
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 1185

State of Washington

68th Legislature

2024 Regular Session

By House Environment & Energy (originally sponsored by Representatives Hackney, Duerr, Berry, Ramel, Fitzgibbon, Doglio, and Pollet)

READ FIRST TIME 01/31/24.

1 AN ACT Relating to reducing environmental impacts associated with
2 lighting products; amending RCW 70A.230.020, 70A.505.010,
3 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060,
4 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120, 70A.505.130,
5 70A.505.160, 82.04.660, and 70A.230.080; reenacting and amending RCW
6 43.21B.110; adding a new section to chapter 70A.505 RCW; adding a new
7 section to chapter 70A.230 RCW; repealing RCW 70A.505.090,
8 43.131.421, 43.131.422, 70A.230.150, 70A.505.010, 70A.505.020,
9 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060, 70A.505.070,
10 70A.505.080, 70A.505.090, 70A.505.100, 70A.505.110, 70A.505.120,
11 70A.505.130, 70A.505.140, 70A.505.150, 70A.505.160, 70A.505.900, and
12 70A.505.901; prescribing penalties; and providing effective dates.

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

14 NEW SECTION. **Sec. 1.** (1) The legislature finds that in 2025 the
15 state's stewardship program for the end-of-life management of
16 mercury-containing lights is statutorily scheduled to undergo review
17 and termination or possible extension under chapter 43.131 RCW, the
18 sunset act. If the mercury-containing lights product stewardship
19 program were allowed to sunset as scheduled, Washington residents
20 would lose a consistent, convenient, and safe way to return unwanted
21 mercury-containing lights, which will remain in use for years as

1 existing inventory winds down, even as the lighting industry has
2 moved away from most mercury-containing lights. Mercury-containing
3 lights present such a significant health risk that other states have
4 recently restricted their sale, which represents a solution to reduce
5 the public health impacts of new lighting products, but does not
6 address the end-of-life management issues associated with the
7 existing light bulbs currently in use.

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

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

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

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

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

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

22 (1) Effective January 1, 2004, a manufacturer, wholesaler, or
23 retailer may not knowingly sell at retail a fluorescent lamp if the
24 fluorescent lamp contains mercury and was manufactured after November
25 30, 2003, unless the fluorescent lamp is labeled in accordance with
26 the guidelines listed under subsection (2) of this section. Primary
27 responsibility for affixing labels required under this section is on
28 the manufacturer, and not on the wholesaler or retailer.

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

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

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

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

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

6 (5) Beginning January 1, 2029, a manufacturer, wholesaler, or
7 retailer may not knowingly sell a compact fluorescent lamp or linear
8 fluorescent lamp, as defined in RCW 70A.505.020.

9 (6) The provisions of subsection (5) of this section do not apply
10 to:

11 (a) A special purpose mercury-containing light, as defined in RCW
12 70A.505.020;

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

14 (c) The sale or purchase of mercury-containing lights as a casual
15 or isolated sale as defined in RCW 82.04.040.

16 (7) A violation of this section is punishable by a civil penalty
17 not to exceed \$1,000 for each violation in the case of a first
18 violation. Repeat violators are liable for a civil penalty not to
19 exceed \$5,000 for each repeat violation. Penalties collected under
20 this section must be deposited in the model toxics control operating
21 account created in RCW 70A.305.180. Penalties imposed under this
22 section are appealable to the pollution control hearings board
23 established in chapter 43.21B RCW.

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

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

28 (a) "Compact fluorescent lamp" means a compact low-pressure,
29 mercury-containing, electric-discharge light source in which a
30 fluorescent coating transforms some of the ultraviolet energy
31 generated by the mercury discharge into visible light, and includes
32 all of the following characteristics:

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

35 (ii) Integrally ballasted or nonintegrally ballasted;

36 (iii) Light emission between a correlated color temperature of
37 1700K and 24000K and a Duv of +0.024 and -0.024 in the international
38 commission on illumination (CIE) uniform color space (CAM02-UCS);

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

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

4 (b) "Linear fluorescent lamp" means a low-pressure, mercury-
5 containing, electric-discharge light source in which a fluorescent
6 coating transforms some of the ultraviolet energy generated by the
7 mercury discharge into visible light, and includes all of the
8 following characteristics:

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

11 (ii) Light emission between a correlated color temperature of
12 1700K and 24000K and a Duv of +0.024 and -0.024 in the CIE CAM02-UCS;

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

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

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

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

20 (i) A lamp designed and marketed exclusively for image capture
21 and projection, including photocopying, printing, either directly or
22 in preprocessing, lithography, film and video projection, and
23 holography; or

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

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

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

30 (C) A lamp designed and marketed exclusively for disinfection or
31 fly trapping from which either the radiation power emitted between
32 250 and 315 nanometers represents at least five percent of, or the
33 radiation power emitted between 315 and 400 nanometers represents at
34 least 20 percent of, the total radiation power emitted between 250
35 and 800 nanometers;

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

39 (E) A lamp designed and marketed exclusively for coral
40 zooxanthellae symbiosis from which the radiation power emitted

1 between 400 and 480 nanometers represents at least 40 percent of the
2 total radiation power emitted between 250 and 800 nanometers;

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

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

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

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

14 (J) A lamp designed and marketed exclusively for spectroscopy and
15 photometric applications, such as UV-visible spectroscopy, molecular
16 spectroscopy, atomic absorption spectroscopy, nondispersive infrared
17 (NDIR), Fourier transform infrared (FTIR), medical analysis,
18 ellipsometry, layer thickness measurement, process monitoring, or
19 environmental monitoring;

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

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

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

26 The legislature finds that:

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

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

36 (3) (a) The purpose of this chapter (~~(130, Laws of 2010)~~) is to
37 achieve a statewide goal of recycling all end-of-life mercury-
38 containing lights (~~(by 2020)~~) through expanded public education, a
39 uniform statewide requirement to recycle all mercury-containing

1 lights, and the development of a comprehensive, safe, and convenient
2 collection system that includes use of residential curbside
3 collection programs, mail-back containers, increased support for
4 household hazardous waste facilities, and a network of additional
5 collection locations;

6 (b) The purpose of this act is to reduce exposure to mercury by
7 phasing out the sale of most mercury-containing lights, and to
8 provide continuing collection of mercury-containing lights that have
9 already entered the marketplace;

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

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

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

18 The definitions in this section apply throughout this chapter
19 unless the context clearly requires otherwise.

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

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

25 (a) The activity of accumulating any amount of mercury-containing
26 lights at a location other than the location where the lights are
27 used by covered entities, and includes curbside collection
28 activities, household hazardous waste facilities, and other
29 registered drop-off locations; and

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

33 (3) "Covered entities" means:

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

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

4 (ii) 10 pin-based compact or linear fluorescent lamps, as defined
5 in RCW 70A.230.020, that are mercury-containing lights under this
6 chapter; and

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

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

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

15 (5) "Environmental handling charge" or "charge" means the charge
16 approved by the department to be applied to each mercury-containing
17 light to be sold at retail in or into Washington state until December
18 31, 2028. The environmental handling charge must cover ~~((all))~~
19 current administrative and operational costs associated with the
20 product stewardship program, including the fee for the department's
21 administration and enforcement.

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

26 (7) "Hazardous substances" or "hazardous materials" means those
27 substances or materials identified by rules adopted under chapter
28 70A.300 RCW.

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

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

37 (10) "Mercury vapor barrier packaging" means sealable containers
38 that are specifically designed for the storage, handling, and
39 transport of mercury-containing lights in order to prevent the escape
40 of mercury into the environment by volatilization or any other means,

1 and that meet the requirements for transporting by the United States
2 postal service or a common carrier.

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

7 (12) "Person" means a sole proprietorship, partnership,
8 corporation, nonprofit corporation or organization, limited liability
9 company, firm, association, cooperative, or other legal entity
10 located within or outside Washington state.

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

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

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

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

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

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

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

36 (16) "Product stewardship plan" or "plan" means a detailed plan
37 describing the manner in which a product stewardship program will be
38 implemented.

39 (17) "Product stewardship program" or "program" means the
40 methods, systems, and services financed in the manner provided for

1 under RCW 70A.505.050 and provided by producers of mercury-containing
2 lights generated by covered entities that addresses product
3 stewardship and includes arranging for the collection,
4 transportation, recycling, processing, and final disposition of
5 unwanted mercury-containing lights, including orphan products.

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

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

11 (b) "Recycling" does not include energy recovery or energy
12 generation by means of combusting unwanted products with or without
13 other waste.

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

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

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

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

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

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

32 (25) "Stewardship organization" means an organization designated
33 by a producer or group of producers to act as an agent on behalf of
34 each producer to operate a product stewardship program.

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

38 (27) "Legacy producer" means a producer that was required to
39 participate in the product stewardship program established by this

1 chapter at any point in time between January 1, 2015, and December
2 31, 2028.

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

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

11 (1)(a) Every producer of mercury-containing lights sold, made
12 available for sale, or distributed in or into Washington state for
13 retail sale in Washington state must participate in a product
14 stewardship program for those products, operated by a stewardship
15 organization and financed in the manner provided by RCW 70A.505.050.
16 Every such producer must inform the department of the producer's
17 participation in a product stewardship program by including the
18 producer's name in a plan submitted to the department by a
19 stewardship organization as required by RCW 70A.505.040. Producers
20 must satisfy these participation obligations individually or may do
21 so jointly with other producers.

22 (b) Except as provided in (c) of this subsection, a stewardship
23 organization implementing an approved program under this chapter must
24 continue to implement an approved program until December 31, 2028,
25 and may continue to do so in the form and manner described in the
26 plan approved by the department as of January 1, 2024, until December
27 31, 2028. The provisions of this act apply to programs that a
28 stewardship organization must implement beginning January 1, 2029,
29 and to the rule adoption, fee payment to the department, plan
30 submission, and plan approval processes that predate the
31 implementation of the new program to begin January 1, 2029.

32 (c) A stewardship organization may not increase the amount of the
33 environmental handling charge established under this chapter from the
34 amount that was approved by the department as of January 1, 2024.
35 Additional stewardship organization costs that are not adequately
36 covered by the environmental handling charge and that derive from
37 activities occurring between the effective date of this section and
38 December 31, 2028, must be funded by participant members of the

1 stewardship organization. Changes to the limits of mercury-containing
2 lights accepted at collection sites must take effect January 1, 2025.

3 (2) ((A)) Until December 31, 2028, a stewardship organization
4 operating a product stewardship program must pay ((all))
5 administrative and operational costs associated with its current
6 program with revenues received from the environmental handling charge
7 ((described in RCW 70A.505.050. The stewardship organization's
8 administrative and operational costs are not required to include a
9 collection location's cost of receiving, accumulating and storing,
10 and packaging mercury-containing lights. However, a)) imposed under
11 the plan approved by the department prior to the effective date of
12 this section. For program administrative and operational costs
13 related to the planning and implementation of the program
14 requirements that must be implemented beginning in calendar year
15 2029, a stewardship organization operating a product stewardship
16 program must pay all administrative and operational costs associated
17 with its program with revenues received from participating legacy
18 producers. A stewardship organization may offer incentives or
19 payments to collectors. The stewardship organization's administrative
20 and operational costs do not include the collection costs associated
21 with curbside and mail-back collection programs. The stewardship
22 organization must arrange for collection service at locations
23 described in subsection (4) of this section, which may include
24 household hazardous waste facilities, charities, retailers,
25 government recycling sites, or other suitable private locations. No
26 such entity is required to provide collection services at their
27 location. For curbside and mail-back programs, a stewardship
28 organization must pay the costs of transporting mercury-containing
29 lights from accumulation points and for processing mercury-containing
30 lights collected by curbside and mail-back programs. For collection
31 locations, including household hazardous waste facilities, charities,
32 retailers, government recycling sites, or other suitable private
33 locations, a stewardship organization must pay the costs of packaging
34 and shipping materials as required under RCW 70A.505.070 or must
35 compensate collectors for the costs of those materials, and must pay
36 the costs of transportation and processing of mercury-containing
37 lights collected from the collection locations.

38 (3) Product stewardship programs shall collect unwanted mercury-
39 containing lights delivered from covered entities for recycling,
40 processing, or final disposition, and ((not charge)) are prohibited

1 from charging a fee when lights are sold, dropped off, or delivered
2 into the program.

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

7 (b) The department may amend the convenience standards
8 established in this section to relieve a stewardship organization of
9 its obligation to operate a collection site or to provide a
10 collection opportunity when it is demonstrated by the stewardship
11 organization to result in the collection of a de minimis number of
12 mercury-containing lights.

13 (5) Product stewardship programs shall promote the safe handling
14 and recycling of mercury-containing lights to the public, including
15 producing and offering point-of-sale educational materials to
16 retailers of mercury-containing lights and point-of-return
17 educational materials to collection locations.

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

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

24 (8) No product stewardship program required under this chapter
25 may use federal or state prison labor for processing unwanted
26 products.

27 (9) Product stewardship programs for mercury-containing lights
28 must be fully implemented by January 1, 2015. Product stewardship
29 programs for mercury-containing lights meeting the new requirements
30 of this act must be fully implemented by January 1, 2029.

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

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

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

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

8 (a) All necessary information to inform the department about the
9 plan operator and participating producers and their brands;

10 (b) The management and organization of the product stewardship
11 program that will oversee the collection, transportation, and
12 processing services;

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

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

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

36 (i) And maintenance of a website;

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

38 (iii) And placement of public service announcements and graphic
39 advertisements for use on social media or other relevant media
40 platforms;

1 (iv) Of promotional materials about the program and the
2 restriction on the disposal of mercury-containing lights in section
3 19 of this act to be used by retailers, government agencies, and
4 nonprofit organizations;

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

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

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

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

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

27 (f) A description of the financing system required under RCW
28 70A.505.050;

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

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

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

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

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

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

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

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

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

24 (b) Identification of confidential information pursuant to RCW
25 43.21A.160 submitted in the annual report; and

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

28 (i) Program operations, including collection, transportation, and
29 processing;

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

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

36 (iv) Amount of unallocated reserve funds.

37 (6) Beginning in 2023 every stewardship organization must include
38 in its annual report (~~an analysis of the percent of total sales of~~
39 ~~lights sold at retail to covered entities in Washington that mercury-~~
40 ~~containing lights constitute, the estimated number of mercury-~~

1 ~~containing lights in use by covered entities in the state, and the~~
2 ~~projected number of unwanted mercury-containing lights to be recycled~~
3 ~~in future years)) a list of all collection sites, including address~~
4 ~~and latitude and longitude, anticipated to be used by the program in~~
5 ~~the upcoming year.~~

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

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

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

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

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

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

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

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

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

29 (iii) Public awareness of the program.

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

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

36 (1) ~~((Each stewardship organization must recommend to the~~
37 ~~department an environmental handling charge to be added to the price~~
38 ~~of each mercury-containing light sold in or into the state of~~
39 ~~Washington for sale at retail. The environmental handling charge must~~

1 ~~be designed to provide revenue necessary and sufficient to cover all~~
2 ~~administrative and operational costs associated with the stewardship~~
3 ~~program described in the department-approved product stewardship plan~~
4 ~~for that organization, including the department's annual fee required~~
5 ~~by subsection (5) of this section, and a prudent reserve. The~~
6 ~~stewardship organization must consult with collectors, retailers,~~
7 ~~recyclers, and each of its participating producers in developing its~~
8 ~~recommended environmental handling charge. The environmental handling~~
9 ~~charge may, but is not required to, vary by the type of mercury-~~
10 ~~containing light. In developing its recommended environmental~~
11 ~~handling charge, the stewardship organization must take into~~
12 ~~consideration and report to the department:~~

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

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

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

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

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

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

32 ~~(3)) No sooner than January 1, 2015, and through calendar year~~
33 ~~2028 of program implementation:~~

34 (a) The mercury-containing light environmental handling charge
35 must be added to the purchase price of all mercury-containing lights
36 sold to Washington retailers for sale at retail, and each Washington
37 retailer shall add the charge to the purchase price of all mercury-
38 containing lights sold at retail in this state, and the producer
39 shall remit the environmental handling charge to the stewardship
40 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. The department must~~
18 ~~review the stewardship organization's recommended environmental~~
19 ~~handling charge and must adjust or approve the recommended charge~~
20 ~~within thirty days of submittal if the department determines that the~~
21 ~~charge is reasonably designed to meet the criteria described in~~
22 ~~subsection (1) of this section.~~

23 (5)) (2) Until calendar year 2029 of program implementation, a
24 stewardship organization that determines that the funds from the
25 environmental handling charge are not sufficient to sustain the
26 program must obtain any necessary additional funds by assessing
27 charges to participating legacy producers based on the market share
28 of the producer.

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

37 (i) To the extent data necessary to make such a calculation are
38 available, dividing each legacy producer's total units of mercury-
39 containing lights for which the producer had an obligation under this
40 chapter sold in Washington at any point in time between January 1,

1 2015, and December 31, 2028, by the sum total of all units of
2 mercury-containing lights sold in or into Washington by all
3 participating legacy producers at any point in time between January
4 1, 2015, and December 31, 2028; and

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

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

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

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

19 (A) Generally available market research data;

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

22 (C) Sales data supplied by producers; and

23 (D) Sales data provided by retailers.

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

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

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

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

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

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

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

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

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

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

34 (b) Maintain a spill and release response plan at the collection
35 location that describes the materials, equipment, and procedures that
36 will be used to respond to any mercury release from an unwanted
37 mercury-containing light;

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

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

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

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

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

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

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

36 ~~(4) The department shall send a written warning to a producer~~
37 ~~that fails to submit a product stewardship plan, update or change the~~
38 ~~plan when required, or submit an annual report as required under this~~
39 ~~chapter. The written warning must include compliance requirements and~~

1 notification that the requirements must be met within sixty days. If
2 requirements are not met within sixty days, the producer will be
3 assessed a ten thousand dollar penalty per day of noncompliance
4 starting with the first day of notice of noncompliance.

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

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

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

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

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

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

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

5 (i) Issue corrective action orders to a producer or stewardship
6 organization;

7 (ii) Issue orders to a stewardship organization to provide for
8 the continued implementation of the program in the absence of an
9 approved plan;

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

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

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

17 (b) Prior to taking the actions described in (a)(iii) of this
18 subsection, the department must provide the stewardship organization
19 or a producer an opportunity to respond to or rebut the written
20 finding upon which the action is predicated.

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

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

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

32 (3) No one may distribute or sell mercury-containing lights from
33 producers, or any lights in or into the state from legacy producers,
34 who are not participating in a product stewardship program or who are
35 not in compliance with this chapter and rules adopted under this
36 chapter.

37 (4) (a) The department shall serve, or send with delivery
38 confirmation, a written warning explaining the violation to any
39 person known to be distributing or selling mercury-containing lights

1 from producers, or any lights in or into the state from legacy
2 producers, who are not participating in a product stewardship program
3 or who are not in compliance with this chapter and rules adopted
4 under this chapter.

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

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

9 (ii) Make a determination as to whether or not to approve a plan,
10 plan update, or plan revision and notify the stewardship organization
11 of the:

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

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

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

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

26 (c) The approval of a plan by the department does not relieve
27 producers participating in the plan from responsibility for
28 fulfilling the requirements of this chapter.

29 ~~(5) ((Any person who continues to distribute or sell mercury-~~
30 ~~containing lights from a producer that is not participating in an~~
31 ~~approved product stewardship program sixty days after receiving a~~
32 ~~written warning from the department may be assessed a penalty two~~
33 ~~times the value of the products sold in violation of this chapter or~~
34 ~~five hundred dollars, whichever is greater. The penalty must be~~
35 ~~waived if the person verifies that the person has discontinued~~
36 ~~distribution or sales of mercury-containing lights within thirty days~~
37 ~~of the date the penalty is assessed. A retailer may appeal penalties~~
38 ~~to the pollution control hearings board.~~

39 ~~(6-))~~ The department shall adopt rules to implement this
40 ~~((section))~~ chapter.

1 ~~((7))~~ (6) A sale or purchase of mercury-containing lights as a
2 casual or isolated sale as defined in RCW 82.04.040 is not subject to
3 the provisions of this section.

4 ~~((8))~~ (7) A person primarily engaged in the business of reuse
5 and resale of ~~((a))~~ used mercury-containing lights is not subject to
6 the provisions of this section when selling used working mercury-
7 containing lights, for use in the same manner and purpose for which
8 ~~((it was))~~ the lights were originally purchased.

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

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

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

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

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

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

1 ~~(3))~~ By ~~((December 31, 2010))~~ November 1, 2029, and ~~((annually~~
2 ~~thereafter until))~~ December 31, ~~((2014))~~ 2035, the department shall
3 report to the appropriate committees of the legislature concerning
4 the status of the product stewardship program and recommendations for
5 changes to the provisions of this chapter.

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

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

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

35 ~~(7))~~ (4) Beginning October 1, 2014, the department shall
36 annually estimate the overall statewide recycling rate for mercury-
37 containing lights and calculate that portion of the recycling rate
38 attributable to the product stewardship program. The department may
39 require a stewardship organization to submit data as needed for the
40 department to make the estimations required by this subsection.

1 ~~((8))~~ (5) The department may require submission of independent
2 performance evaluations and report evaluations documenting the
3 effectiveness of mercury vapor barrier packaging in preventing the
4 escape of mercury into the environment. The department may restrict
5 the use of packaging for which adequate documentation has not been
6 provided. Restricted packaging may not be used in any product
7 stewardship program required under this chapter.

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

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

25 (2) The department shall actively supervise the conduct of the
26 stewardship organization, the producers of mercury-containing lights,
27 and entities in the distribution chain ~~((in determination and
28 implementation of the environmental handling charge authorized by))~~
29 under this chapter.

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

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

34 (a) Producers, with respect to environmental handling charges
35 added to the purchase price of mercury-containing lights either by
36 the producer or a retailer pursuant to an agreement with the
37 producer;

1 (b) Retailers, with respect to environmental handling charges
2 added to the purchase price of mercury-containing lights sold at
3 retail, including the portion of environmental handling charges
4 retained as reimbursement for any costs associated with the
5 collection and remittance of the charges; and

6 (c) Stewardship organizations, with respect to environmental
7 handling charges received from producers and retailers and to the
8 receipts from charges to participating producers.

9 (2) This section is not subject to the requirements of RCW
10 82.32.805 and 82.32.808.

11 (3) For purposes of this section, the definitions in RCW
12 70A.505.020 apply.

13 **Sec. 16.** RCW 43.21B.110 and 2023 c 455 s 5, 2023 c 434 s 20,
14 2023 c 344 s 5, and 2023 c 135 s 6 are each reenacted and amended to
15 read as follows:

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

23 (a) Civil penalties imposed pursuant to RCW 18.104.155,
24 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100,
25 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050,
26 70A.245.070, 70A.245.080, 70A.245.130, 70A.245.140, 70A.65.200,
27 70A.455.090, 70A.550.030, 70A.555.110, 70A.560.020, 76.09.170,
28 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144,
29 90.56.310, 90.56.330, and 90.64.102.

30 (b) Orders issued pursuant to RCW 18.104.043, 18.104.060,
31 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070,
32 70A.245.020, 70A.65.200, 70A.505.100, 70A.555.110, 70A.560.020,
33 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

34 (c) Except as provided in RCW 90.03.210(2), the issuance,
35 modification, or termination of any permit, certificate, or license
36 by the department or any air authority in the exercise of its
37 jurisdiction, including the issuance or termination of a waste
38 disposal permit, the denial of an application for a waste disposal
39 permit, the modification of the conditions or the terms of a waste

1 disposal permit, or a decision to approve or deny an application for
2 a solid waste permit exemption under RCW 70A.205.260.

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

5 (e) Decisions of local health departments regarding the issuance
6 and enforcement of permits to use or dispose of biosolids under RCW
7 70A.226.090.

8 (f) Decisions of the department regarding waste-derived
9 fertilizer or micronutrient fertilizer under RCW 15.54.820, and
10 decisions of the department regarding waste-derived soil amendments
11 under RCW 70A.205.145.

12 (g) Decisions of local conservation districts related to the
13 denial of approval or denial of certification of a dairy nutrient
14 management plan; conditions contained in a plan; application of any
15 dairy nutrient management practices, standards, methods, and
16 technologies to a particular dairy farm; and failure to adhere to the
17 plan review and approval timelines in RCW 90.64.026.

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

21 (i) Decisions of the department of natural resources, the
22 department of fish and wildlife, and the department that are
23 reviewable under chapter 76.09 RCW, and the department of natural
24 resources' appeals of county, city, or town objections under RCW
25 76.09.050(7).

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

28 (k) Decisions of the department of fish and wildlife to issue,
29 deny, condition, or modify a hydraulic project approval permit under
30 chapter 77.55 RCW, to issue a stop work order, to issue a notice to
31 comply, to issue a civil penalty, or to issue a notice of intent to
32 disapprove applications.

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

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

39 (n) Decisions of the department of ecology that are appealable
40 under RCW 70A.245.020 to set recycled minimum postconsumer content

1 for covered products or to temporarily exclude types of covered
2 products in plastic containers from minimum postconsumer recycled
3 content requirements.

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

5 (2) The following hearings shall not be conducted by the hearings
6 board:

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

9 (b) Hearings conducted by the department pursuant to RCW
10 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100,
11 70A.15.3110, and 90.44.180.

12 (c) Appeals of decisions by the department under RCW 90.03.110
13 and 90.44.220.

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

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

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

21 A violation of this chapter, other than a violation of RCW
22 70A.230.020, is punishable by a civil penalty not to exceed (~~one~~
23 ~~thousand dollars~~) \$1,000 for each violation in the case of a first
24 violation. Repeat violators are liable for a civil penalty not to
25 exceed (~~five thousand dollars~~) \$5,000 for each repeat violation.
26 Penalties collected under this section must be deposited in the model
27 toxics control operating account created in RCW 70A.305.180.

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

30 The requirements of this chapter cease to apply beginning the
31 earlier of:

32 (1) January 1, 2039; or

33 (2) A date determined by the department, based on the diminishing
34 number of mercury-containing lights collected by the program reaching
35 a de minimis level where the continued expense and environmental cost
36 of implementing the program would result in continued costs that
37 outweigh the benefits of continuing the program, as calculated in a
38 cost-benefit analysis consistent with the requirements of RCW

1 34.05.328. Unless the department and stewardship organization agree
2 to a different cessation date prior to 2039 without carrying out a
3 cost-benefit analysis, the department must conduct cost-benefit
4 analyses under this subsection to be completed during calendar years
5 2032 and 2036.

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

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

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

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

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

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

25 NEW SECTION. **Sec. 20.** RCW 70A.505.090 (Producers must
26 participate in an approved product stewardship program) and 2010 c
27 130 s 9 are each repealed, effective January 1, 2029.

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

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

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

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

1 NEW SECTION. **Sec. 22.** The following acts or parts of acts are
2 each repealed effective January 1, 2040:

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

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

5 (3) RCW 70A.505.030 (Product stewardship program) and 2020 c 20 s
6 1415, 2014 c 119 s 3, & 2010 c 130 s 3;

7 (4) RCW 70A.505.040 (Submission of proposed product stewardship
8 plans—Department to establish rules—Public review—Plan update—
9 Annual report) and 2020 c 20 s 1416, 2017 c 254 s 2, 2014 c 119 s 4,
10 & 2010 c 130 s 4;

11 (5) RCW 70A.505.050 (Environmental handling charge—Annual fee)
12 and 2020 c 20 s 1417, 2017 c 254 s 1, 2014 c 119 s 5, & 2010 c 130 s
13 5;

14 (6) RCW 70A.505.060 (Collection and management of mercury) and
15 2010 c 130 s 6;

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

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

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

22 (10) RCW 70A.505.100 (Written warning—Penalty—Appeal) and 2010 c
23 130 s 10;

24 (11) RCW 70A.505.110 (Department's website to list producers
25 participating in product stewardship plan—Required participation in a
26 product stewardship plan—Written warning—Penalty—Rules—Exemptions)
27 and 2010 c 130 s 11;

28 (12) RCW 70A.505.120 (Product stewardship programs account—Refund
29 of fees) and 2017 c 254 s 3 & 2010 c 130 s 13;

30 (13) RCW 70A.505.130 (Adoption of rules—Report to the legislature
31 —Invitation to entities to comment on issues—Estimate of statewide
32 recycling rate for mercury-containing lights—Mercury vapor barrier
33 packaging) and 2010 c 130 s 14;

34 (14) RCW 70A.505.140 (Application of chapter to the Washington
35 utilities and transportation commission) and 2010 c 130 s 15;

36 (15) RCW 70A.505.150 (Application of chapter to entities
37 regulated under chapter 70A.300 RCW) and 2020 c 20 s 1418 & 2010 c
38 130 s 16;

1 (16) RCW 70A.505.160 (Immunity from antitrust liability) and 2014
2 c 119 s 6;
3 (17) RCW 70A.505.900 (Chapter liberally construed) and 2010 c 130
4 s 17; and
5 (18) RCW 70A.505.901 (Severability—2010 c 130) and 2010 c 130 s
6 21.

7 NEW SECTION. **Sec. 23.** If any provision of this act or its
8 application to any person or circumstance is held invalid, the
9 remainder of the act or the application of the provision to other
10 persons or circumstances is not affected.

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