

# FINAL BILL REPORT

## E2SHB 1185

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Synopsis as Enacted

**Brief Description:** Reducing environmental impacts associated with lighting products.

**Sponsors:** House Committee on Environment & Energy (originally sponsored by Representatives Hackney, Duerr, Berry, Ramel, Fitzgibbon, Doglio and Pollet).

**House Committee on Environment & Energy**  
**Senate Committee on Environment, Energy & Technology**

### **Background:**

#### Mercury-Containing Lights Stewardship Program.

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 used for illumination purposes, including compact and linear fluorescent lights.

Mercury-containing light producers who do not participate in a stewardship plan approved by the Department of Ecology (Ecology) are prohibited from selling mercury-containing lights. Ecology is responsible for reviewing and approving stewardship program plans submitted by a stewardship organization on behalf of producers and for ensuring the program's compliance with the submitted plan. The LightRecycle Washington program has been operating since January 1, 2015.

To finance the operations of the stewardship program, an environmental handling charge is applied to each mercury-containing light sold in the state. The handling charge:

- must cover the stewardship program's operational and administrative costs, plus a reserve;
- must be added to the price of mercury-containing lights sold at retail;
- may, but is not required to, vary by the type of mercury-containing light; and
- must be added to the price of mercury-light sales from producers to retailers, who

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must add the handling charge to the cost of the products they sell at retail.

The handling charge applied to sales of mercury-containing lights participating in the LightRecycle Washington program was 95 cents per bulb, as of January 2024. The environmental handling charge added to the purchase price of mercury-containing lights is exempt from state Business and Occupation taxes. The stewardship organization must pay Ecology an administrative fee of \$3,000 per producer to cover Ecology's administrative and enforcement costs associated with the stewardship program.

Stewardship programs must, at minimum, provide no cost services in all cities with a population of 10,000 or more and in all counties of the state.

Persons, facilities, and office buildings are required to recycle their end-of-life mercury-containing lights. Mercury-containing lights may not be knowingly placed in waste containers for disposal or mixed recycling containers. These requirements are not subject to penalties.

Effective July 1, 2025, the stewardship law and program will undergo a sunset review by the Joint Legislative Audit and Review Committee. In the event of repeal of the mercury-containing lights stewardship program, state law would retain the requirement to recycle mercury-containing lights. State law would also retain the prohibition on mercury-containing light disposal via incineration, waste-to-energy, or via landfills.

#### Other Restrictions on Mercury.

Certain types of mercury-containing lights must be labeled with an internationally recognized mercury symbol and information to purchasers that mercury is present in the item. Federally regulated medical equipment and reagents used in medical or research tests are not subject to these restrictions. Violations of these requirements are subject to a civil penalty of up to \$1,000, or \$5,000 for repeat violations.

#### Pollution Control Hearings Board.

The Pollution Control Hearings Board (PCHB) is an appeals board with jurisdiction to hear appeals of certain decisions, orders, and penalties issued by Ecology and several other state agencies. Parties aggrieved by a PCHB decision may obtain subsequent judicial review.

#### **Summary:**

#### Restrictions on Mercury-Containing Lights.

Beginning January 1, 2029, manufacturers, wholesalers, and retailers may not knowingly sell at retail compact fluorescent lamps and linear fluorescent lamps that contain mercury. Exempt from these restrictions on mercury-containing lights are:

- certain mercury-containing lights with a high proportion of ultraviolet light emission, such as sunlamp products, and lamps used to capture and project images;
- medical equipment and reagents used in medical or research tests that are exempt from existing mercury-light labeling requirements; and
- casual and isolated sales of mercury-containing lights.

In-state distributors, wholesalers, and retailers in possession of prohibited mercury-containing lights as of January 1, 2029, may exhaust existing stock through sales to the public until July 1, 2029. Violations of restrictions on the sale of compact and linear fluorescent lamps are punishable by a civil penalty of up to \$1,000, or \$5,000 for repeat violations. The Department of Ecology (Ecology) may adopt rules to implement and enforce these restrictions. Penalties are appealable to the Pollution Control Hearings Board (PCHB).

#### Funding and Timelines of the Mercury-Containing Light Stewardship Program.

The scheduled 2025 sunset review and termination of the mercury-containing lights stewardship program is repealed. The requirement that producers of mercury-containing lights fund and implement a stewardship plan ceases to apply January 1, 2035, or upon a determination by Ecology that, under a cost-benefit analysis, the continued expense and environmental cost of implementing the program exceeds the benefits. Ecology must complete a cost-benefit analysis of the program in 2031, unless Ecology and a stewardship organization agree to an alternative early program cessation date.

Through calendar year 2028, the environmental handling charge, in an amount approved by Ecology, must be applied to the sale of mercury-containing lights at retail. The environmental handling charge may be used to finance current administrative and operational costs of the program, and a stewardship organization may plan to use, through calendar year 2029 of program implementation, reserve funds from environmental handling charges that were imposed prior to 2029. Additional stewardship organization costs through calendar year 2028 that are not adequately covered by the environmental handling charge must be funded by participant members of the stewardship organization. For program costs from planning and implementation of program requirements that must be implemented in calendar year 2030 and later, stewardship organizations must pay all administrative and operational costs with revenues from participating legacy producers, which are defined as producers who sold mercury-containing lights in the state at any point between 2015 and 2028. Program funding must be based on the market share of legacy producers, using reasonable means and based on the best available information. A stewardship organization may require data from legacy producers or use other sources of information in determining legacy producer market share. The lights of legacy producers of mercury-containing lights that do not participate in the stewardship organization may not be sold in or into the state.

Beginning in 2030 legacy producers are responsible for all costs of participating in the

stewardship organization's covered light collection, transportation, processing, education, agency reimbursement, recycling, and end-of-life management.

Charges by stewardship organizations to producers participating in the mercury-containing lights stewardship program, in addition to environmental handling charges received from producers by stewardship organizations, are exempt from state Business and Occupation taxation.

Plan Submission, Collection Site, and Other Implementation Requirements for the Mercury-Containing Lights Stewardship Program.

The limit on the number of lights that a person may deliver to a collection site is amended to allow, beginning in 2025:

- an unlimited number of compact fluorescent lamps with a screw base per day;
- 15 pin-based compact or linear fluorescent lamps per day; and
- two high-intensity discharge lamps per day.

Ecology may relieve a stewardship organization of an obligation to operate a collection site or provide a collection opportunity when the stewardship organization demonstrates that it would result in the collection of less than 500 mercury-containing lights annually and not remove collection opportunities for people living in rural counties or overburdened communities.

Mercury-containing light stewardship organizations must undertake additional responsibilities with respect to providing public information about the stewardship program, including:

- the placement of public service announcements and graphic advertisements on social media;
- the development of promotional materials about the program and the restrictions on the disposal of mercury-containing lights;
- the distribution of a collection site safety training procedural manual;
- the development and implementation of culturally, conceptually, and linguistically accurate education and outreach materials for the communities served and the state's diverse ethnic populations; and
- the implementation of a periodic public awareness survey.

Stewardship organizations must submit plans to Ecology for approval at least one full year prior to updated plan implementation. Plans must include a list of all current and proposed collection sites, including the latitude and longitude of each collection site. Plans must be updated at least every five years.

As part of stewardship plans submitted to Ecology, mercury-containing light stewardship organizations must newly:

- develop mercury spill and release response plans and worker safety plans as part of

- their plan for handling mercury and other hazardous substances in the collection and disposition of materials;
- describe how materials other than mercury will be prioritized for recycling;
  - submit performance goals that measure the annual achievements of the program, including the rate of light collection, the recycling rate of lights, level of convenience and access to residents, and public awareness;
  - submit performance goals that measure program achievements; and
  - submit a contingency plan for how the activities in the plan will continue to be carried out by another entity such as an escrow company in the event that a stewardship organization ceases to implement its plan for specified reasons.

#### Administration and Enforcement of Program Requirements.

The \$3,000 per-producer limit on administrative costs paid to Ecology to oversee their implementation costs is eliminated beginning March 1, 2025.

Ecology must review new, updated, and revised plans following a specified process and within 120 days of receipt of a plan submitted by a mercury-containing light stewardship organization. After an initial plan submission and rejection by Ecology, if a stewardship organization's second submitted plan does not meet Ecology approval, Ecology may issue penalties or orders or amend the contents of the insufficient plan and require the stewardship organization to implement the plan as amended by Ecology.

Ecology may impose a civil penalty on persons that violate stewardship program requirements, including the failure to achieve performance goals, with penalties increased from up to \$1,000 per violation per day to up to \$10,000 per person per day for repeated violations. Prior to imposing penalties, Ecology must provide a written warning informing a person of a violation. Ecology may issue corrective action orders requiring compliance, revoke a stewardship organization's authority to implement its plan, require a stewardship organization to report additional information, or require a stewardship organization to revise and resubmit its plan. Penalties and orders are appealable to the PCHB.

In 2033 Ecology must provide the Legislature with an update on the implementation of the mercury-containing light stewardship program.

Existing requirements for Ecology to solicit input from specified stakeholders on the impacts of the mercury-containing light stewardship program are eliminated. Ecology is no longer required to solicit information on the availability of alternatives to mercury-containing lights from specified stakeholders.

A severability clause is included.

#### **Votes on Final Passage:**

House 52 45  
Senate 29 20 (Senate amended)  
House 54 42 (House concurred)

**Effective:** June 6, 2024