nanometers;

17 (D) A lamp designed and marketed exclusively for the generation
18 of ozone where the primary purpose is to emit radiation at
19 approximately 185.1 nanometers;

20 (E) A lamp designed and marketed exclusively for coral
21 zooxanthellae symbiosis from which the radiation power emitted
22 between 400 and 480 nanometers represents at least 40 percent of the
23 total radiation power emitted between 250 and 800 nanometers;

24 (F) Any lamp designed and marketed exclusively in a sunlamp
25 product, defined as any electronic product designed to incorporate
26 one or more ultraviolet lamps and intended for irradiation of any
27 part of the living human body, by ultraviolet radiation;

28 (G) Any lamp designed and marketed exclusively for use in a
29 sunlamp product, as defined in 21 C.F.R. Sec. 1040.20(b)(9), January
30 1, 2023;

31 (H) A lamp designed and marketed exclusively for use in medical
32 or veterinary diagnosis or treatment, or in a medical device;

33 (I) A lamp designed and marketed exclusively for use in the
34 manufacturing or quality control of pharmaceutical products;

35 (J) A lamp designed and marketed exclusively for spectroscopy and
36 photometric applications, such as UV-visible spectroscopy, molecular
37 spectroscopy, atomic absorption spectroscopy, nondispersive infrared
38 (NDIR), Fourier transform infrared (FTIR), medical analysis,
39 ellipsometry, layer thickness measurement, process monitoring, or
40 environmental monitoring;

1 (K) A lamp used by academic and research institutions for
2 conducting research projects and experiments; or

3 (L) A compact fluorescent lamp used to replace a lamp in a motor
4 vehicle manufactured on or before January 1, 2020.

5 **Sec. 3.** RCW 70A.505.010 and 2010 c 130 s 1 are each amended to
6 read as follows:

7 The legislature finds that:

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

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

17 (3) (a) The purpose of this chapter (~~(130, Laws of 2010)~~) is to
18 achieve a statewide goal of recycling all end-of-life mercury-
19 containing lights (~~(by 2020)~~) through expanded public education, a
20 uniform statewide requirement to recycle all mercury-containing
21 lights, and the development of a comprehensive, safe, and convenient
22 collection system that includes use of residential curbside
23 collection programs, mail-back containers, increased support for
24 household hazardous waste facilities, and a network of additional
25 collection locations;

26 (b) The purpose of this act is to reduce exposure to mercury by
27 prohibiting the sale of most mercury-containing lights beginning in
28 2029 and to provide continuing collection of mercury-containing
29 lights that have already entered the marketplace;

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

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

36 **Sec. 4.** RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to
37 read as follows:

1 The definitions in this section apply throughout this chapter
2 unless the context clearly requires otherwise.

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

6 (2) "Collection" or "collect" means, except for persons involved
7 in mail-back programs:

8 (a) The activity of accumulating any amount of mercury-containing
9 lights at a location other than the location where the lights are
10 used by covered entities, and includes curbside collection
11 activities, household hazardous waste facilities, and other
12 registered drop-off locations; and

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

16 (3) "Covered entities" means:

17 (a) A household generator or other person who purchases mercury-
18 containing lights at retail and delivers no more than ~~((ten))~~ the
19 following amounts of mercury-containing lights to registered
20 collectors for a product stewardship program on any given day:

21 (i) An unlimited number of compact fluorescent lamps, as defined
22 in RCW 70A.230.020, that are mercury-containing lights under this
23 chapter and that feature a screw base;

24 (ii) 15 pin-based compact or linear fluorescent lamps, as defined
25 in RCW 70A.230.020, that are mercury-containing lights under this
26 chapter; and

27 (iii) Two high-intensity discharge lamps that are mercury-
28 containing lights under this chapter; and

29 (b) A household generator or other person who purchases mercury-
30 containing lights at retail and utilizes a registered residential
31 curbside collection program or a mail-back program for collection of
32 mercury-containing lights and discards no more than ~~((fifteen))~~ 15
33 mercury-containing lights into those programs on any given day.

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

35 (5) "Environmental handling charge" or "charge" means the charge
36 approved by the department to be applied to each mercury-containing
37 light to be sold at retail in or into Washington state until December
38 31, 2028. The environmental handling charge must cover ~~((all))~~
39 current administrative and operational costs associated with the

1 product stewardship program, including the fee for the department's
2 administration and enforcement.

3 (6) "Final disposition" means the point beyond which no further
4 processing takes place and materials from mercury-containing lights
5 have been transformed for direct use as a feedstock in producing new
6 products, or disposed of or managed in permitted facilities.

7 (7) "Hazardous substances" or "hazardous materials" means those
8 substances or materials identified by rules adopted under chapter
9 70A.300 RCW.

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

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

18 (10) "Mercury vapor barrier packaging" means sealable containers
19 that are specifically designed for the storage, handling, and
20 transport of mercury-containing lights in order to prevent the escape
21 of mercury into the environment by volatilization or any other means,
22 and that meet the requirements for transporting by the United States
23 postal service or a common carrier.

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

28 (12) "Person" means a sole proprietorship, partnership,
29 corporation, nonprofit corporation or organization, limited liability
30 company, firm, association, cooperative, or other legal entity
31 located within or outside Washington state.

32 (13) "Processing" means recovering materials from unwanted
33 products for use as feedstock in new products. (~~Processing must~~
34 ~~occur at permitted facilities.~~)

35 (14) "Producer" means a person that:

36 (a) Has or had legal ownership of the brand, brand name, or
37 cobrand of a mercury-containing light sold in or into Washington
38 state, unless the brand owner is a retailer whose mercury-containing
39 light was supplied by another producer participating in a stewardship
40 program under this chapter;

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

4 (c) If (a) and (b) of this subsection do not apply, makes or made
5 a mercury-containing light that is sold or has been sold in or into
6 Washington state; or

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

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

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

20 (17) "Product stewardship program" or "program" means the
21 methods, systems, and services financed in the manner provided for
22 under RCW 70A.505.050 and provided by producers or legacy producers
23 of mercury-containing lights generated by covered entities that
24 addresses product stewardship and includes arranging for the
25 collection, transportation, recycling, processing, and final
26 disposition of unwanted mercury-containing lights, including orphan
27 products.

28 (18) "Recovery" means the collection and transportation of
29 unwanted mercury-containing lights under this chapter.

30 (19) (a) "Recycling" means transforming or remanufacturing
31 unwanted products into usable or marketable materials for use other
32 than landfill disposal or incineration.

33 (b) "Recycling" does not include energy recovery or energy
34 generation by means of combusting unwanted products with or without
35 other waste.

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

38 (21) "Residuals" means nonrecyclable materials left over from
39 processing an unwanted product.

1 (22) "Retailer" means a person who offers mercury-containing
2 lights for sale at retail through any means including, but not
3 limited to, remote offerings such as sales outlets, catalogs, or the
4 internet, but does not include a sale that is a wholesale transaction
5 with a distributor or a retailer.

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

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

13 (24) "Stakeholder" means a person who may have an interest in or
14 be affected by a product stewardship program.

15 (25) "Stewardship organization" means an organization designated
16 by a producer, legacy producer, or group of producers or legacy
17 producers to act as an agent on behalf of each producer or legacy
18 producer to operate a product stewardship program.

19 (26) "Unwanted product" means a mercury-containing light no
20 longer wanted by its owner or that has been abandoned, discarded, or
21 is intended to be discarded by its owner.

22 (27) "Legacy producer" means a producer that was required to
23 participate in the product stewardship program established by this
24 chapter at any point in time between January 1, 2015, and December
25 31, 2028.

26 (28) "Market share" means the percentage of mercury-containing
27 lights that were products for which a producer had an obligation to
28 participate in the program created in this chapter at any point in
29 time between January 1, 2015, and December 31, 2028, by units sold
30 during that period of time, as determined by the stewardship
31 organization in RCW 70A.505.050.

32 **Sec. 5.** RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to
33 read as follows:

34 (1)(a) Every producer of mercury-containing lights sold, made
35 available for sale, or distributed in or into Washington state for
36 retail sale in Washington state, including legacy producers, must
37 participate in a product stewardship program for those products,
38 operated by a stewardship organization and financed in the manner
39 provided by RCW 70A.505.050. Every such producer must inform the

1 department of the producer's participation in a product stewardship
2 program by including the producer's name in a plan submitted to the
3 department by a stewardship organization as required by RCW
4 70A.505.040. Producers, including legacy producers, must satisfy
5 these participation obligations individually or may do so jointly
6 with other producers.

7 (b) Except as provided in (c) of this subsection, a stewardship
8 organization implementing an approved program under this chapter must
9 continue to implement an approved program until December 31, 2028,
10 and may continue to do so in the form and manner described in the
11 plan approved by the department as of January 1, 2024, until December
12 31, 2028. The provisions of this act apply to programs that a
13 stewardship organization must implement beginning January 1, 2029,
14 and to the rule adoption, fee payment to the department, plan
15 submission, and plan approval processes that predate the
16 implementation of the new program to begin January 1, 2029. Changes
17 to the limits of mercury-containing lights accepted at collection
18 sites must take effect January 1, 2025.

19 (c) A stewardship organization may only increase the amount of
20 the environmental handling charge established under this chapter from
21 the amount that was approved by the department as of January 1, 2024,
22 in a manner consistent with RCW 70A.505.050. Additional stewardship
23 organization costs that are not adequately covered by the
24 environmental handling charge and that derive from activities
25 occurring between the effective date of this section and December 31,
26 2028, must be funded by participant members of the stewardship
27 organization.

28 (2) ((A)) Until December 31, 2028, a stewardship organization
29 operating a product stewardship program must pay ((all))
30 administrative and operational costs associated with its current
31 program with revenues received from the environmental handling charge
32 ((described in RCW 70A.505.050. The stewardship organization's
33 administrative and operational costs are not required to include a
34 collection location's cost of receiving, accumulating and storing,
35 and packaging mercury-containing lights. However, a)) imposed under
36 the plan approved by the department prior to the effective date of
37 this section. For program administrative and operational costs
38 related to the implementation of program requirements in calendar
39 year 2029, a stewardship organization may plan to use reserve funds
40 in the possession of the stewardship organization from the

1 environmental handling charges assessed until December 31, 2028. For
2 program administrative and operational costs related to the planning
3 and implementation of the program requirements that must be
4 implemented beginning in calendar year 2030, a stewardship
5 organization operating a product stewardship program must pay all
6 administrative and operational costs associated with its program with
7 revenues received from participating legacy producers. A stewardship
8 organization may offer incentives or payments to collectors. The
9 stewardship organization's administrative and operational costs do
10 not include the collection costs associated with curbside and mail-
11 back collection programs. The stewardship organization must arrange
12 for collection service at locations described in subsection (4) of
13 this section, which may include household hazardous waste facilities,
14 charities, retailers, government recycling sites, or other suitable
15 private locations. No such entity is required to provide collection
16 services at their location. For curbside and mail-back programs, a
17 stewardship organization must pay the costs of transporting mercury-
18 containing lights from accumulation points and for processing
19 mercury-containing lights collected by curbside and mail-back
20 programs. For collection locations, including household hazardous
21 waste facilities, charities, retailers, government recycling sites,
22 or other suitable private locations, a stewardship organization must
23 pay the costs of packaging and shipping materials as required under
24 RCW 70A.505.070 or must compensate collectors for the costs of those
25 materials, and must pay the costs of transportation and processing of
26 mercury-containing lights collected from the collection locations.

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

32 (4) (a) Product stewardship programs shall provide, at a minimum,
33 no cost services in all cities in the state with populations greater
34 than ~~((ten thousand))~~ 10,000 and all counties of the state on an
35 ongoing, year-round basis.

36 (b) (i) The department may amend the convenience standards
37 established in this section to relieve a stewardship organization of
38 its obligation to operate a collection site or to provide a
39 collection opportunity when it is demonstrated by the stewardship
40 organization to:

1 (A) Result in the annual collection of fewer than 500 mercury-
2 containing lights; and

3 (B) Not remove collection opportunities for people living in a
4 rural county or an overburdened community.

5 (ii) For the purposes of this subsection (4)(b), "rural county"
6 has the same meaning provided in RCW 82.14.370 and "overburdened
7 community" has the same meaning provided in RCW 70A.02.010.

8 (5) Product stewardship programs shall promote the safe handling
9 and recycling of mercury-containing lights to the public, including
10 producing and offering point-of-sale educational materials to
11 retailers of mercury-containing lights and point-of-return
12 educational materials to collection locations.

13 (6) All product stewardship programs operated under approved
14 plans must recover their fair share of unwanted (~~covered products~~)
15 mercury-containing lights as determined by the department.

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

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

22 (9) Product stewardship programs for mercury-containing lights
23 must be fully implemented by January 1, 2015. Product stewardship
24 programs for mercury-containing lights meeting the new requirements
25 of this act must be fully implemented by January 1, 2029.

26 **Sec. 6.** RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to
27 read as follows:

28 (1) (a) On (~~June~~) January 1st of the year prior to
29 implementation, each producer must ensure that a stewardship
30 organization submits a proposed product stewardship plan on the
31 producer's behalf to the department for approval. Plans approved by
32 the department must be implemented by January 1st of the following
33 calendar year.

34 (b) A stewardship organization that plans to implement a
35 stewardship plan in calendar year 2029 must submit a new or updated
36 plan by January 1, 2028. The new or updated plan under this
37 subsection (1)(b) must address the changes required of program
38 operations by this act.

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

3 (a) All necessary information to inform the department about the
4 plan operator and participating producers or legacy producers and
5 their brands;

6 (b) The management and organization of the product stewardship
7 program that will oversee the collection, transportation, and
8 processing services;

9 (c) The identity of collection, transportation, and processing
10 service providers, including a description of the consideration given
11 to existing residential curbside collection infrastructure and mail-
12 back systems as an appropriate collection mechanism and a list of all
13 current and proposed collection sites to be used by the program,
14 including the latitude and longitude of each collection site;

15 (d) How the product stewardship program will seek to use
16 businesses within the state, including transportation services,
17 retailers, collection sites and services, existing curbside
18 collection services, existing mail-back services, and processing
19 facilities;

20 (e) A description of how the public will be informed about the
21 product stewardship program, including how consumers will be provided
22 with information describing collection opportunities for unwanted
23 mercury-containing lights from covered entities and safe handling of
24 mercury-containing lights, waste prevention, and recycling. ((The))
25 Until December 31, 2028, the description must also include
26 information to make consumers aware that an environmental handling
27 charge has been added to the purchase price of mercury-containing
28 lights sold at retail to fund the mercury-containing light
29 stewardship programs in the state. The environmental handling charge
30 may not be described as a department recycling fee or charge at the
31 point of retail sale. Beginning January 1, 2029, these efforts must
32 include the development:

33 (i) And maintenance of a website;

34 (ii) And distribution of periodic press releases and articles;

35 (iii) And placement of public service announcements and graphic
36 advertisements for use on social media or other relevant media
37 platforms;

38 (iv) Of promotional materials about the program and the
39 restriction on the disposal of mercury-containing lights in section

1 19 of this act to be used by retailers, government agencies, and
2 nonprofit organizations;

3 (v) And distribution of the collection site safety training
4 procedures procedural manual approved by the department to collection
5 sites to help ensure proper management of unwanted mercury-containing
6 lights at collection locations;

7 (vi) And implementation of outreach and educational resources
8 targeted to overburdened communities and vulnerable populations
9 identified by the department under chapter 70A.02 RCW that are
10 conceptually, linguistically, and culturally accurate for the
11 communities served and reach the state's diverse ethnic populations,
12 including through meaningful consultation with communities that bear
13 disproportionately higher levels of adverse environmental and social
14 justice impacts;

15 (vii) And distribution of consumer-focused educational
16 promotional materials to each collection location used by the program
17 and accessible by customers of retailers that sell mercury-containing
18 lights;

19 (viii) And distribution of safety information related to light
20 collection activities to the operator of each collection site; and

21 (ix) And implementation of a periodic survey of public awareness
22 regarding the requirements of the program established under this
23 chapter, carried out at least every five years and the results of
24 which must be shared with the department;

25 (f) A description of the financing system required under RCW
26 70A.505.050;

27 (g) How mercury and other hazardous substances will be handled
28 for collection through final disposition, including:

29 (i) Mercury spill and release response plans for use by
30 collection locations that describes the materials, equipment, and
31 procedures that will be used to respond to any mercury release from
32 an unwanted mercury-containing light; and

33 (ii) Worker safety plans for use by collection locations that
34 describes the handling of the unwanted mercury-containing lights at
35 the collection location and measures that will be taken to protect
36 worker health and safety;

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

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

1 (3) All plans submitted to the department must be made available
2 for public review on the department's website (~~and at the~~
3 ~~department's headquarters~~)).

4 (~~At least two years from the start of the product~~
5 ~~stewardship program and once every four~~) No less often than three
6 years from the dates specified in subsection (1) of this section and
7 once every five years thereafter, each stewardship organization
8 operating a product stewardship program must update its product
9 stewardship plan and submit the updated plan to the department for
10 review and approval according to rules adopted by the department.

11 (5) By June 1, 2016, and each June 1st thereafter, each
12 stewardship organization must submit an annual report to the
13 department describing the results of implementing the stewardship
14 organization's plan for the prior calendar year, including an
15 independent financial audit once every two years. The department may
16 adopt rules for reporting requirements. Financial information
17 included in the annual report must include but is not limited to:

18 (a) (~~The~~) For programs operating until December 31, 2028, the
19 amount of the environmental handling charge assessed on mercury-
20 containing lights and the revenue generated;

21 (b) Identification of confidential information pursuant to RCW
22 43.21A.160 submitted in the annual report; and

23 (c) The cost and revenue of the mercury-containing lights product
24 stewardship program, including line item costs for:

25 (i) Program operations, including collection, transportation, and
26 processing;

27 (ii) Communications, including media, printing and fulfillment,
28 public relations, and other education and outreach projects;

29 (iii) Administration, including administrative personnel costs,
30 travel, compliance and auditing, legal services, banking services,
31 insurance, and other administrative services and supplies, and
32 stewardship organization corporate expenses; and

33 (iv) Amount of unallocated reserve funds.

34 (6) Beginning in 2023 every stewardship organization must include
35 in its annual report (~~an analysis of the percent of total sales of~~
36 ~~lights sold at retail to covered entities in Washington that mercury-~~
37 ~~containing lights constitute, the estimated number of mercury-~~
38 ~~containing lights in use by covered entities in the state, and the~~
39 ~~projected number of unwanted mercury-containing lights to be recycled~~
40 ~~in future years~~) a list of all collection sites, including address

1 and latitude and longitude, anticipated to be used by the program in
2 the upcoming year.

3 (7) As a component of all new or updated plans under this chapter
4 submitted by a stewardship organization after January 1, 2025, the
5 stewardship organization must submit:

6 (a) A contingency plan demonstrating how the activities in the
7 plan will continue to be carried out by some other entity, such as an
8 escrow company:

9 (i) Until such time as a new plan is submitted and approved by
10 the department;

11 (ii) In the event that the stewardship organization has been
12 notified by the department that they must transfer implementation
13 responsibility for the program to a different stewardship
14 organization;

15 (iii) In the event that the stewardship organization notifies the
16 department that it will cease to implement an approved plan; or

17 (v) In any other event that the stewardship organization can no
18 longer carry out plan implementation; and

19 (b) Performance goals that measure, on an annual basis, the
20 achievements of the program. Performance goals must take into
21 consideration technical feasibility and economic practicality in
22 achieving continuous, meaningful progress in improving:

23 (i) The rate of mercury-containing light collection for recycling
24 in Washington;

25 (ii) The level of convenience and access for all residents; and

26 (iii) Public awareness of the program.

27 (8) All plans and reports submitted to the department must be
28 made available for public review, excluding sections determined to be
29 confidential pursuant to RCW 43.21A.160, on the department's website
30 ((and at the department's headquarters)).

31 **Sec. 7.** RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to
32 read as follows:

33 (1) Each stewardship organization must recommend to the
34 department an environmental handling charge to be added to the price
35 of each mercury-containing light sold in or into the state of
36 Washington for sale at retail until December 31, 2028. The
37 environmental handling charge must be designed to provide revenue
38 necessary and sufficient to cover all administrative and operational
39 costs associated with the stewardship program described in the

1 department-approved product stewardship plan for that organization(
2 ~~including the department's annual fee required by subsection (5) of~~
3 ~~this section, and a prudent reserve~~) through calendar year 2029 of
4 program expenses. The stewardship organization must consult with
5 collectors, retailers, recyclers, and each of its participating
6 producers in developing its recommended environmental handling
7 charge. The environmental handling charge may, but is not required
8 to, vary by the type of mercury-containing light. In developing its
9 recommended environmental handling charge, the stewardship
10 organization must take into consideration and report to the
11 department:

12 (a) The anticipated number of mercury-containing lights that will
13 be sold to covered entities in the state at retail during the
14 relevant period;

15 (b) The number of unwanted mercury-containing lights delivered
16 from covered entities expected to be recycled during the relevant
17 period;

18 (c) The operational costs of the stewardship organization as
19 described in RCW 70A.505.030(2);

20 (d) The administrative costs of the stewardship organization
21 including the department's annual fee, described in subsection (5) of
22 this section; and

23 (e) The cost of other stewardship program elements including
24 public outreach.

25 (2) The department must review, adjust if necessary, and approve
26 the stewardship organization's recommended environmental handling
27 charge within (~~sixty~~) 60 days of submittal. In making its
28 determination, the department shall review the product stewardship
29 plan and may consult with the producers, the stewardship
30 organization, retailers, collectors, recyclers, and other entities.

31 (3) No sooner than January 1, 2015, and through calendar year
32 2028 of program implementation:

33 (a) The mercury-containing light environmental handling charge
34 must be added to the purchase price of all mercury-containing lights
35 sold to Washington retailers for sale at retail, and each Washington
36 retailer shall add the charge to the purchase price of all mercury-
37 containing lights sold at retail in this state, and the producer
38 shall remit the environmental handling charge to the stewardship
39 organization in the manner provided for in the stewardship plan; or

1 (b) Each Washington retailer must add the mercury-containing
2 light environmental handling charge to the purchase price of all
3 mercury-containing lights sold at retail in this state, where the
4 retailer, by voluntary binding agreement with the producer, arranges
5 to remit the environmental handling charge to the stewardship
6 organization on behalf of the producer in the manner provided for in
7 the stewardship plan. Producers may not require retailers to opt for
8 this provision via contract, marketing practice, or any other means.
9 The stewardship organization must allow retailers to retain a portion
10 of the environmental handling charge as reimbursement for any costs
11 associated with the collection and remittance of the charge.

12 (4) At any time, a stewardship organization may submit to the
13 department a recommendation for an adjusted environmental handling
14 charge for the department's review, adjustment, if necessary, and
15 approval under subsection (2) of this section to ensure that there is
16 sufficient revenue to fund the cost of the program, current deficits,
17 or projected needed reserves for the next year. Until December 31,
18 2028, a stewardship organization may submit to the department a
19 recommended adjustment to the environmental handling charge that is
20 designed to provide revenue necessary and sufficient to cover all
21 administrative and operational costs associated with the stewardship
22 program described in the department-approved product stewardship plan
23 for that organization. The stewardship organization may propose to
24 use revenues from environmental handling charges to cover program
25 expenses through calendar year 2029. The department must review the
26 stewardship organization's recommended environmental handling charge
27 and must adjust or approve the recommended charge within thirty days
28 of submittal if the department determines that the charge is
29 reasonably designed to meet the criteria described in subsection (1)
30 of this section.

31 (5) (a) Beginning with calendar year 2029 of program
32 implementation, each stewardship organization must develop and
33 implement a system to collect charges from participating legacy
34 producers to cover the costs of plan implementation based on the
35 market share of participating producers using all reasonable means
36 and based on the best available information. A stewardship
37 organization must determine each producer's percentage of market
38 share by:

39 (i) To the extent data necessary to make such a calculation are
40 available, dividing each legacy producer's total units of mercury-

1 containing lights for which the producer had an obligation under this
2 chapter sold in Washington at any point in time between January 1,
3 2015, and December 31, 2028, by the sum total of all units of
4 mercury-containing lights sold in or into Washington by all
5 participating legacy producers at any point in time between January
6 1, 2015, and December 31, 2028; and

7 (ii) To the extent that data specified in (a)(i) of this
8 subsection are not fully available, extrapolating a reasonable
9 approximation of a manufacturer's market share similar to the
10 calculation specified in (a)(i) of this section based on the data
11 available to the stewardship organization.

12 (b) To determine the market share of legacy producers, a
13 stewardship organization may:

14 (i) Require data from legacy producers. A stewardship
15 organization may notify the department if a legacy producer has
16 declined to respond within 90 days to a demand for data by a
17 stewardship organization and the department may demand the
18 information if it is determined to be necessary to calculate the
19 market share of the legacy producer; and

20 (ii) Use any combination of the following types of data:

21 (A) Generally available market research data;

22 (B) Data historically provided by producers or retailers to a
23 stewardship organization or the department under this chapter;

24 (C) Sales data supplied by producers; and

25 (D) Sales data provided by retailers.

26 (c) The amendments to the method of financing the program
27 described in this act must be implemented by a stewardship
28 organization by January 1, 2029.

29 (6) Beginning with calendar year 2029 of program implementation,
30 each stewardship organization is responsible for all costs of
31 participating mercury-containing light collection, transportation,
32 processing, education, administration, agency reimbursement,
33 recycling, and end-of-life management in accordance with
34 environmentally sound management practices.

35 (7) Beginning March 1, 2015, (~~and each year thereafter,~~) until
36 March 1, 2024, each stewardship organization shall pay to the
37 department an annual fee equivalent to (~~three thousand dollars~~)
38 \$3,000 for each participating producer to cover the department's
39 administrative and enforcement costs. Beginning March 1, 2025, each
40 stewardship organization shall pay to the department the annual fee

1 to cover the department's administrative and enforcement costs. The
2 department must apply any remaining annual payment funds from the
3 current year to the annual payment for the coming fiscal year if the
4 collected annual payment exceeds the department's costs for a given
5 year and increase annual payments for the coming fiscal year to cover
6 the department's fees if the collected annual payment was less than
7 the department's costs for a given year. The amount paid under this
8 section must be deposited into the mercury-containing light product
9 stewardship programs account created in RCW 70A.505.120.

10 **Sec. 8.** RCW 70A.505.060 and 2010 c 130 s 6 are each amended to
11 read as follows:

12 (1) All mercury-containing lights and materials recovered from
13 mercury-containing lights collected in the state by product
14 stewardship programs or other collection programs must be recycled
15 and any process residuals must be managed in compliance with
16 applicable laws.

17 (2) Mercury recovered from retorting and other hazardous
18 materials must be recycled or placed in a properly permitted
19 hazardous waste landfill, or placed in a properly permitted mercury
20 repository.

21 **Sec. 9.** RCW 70A.505.070 and 2010 c 130 s 7 are each amended to
22 read as follows:

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

28 (a) Register with the department as a collector of unwanted
29 mercury-containing lights. Until the department adopts rules for
30 collectors, the collector must provide to the department the legal
31 name of the person or entity owning and operating the collection
32 location, the address and phone number of the collection location,
33 and the name, address, and phone number of the individual responsible
34 for operating the collection location and update any changes in this
35 information within thirty days of the change;

36 (b) Maintain a spill and release response plan at the collection
37 location that describes the materials, equipment, and procedures that

1 will be used to respond to any mercury release from an unwanted
2 mercury-containing light;

3 (c) Maintain a worker safety plan at the collection location that
4 describes the handling of the unwanted mercury-containing lights at
5 the collection location and measures that will be taken to protect
6 worker health and safety; and

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

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

18 **Sec. 10.** RCW 70A.505.100 and 2010 c 130 s 10 are each amended to
19 read as follows:

20 (1) ~~(a) The department ((shall send a written warning and a copy~~
21 ~~of this chapter and any rules adopted to implement this chapter to a~~
22 ~~producer who is not participating in a product stewardship program~~
23 ~~approved by the department and whose mercury-containing lights are~~
24 ~~being sold in or into the state.~~

25 ~~(2) A producer not participating in a product stewardship program~~
26 ~~approved by the department whose mercury-containing lights continue~~
27 ~~to be sold in or into the state sixty days after receiving a written~~
28 ~~warning from the department shall be assessed a penalty of up to one~~
29 ~~thousand dollars for each violation. A violation is one day of sales.~~

30 ~~(3) If any producer fails to implement its approved plan, the~~
31 ~~department shall assess a penalty of up to five thousand dollars for~~
32 ~~the first violation along with notification that the producer must~~
33 ~~implement its plan within thirty days of the violation. After thirty~~
34 ~~days, any producer failing to implement their approved plan must be~~
35 ~~assessed a penalty of up to ten thousand dollars for the second and~~
36 ~~each subsequent violation. A subsequent violation occurs each thirty-~~
37 ~~day period that the producer fails to implement the approved plan.~~

38 ~~(4) The department shall send a written warning to a producer~~
39 ~~that fails to submit a product stewardship plan, update or change the~~

1 plan when required, or submit an annual report as required under this
2 chapter. The written warning must include compliance requirements and
3 notification that the requirements must be met within sixty days. If
4 requirements are not met within sixty days, the producer will be
5 assessed a ten thousand dollar penalty per day of noncompliance
6 starting with the first day of notice of noncompliance.

7 (5) Penalties prescribed under this section must be reduced by
8 fifty percent if the producer complies within thirty days of the
9 second violation notice.

10 (6) A producer may appeal penalties prescribed under this section
11 to the pollution control hearings board created under chapter 43.21B
12 RCW) may administratively impose a civil penalty on a person who
13 violates this chapter in an amount of up to \$1,000 per violation per
14 day.

15 (b) The department may administratively impose a civil penalty of
16 up to \$10,000 per violation per day on a person for repeated
17 violations of this chapter or failure to comply with an order issued
18 under (c) of this subsection.

19 (c) Whenever on the basis of any information the department
20 determines that a person has violated or is in violation of this
21 chapter, including the failure by a stewardship organization to
22 achieve performance goals proposed in a plan or the failure by a
23 legacy producer to respond to a requirement for information by a
24 stewardship organization under RCW 70A.505.050, the department may
25 issue an order requiring compliance. A person who fails to take
26 corrective action as specified in a compliance order is liable for a
27 civil penalty as provided in (b) of this subsection, without
28 receiving a written warning prescribed in (e) of this subsection.

29 (d) A person who is issued an order or incurs a penalty under
30 this section may appeal the order or penalty to the pollution control
31 hearings board established by chapter 43.21B RCW.

32 (e) Prior to imposing penalties under this section, the
33 department must provide a producer, legacy producer, retailer, or
34 stewardship organization with a written warning for the first
35 violation by the producer, legacy producer, retailer, or stewardship
36 organization of the requirements of this chapter. The written warning
37 must inform a producer, legacy producer, retailer, or stewardship
38 organization that it must participate in an approved plan or
39 otherwise come into compliance with the requirements of this chapter
40 within 30 days of the notice. A producer, legacy producer, retailer,

1 or stewardship organization that violates a provision of this chapter
2 after the initial written warning may be assessed a penalty as
3 provided in this subsection.

4 (2) (a) Upon the department notifying a stewardship organization,
5 producer, or legacy producer that it has not met a significant
6 requirement of this chapter, the department may, in addition to
7 assessing the penalties provided in this section, take any
8 combination of the following actions:

9 (i) Issue corrective action orders to a producer or stewardship
10 organization;

11 (ii) Issue orders to a stewardship organization to provide for
12 the continued implementation of the program in the absence of an
13 approved plan;

14 (iii) Revoke the stewardship organization's plan approval and
15 require the stewardship organization to implement its contingency
16 plan under RCW 70A.505.040;

17 (iv) Require a stewardship organization to revise or resubmit a
18 plan within a specified time frame; or

19 (v) Require additional reporting related to compliance with the
20 significant requirement of this chapter that was not met.

21 (b) Prior to taking the actions described in (a)(iii) of this
22 subsection, the department must provide the stewardship organization,
23 producer, or legacy producer an opportunity to respond to or rebut
24 the written finding upon which the action is predicated.

25 **Sec. 11.** RCW 70A.505.110 and 2010 c 130 s 11 are each amended to
26 read as follows:

27 (1) The department shall provide on its website a list of all
28 producers participating in a product stewardship plan that the
29 department has approved and a list of all producers the department
30 has identified as noncompliant with this chapter and any rules
31 adopted to implement this chapter.

32 (2) Product wholesalers, retailers, distributors, and electric
33 utilities must check the department's website or producer-provided
34 written verification to determine if producers of products they are
35 selling in or into the state are in compliance with this chapter.

36 (3) No one may distribute or sell mercury-containing lights from
37 producers, or any lights in or into the state from legacy producers,
38 who are not participating in a product stewardship program or who are

1 not in compliance with this chapter and rules adopted under this
2 chapter.

3 (4) (a) The department shall serve, or send with delivery
4 confirmation, a written warning explaining the violation to any
5 person known to be distributing or selling mercury-containing lights
6 from producers, or any lights in or into the state from legacy
7 producers, who are not participating in a product stewardship program
8 or who are not in compliance with this chapter and rules adopted
9 under this chapter.

10 (b) The department must review new, updated, and revised plans
11 submitted by stewardship organizations. The department must:

12 (i) Review new, updated, and revised stewardship organization
13 plans within 120 days of receipt of a complete plan;

14 (ii) Make a determination as to whether or not to approve a plan,
15 plan update, or plan revision and notify the stewardship organization
16 of the:

17 (A) Determination of approval if a plan provides for a program
18 that meets the requirements of this chapter; or

19 (B) Reasons for not approving a plan. The stewardship
20 organization must submit a new or revised plan within 60 days after
21 receipt of the letter of disapproval. In the event that a new or
22 revised plan submitted by a stewardship organization does not
23 sufficiently meet the requirements of this chapter, including any
24 deficiencies identified in the initial letter of disapproval, the
25 department may:

26 (I) Use the enforcement powers specified in this chapter; or

27 (II) Amend the contents of the insufficient new or revised plan
28 in a manner that ensures that the plan meets the requirements of this
29 chapter and the department may require the stewardship organization
30 to implement the plan as amended by the department.

31 (c) The approval of a plan by the department does not relieve
32 producers or legacy producers participating in the plan from
33 responsibility for fulfilling the requirements of this chapter.

34 ~~(5) ((Any person who continues to distribute or sell mercury-~~
35 ~~containing lights from a producer that is not participating in an~~
36 ~~approved product stewardship program sixty days after receiving a~~
37 ~~written warning from the department may be assessed a penalty two~~
38 ~~times the value of the products sold in violation of this chapter or~~
39 ~~five hundred dollars, whichever is greater. The penalty must be~~
40 ~~waived if the person verifies that the person has discontinued~~

1 ~~distribution or sales of mercury-containing lights within thirty days~~
2 ~~of the date the penalty is assessed. A retailer may appeal penalties~~
3 ~~to the pollution control hearings board.~~

4 ~~(6))~~ The department shall adopt rules to implement this
5 ~~((section))~~ chapter.

6 ~~((7))~~ (6) A sale or purchase of mercury-containing lights as a
7 casual or isolated sale as defined in RCW 82.04.040 is not subject to
8 the provisions of this section.

9 ~~((8))~~ (7) A person primarily engaged in the business of reuse
10 and resale of ~~((a))~~ used mercury-containing lights is not subject to
11 the provisions of this section when selling used working mercury-
12 containing lights, for use in the same manner and purpose for which
13 ~~((it was))~~ the lights were originally purchased.

14 ~~((9) In-state distributors, wholesalers, and retailers in~~
15 ~~possession of mercury-containing lights on the date that restrictions~~
16 ~~on the sale of the product become effective may exhaust their~~
17 ~~existing stock through sales to the public.))~~

18 **Sec. 12.** RCW 70A.505.120 and 2017 c 254 s 3 are each amended to
19 read as follows:

20 The mercury-containing light product stewardship programs account
21 is created in the custody of the state treasurer. All funds received
22 from producers and stewardship organizations under this chapter and
23 penalties collected under this chapter must be deposited in the
24 account. Expenditures from the account may be used only for
25 administering this chapter. ~~((The department may not retain fees in~~
26 ~~excess of the estimated amount necessary to cover the agency's~~
27 ~~administrative costs over the coming year related to the mercury~~
28 ~~light stewardship program under this chapter. Beginning with the~~
29 ~~state fiscal year 2018, by October 1st after the closing of each~~
30 ~~state fiscal year, the department shall refund any fees collected in~~
31 ~~excess of its estimated administrative costs to any approved~~
32 ~~stewardship organization under this chapter.))~~ Only the director of
33 the department or the director's designee may authorize expenditures
34 from the account. The account is subject to the allotment procedures
35 under chapter 43.88 RCW, but an appropriation is not required for
36 expenditures.

37 **Sec. 13.** RCW 70A.505.130 and 2010 c 130 s 14 are each amended to
38 read as follows:

1 (1) The department may adopt rules necessary to implement,
2 administer, and enforce this chapter.

3 ~~(2) ((The department may adopt rules to establish performance
4 standards for product stewardship programs and may establish
5 administrative penalties for failure to meet the standards.~~

6 ~~(3))~~ By ~~((December 31, 2010, and annually thereafter until
7 December 31, 2014))~~ November 1, 2033, the department shall report to
8 the appropriate committees of the legislature concerning the status
9 of the product stewardship program and recommendations for changes to
10 the provisions of this chapter.

11 ~~((4) Beginning October 1, 2014, the))~~ (3) The department shall
12 annually invite comments from local governments, communities, and
13 ~~((citizens))~~ residents to report their satisfaction with services
14 provided by product stewardship programs created under this chapter.
15 This information ~~((must))~~ may be used by the department to determine
16 if the plan operator is meeting convenience requirements and in
17 reviewing proposed updates or changes to product stewardship plans.

18 ~~((5) Beginning October 1, 2014, the department shall annually
19 invite comments from retailers, consumer groups, electric utilities,
20 the Northwest power and conservation council, and other interested
21 parties regarding the impacts of the requirements of this chapter on
22 the availability or purchase of energy efficient lighting within the
23 state. If the department determines that evidence shows the
24 requirements of this chapter have resulted in negative impacts on the
25 availability or purchase of energy efficient lighting in the state,
26 the department shall report this information by December 31st of each
27 year to the appropriate committees of the legislature with
28 recommendations for changes to the provisions of this chapter.~~

29 ~~(6) Beginning October 1, 2014, the department shall annually
30 invite comments from retailers, consumer groups, electric utilities,
31 the Northwest power and conservation council, and other interested
32 parties regarding the availability of energy efficient nonmercury
33 lighting to replace mercury-containing lighting within the state. If
34 the department determines that evidence shows that energy efficient
35 nonmercury-containing lighting is available and achieves similar
36 energy savings as mercury lighting at similar cost, the department
37 shall report this information by December 31st of each year to the
38 appropriate committees of the legislature with recommendations for
39 legislative changes to reduce mercury use in lighting.~~

1 ~~(7))~~ (4) Beginning October 1, 2014, the department shall
2 annually estimate the overall statewide recycling rate for mercury-
3 containing lights and calculate that portion of the recycling rate
4 attributable to the product stewardship program. The department may
5 require a stewardship organization to submit data as needed for the
6 department to make the estimations required by this subsection.

7 ~~((8))~~ (5) The department may require submission of independent
8 performance evaluations and report evaluations documenting the
9 effectiveness of mercury vapor barrier packaging in preventing the
10 escape of mercury into the environment. The department may restrict
11 the use of packaging for which adequate documentation has not been
12 provided. Restricted packaging may not be used in any product
13 stewardship program required under this chapter.

14 **Sec. 14.** RCW 70A.505.160 and 2014 c 119 s 6 are each amended to
15 read as follows:

16 (1) It is the intent of the legislature that a producer, legacy
17 producer, group of producers or legacy producers, or stewardship
18 organization preparing, submitting, and implementing a mercury-
19 containing light product stewardship program pursuant to this
20 chapter, as well as participating entities in the distribution chain,
21 including retailers and distributors, are granted immunity,
22 individually and jointly, from federal and state antitrust liability
23 that might otherwise apply to the activities reasonably necessary for
24 implementation and compliance with this chapter. It is further the
25 intent of the legislature that the activities of the producer, legacy
26 producer, group of producers or legacy producers, stewardship
27 organization, and entities in the distribution chain, including
28 retailers and distributors, in implementing and complying with the
29 provisions of this chapter may not be considered to be in restraint
30 of trade, a conspiracy, or combination thereof, or any other unlawful
31 activity in violation of any provisions of federal or state antitrust
32 laws.

33 (2) The department shall actively supervise the conduct of the
34 stewardship organization, the producers and legacy producers of
35 mercury-containing lights, and entities in the distribution chain
36 (~~in determination and implementation of the environmental handling~~
37 ~~charge authorized by~~) under this chapter.

1 **Sec. 15.** RCW 82.04.660 and 2020 c 20 s 1469 are each amended to
2 read as follows:

3 (1) An exemption from the taxes imposed in this chapter is
4 provided for:

5 (a) Producers, with respect to environmental handling charges
6 added to the purchase price of mercury-containing lights either by
7 the producer or a retailer pursuant to an agreement with the
8 producer;

9 (b) Retailers, with respect to environmental handling charges
10 added to the purchase price of mercury-containing lights sold at
11 retail, including the portion of environmental handling charges
12 retained as reimbursement for any costs associated with the
13 collection and remittance of the charges; and

14 (c) Stewardship organizations, with respect to environmental
15 handling charges received from producers and retailers and to the
16 receipts from charges to participating producers and legacy
17 producers.

18 (2) This section is not subject to the requirements of RCW
19 82.32.805 and 82.32.808.

20 (3) For purposes of this section, the definitions in RCW
21 70A.505.020 apply.

22 **Sec. 16.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
23 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
24 read as follows:

25 (1) The hearings board shall only have jurisdiction to hear and
26 decide appeals from the following decisions of the department, the
27 director, local conservation districts, the air pollution control
28 boards or authorities as established pursuant to chapter 70A.15 RCW,
29 local health departments, the department of natural resources, the
30 department of fish and wildlife, the parks and recreation commission,
31 and authorized public entities described in chapter 79.100 RCW:

32 (a) Civil penalties imposed pursuant to RCW 18.104.155,
33 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,
34 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,
35 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
36 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170,
37 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
38 90.56.310, 90.56.330, and 90.64.102.

1 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
2 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
3 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
4 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

5 (c) Except as provided in RCW 90.03.210(2), the issuance,
6 modification, or termination of any permit, certificate, or license
7 by the department or any air authority in the exercise of its
8 jurisdiction, including the issuance or termination of a waste
9 disposal permit, the denial of an application for a waste disposal
10 permit, the modification of the conditions or the terms of a waste
11 disposal permit, or a decision to approve or deny an application for
12 a solid waste permit exemption under RCW 70A.205.260.

13 (d) Decisions of local health departments regarding the grant or
14 denial of solid waste permits pursuant to chapter 70A.205 RCW.

15 (e) Decisions of local health departments regarding the issuance
16 and enforcement of permits to use or dispose of biosolids under RCW
17 70A.226.090.

18 (f) Decisions of the department regarding waste-derived
19 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
20 decisions of the department regarding waste-derived soil amendments
21 under RCW 70A.205.145.

22 (g) Decisions of local conservation districts related to the
23 denial of approval or denial of certification of a dairy nutrient
24 management plan; conditions contained in a plan; application of any
25 dairy nutrient management practices, standards, methods, and
26 technologies to a particular dairy farm; and failure to adhere to the
27 plan review and approval timelines in RCW 90.64.026.

28 (h) Any other decision by the department or an air authority
29 which pursuant to law must be decided as an adjudicative proceeding
30 under chapter 34.05 RCW.

31 (i) Decisions of the department of natural resources, the
32 department of fish and wildlife, and the department that are
33 reviewable under chapter 76.09 RCW, and the department of natural
34 resources' appeals of county, city, or town objections under RCW
35 76.09.050(7).

36 (j) Forest health hazard orders issued by the commissioner of
37 public lands under RCW 76.06.180.

38 (k) Decisions of the department of fish and wildlife to issue,
39 deny, condition, or modify a hydraulic project approval permit under
40 chapter 77.55 RCW, to issue a stop work order, to issue a notice to

1 comply, to issue a civil penalty, or to issue a notice of intent to
2 disapprove applications.

3 (l) Decisions of the department of natural resources that are
4 reviewable under RCW 78.44.270.

5 (m) Decisions of an authorized public entity under RCW 79.100.010
6 to take temporary possession or custody of a vessel or to contest the
7 amount of reimbursement owed that are reviewable by the hearings
8 board under RCW 79.100.120.

9 (n) Decisions of the department of ecology that are appealable
10 under RCW 70A.245.020 to set recycled minimum postconsumer content
11 for covered products or to temporarily exclude types of covered
12 products in plastic containers from minimum postconsumer recycled
13 content requirements.

14 (o) Orders by the department of ecology under RCW 70A.455.080.

15 (2) The following hearings shall not be conducted by the hearings
16 board:

17 (a) Hearings required by law to be conducted by the shorelines
18 hearings board pursuant to chapter 90.58 RCW.

19 (b) Hearings conducted by the department pursuant to RCW
20 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
21 70A.15.3110, and 90.44.180.

22 (c) Appeals of decisions by the department under RCW 90.03.110
23 and 90.44.220.

24 (d) Hearings conducted by the department to adopt, modify, or
25 repeal rules.

26 (3) Review of rules and regulations adopted by the hearings board
27 shall be subject to review in accordance with the provisions of the
28 administrative procedure act, chapter 34.05 RCW.

29 **Sec. 17.** RCW 70A.230.080 and 2020 c 20 s 1245 are each amended
30 to read as follows:

31 A violation of this chapter, other than a violation of RCW
32 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~
33 ~~thousand dollars~~) \$1,000 for each violation in the case of a first
34 violation. Repeat violators are liable for a civil penalty not to
35 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.
36 Penalties collected under this section must be deposited in the model
37 toxics control operating account created in RCW 70A.305.180.

1 NEW SECTION. **Sec. 18.** A new section is added to chapter 70A.505
2 RCW to read as follows:

3 The requirements of this chapter cease to apply beginning the
4 earlier of:

5 (1) January 1, 2035; or

6 (2) A date determined by the department, based on the diminishing
7 number of mercury-containing lights collected by the program reaching
8 a de minimis level where the continued expense and environmental cost
9 of implementing the program would result in continued costs that
10 outweigh the benefits of continuing the program, as calculated in a
11 cost-benefit analysis consistent with the requirements of RCW
12 34.05.328. Unless the department and stewardship organization agree
13 to a different cessation date prior to 2035 without carrying out a
14 cost-benefit analysis, the department must conduct a cost-benefit
15 analysis under this subsection to be completed during calendar year
16 2031.

17 NEW SECTION. **Sec. 19.** A new section is added to chapter 70A.230
18 RCW to read as follows:

19 (1) All persons, residents, government, commercial, industrial,
20 and retail facilities and office buildings must recycle their end-of-
21 life mercury-containing lights.

22 (2) No mercury-containing lights may knowingly be placed in waste
23 containers for disposal at incinerators, waste to energy facilities,
24 or landfills.

25 (3) No mercury-containing lights may knowingly be placed in a
26 container for mixed recyclables unless there is a separate location
27 or compartment for the mercury-containing lights that complies with
28 local government collection standards or guidelines.

29 (4) No owner or operator of a solid waste facility may be found
30 in violation of this section if the facility has posted in a
31 conspicuous location a sign stating that mercury-containing lights
32 must be recycled and are not accepted for disposal.

33 (5) No solid waste collector may be found in violation of this
34 section for mercury-containing lights placed in a disposal container
35 by the generator of the mercury-containing light.

36 NEW SECTION. **Sec. 20.** (1) RCW 70A.505.090 (Producers must
37 participate in an approved product stewardship program) and 2010 c

1 130 s 9, as now existing or hereafter amended, are each repealed,
2 effective January 1, 2029.

3 (2) RCW 82.04.660 (Exemptions—Environmental handling charges—
4 Mercury-containing lights) and 2020 c 20 s 1469 & 2015 c 185 s 2, as
5 now existing or hereafter amended, are each repealed, effective
6 January 1, 2035.

7 NEW SECTION. **Sec. 21.** The following acts or parts of acts are
8 each repealed:

9 (1) RCW 43.131.421 (Mercury-containing lights product stewardship
10 program—Termination) and 2021 c 65 s 47 & 2014 c 119 s 7;

11 (2) RCW 43.131.422 (Mercury-containing lights product stewardship
12 program—Repeal) and 2021 c 65 s 48, 2017 c 254 s 4, & 2014 c 119 s 8;
13 and

14 (3) RCW 70A.230.150 (Requirement to recycle end-of-life mercury-
15 containing lights) and 2010 c 130 s 8.

16 NEW SECTION. **Sec. 22.** The following acts or parts of acts, as
17 now existing or hereafter amended, are each repealed, effective
18 January 1, 2035:

19 (1) RCW 70A.505.010 (Findings—Purpose) and 2010 c 130 s 1;

20 (2) RCW 70A.505.020 (Definitions) and 2020 c 20 s 1414;

21 (3) RCW 70A.505.030 (Product stewardship program) and 2020 c 20 s
22 1415, 2014 c 119 s 3, & 2010 c 130 s 3;

23 (4) RCW 70A.505.040 (Submission of proposed product stewardship
24 plans—Department to establish rules—Public review—Plan update—
25 Annual report) and 2020 c 20 s 1416, 2017 c 254 s 2, 2014 c 119 s 4,
26 & 2010 c 130 s 4;

27 (5) RCW 70A.505.050 (Environmental handling charge—Annual fee)
28 and 2020 c 20 s 1417, 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s
29 5;

30 (6) RCW 70A.505.060 (Collection and management of mercury) and
31 2010 c 130 s 6;

32 (7) RCW 70A.505.070 (Collectors of unwanted mercury-containing
33 lights—Duties) and 2010 c 130 s 7;

34 (8) RCW 70A.505.080 (Requirement to recycle end-of-life mercury-
35 containing lights) and 2010 c 130 s 8;

36 (9) RCW 70A.505.090 (Producers must participate in an approved
37 product stewardship program) and 2010 c 130 s 9;

- 1 (10) RCW 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c
2 130 s 10;
- 3 (11) RCW 70A.505.110 (Department's website to list producers
4 participating in product stewardship plan—Required participation in a
5 product stewardship plan—Written warning—Penalty—Rules—Exemptions)
6 and 2010 c 130 s 11;
- 7 (12) RCW 70A.505.120 (Product stewardship programs account—Refund
8 of fees) and 2017 c 254 s 3 & 2010 c 130 s 13;
- 9 (13) RCW 70A.505.130 (Adoption of rules—Report to the legislature
10 —Invitation to entities to comment on issues—Estimate of statewide
11 recycling rate for mercury-containing lights—Mercury vapor barrier
12 packaging) and 2010 c 130 s 14;
- 13 (14) RCW 70A.505.140 (Application of chapter to the Washington
14 utilities and transportation commission) and 2010 c 130 s 15;
- 15 (15) RCW 70A.505.150 (Application of chapter to entities
16 regulated under chapter 70A.300 RCW) and 2020 c 20 s 1418 & 2010 c
17 130 s 16;
- 18 (16) RCW 70A.505.160 (Immunity from antitrust liability) and 2014
19 c 119 s 6;
- 20 (17) RCW 70A.505.900 (Chapter liberally construed) and 2010 c 130
21 s 17; and
- 22 (18) RCW 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s
23 21.

24 NEW SECTION. **Sec. 23.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected."

E2SHB 1185 - S AMD 870
By Senator Hunt

ADOPTED 03/01/2024

28 On page 1, line 2 of the title, after "products;" strike the
29 remainder of the title and insert "amending RCW 70A.230.020,
30 70A.505.010, 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050,
31 70A.505.060, 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120,
32 70A.505.130, 70A.505.160, 82.04.660, and 70A.230.080; reenacting and
33 amending RCW 43.21B.110; adding a new section to chapter 70A.505 RCW;

1 adding a new section to chapter 70A.230 RCW; repealing RCW
2 70A.505.090, 82.04.660, 43.131.421, 43.131.422, 70A.230.150,
3 70A.505.010, 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050,
4 70A.505.060, 70A.505.070, 70A.505.080, 70A.505.090, 70A.505.100,
5 70A.505.110, 70A.505.120, 70A.505.130, 70A.505.140, 70A.505.150,
6 70A.505.160, 70A.505.900, and 70A.505.901; prescribing penalties; and
7 providing effective dates."

EFFECT: (1) Permits in-state distributors, wholesalers, and retailers in possession of certain mercury-containing lights (MCLs) to sell through their existing stock for six months after the sales prohibition takes effect.

(2) Increases the daily maximum quantity of pin-based compact or linear fluorescent lamps that may be provided to a collection site to 15 from 10.

(3) Authorizes, until December 31, 2028, a stewardship organization to submit to the department of ecology (ecology), a recommended adjustment to the environmental handling charge (EHC) to establish reserve funds to cover the stewardship program's administrative and operational costs in 2029.

(4) Conditions ecology's ability to amend the convenience standards for MCL collection in certain jurisdictions on the annual collection of fewer than 500 MCLs and where the amendment would not remove collection opportunities for people living in a rural county or an overburdened community.

(5) Requires ecology to report to the legislature on the status of the program and recommendations for changes on November 1, 2033, rather than November 1, 2029, and December 31, 2035.

(6) Includes legacy producers in several provisions throughout the bill where producers are referenced to reflect the program changes beginning in 2029.

(7) Expires the program on January 1, 2035, or an earlier date determined by ecology based on a specified cost-benefit analysis rather than January 1, 2039, and requires ecology to conduct a cost-benefit analysis in 2031 rather than 2032 and 2036.

(8) Makes other technical changes.

--- END ---