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**SUBSTITUTE HOUSE BILL 2800**

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**State of Washington                      60th Legislature                      2008 Regular Session**

**By** House Select Committee on Environmental Health (originally sponsored by Representatives Chase, Hunt, Eickmeyer, Wood, and Goodman)

READ FIRST TIME 02/06/08.

1            AN ACT Relating to managing the use and disposal of mercury-added  
2 products; amending RCW 70.95M.010, 70.95M.020, 70.95M.050, and  
3 70.95M.080; adding a new section to chapter 70.95M RCW; creating new  
4 sections; and providing an expiration date.

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

6            NEW SECTION.    **Sec. 1.** The legislature finds and declares the  
7 following:

8            (1) Mercury is a persistent, bioaccumulative toxin that can damage  
9 the central nervous and cardiovascular systems in humans;

10           (2) Mercury-added products, when broken or improperly disposed of,  
11 can release mercury into the environment;

12           (3) Mercury-added lamps in particular have been identified as a  
13 major source of mercury, which can be released during improper  
14 disposal;

15           (4) While the harmful effects of mercury have been identified, the  
16 state has not taken steps to prevent mercury-added products, including  
17 mercury-added lamps, from being disposed of in landfills;

18           (5) Many Washington counties, however, have recognized the harmful

1 effects of disposal of mercury-added lamps in waste facilities and have  
2 put lamp disposal bans in place;

3 (6) The rate of recycling of mercury-added lamps has been low in  
4 recent years, only about twenty percent of all fluorescent lamps are  
5 recycled each year in Washington state, while the remaining eighty  
6 percent continue to be disposed of in solid waste facilities;

7 (7) Mounting concerns about climate change are compelling some  
8 individuals and businesses to switch from traditional incandescent  
9 lighting sources to more efficient lighting sources, such as compact  
10 fluorescent lamps, which contain mercury; and

11 (8) As more individuals and businesses move towards using  
12 fluorescent lamps, the need to develop comprehensive new policies to  
13 prevent fluorescent lamps from being disposed of in solid waste  
14 facilities and to instead encourage the recycling of such products  
15 becomes more pressing.

16 Therefore, in order to continue to take steps to reduce the release  
17 of mercury, and to encourage the safe disposal of fluorescent lamps in  
18 the state, the legislature finds that the state should take action to  
19 prevent mercury-added products from being disposed of in solid waste  
20 facilities and to encourage widespread recycling of fluorescent lamps  
21 statewide.

22 **Sec. 2.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read  
23 as follows:

24 The definitions in this section apply throughout this chapter  
25 unless the context clearly requires otherwise.

26 (1) (~~("Automotive mercury switch" includes a convenience switch,~~  
27 ~~such as a switch for a trunk or hood light, and a mercury switch in~~  
28 ~~antilock brake systems)) "Bulk mercury" includes any elemental,~~

29 nonamalgamated mercury, regardless of volume quantity or weight.

30 (2) "Department" means the department of ecology.

31 (3) "Director" means the director of the department of ecology.

32 (4) "Health care facility" includes a hospital, nursing home,  
33 extended care facility, long-term care facility, clinical or medical  
34 laboratory, state or private health or mental institution, clinic,  
35 physician's office, or health maintenance organization.

36 (5) "Manufacturer" includes any person, firm, association,  
37 partnership, corporation, governmental entity, organization, or joint

1 venture that produces a mercury-added product or an importer or  
2 domestic distributor of a mercury-added product produced in a foreign  
3 country. In the case of a multicomponent product containing mercury,  
4 the manufacturer is the last manufacturer to produce or assemble the  
5 product. If the multicomponent product or mercury-added product is  
6 produced in a foreign country, the manufacturer is the first importer  
7 or domestic distributor.

8 (6) "Mercury-added button-cell battery" means a button-cell battery  
9 to which the manufacturer intentionally introduces mercury for the  
10 operation of the battery.

11 (7) "Mercury-added general purpose lights" means mercury-added  
12 lamps, bulbs, tubes, or other devices that provide functional  
13 illumination in homes, offices, and outdoors.

14 (8) "Mercury-added novelty" means a mercury-added product intended  
15 mainly for personal or household enjoyment or adornment. Mercury-added  
16 novelties include, but are not limited to, items intended for use as  
17 practical jokes, figurines, adornments, toys, games, cards, ornaments,  
18 yard statues and figures, candles, jewelry, holiday decorations, items  
19 of apparel, and other similar products. Mercury-added novelty does not  
20 include games, toys, or products that require a button-cell or lithium  
21 battery, liquid crystal display screens, or a lamp that contains  
22 mercury.

23 ~~((+8))~~ (9) "Mercury-added product" means a product, commodity, or  
24 chemical, or a product with a component that contains mercury or a  
25 mercury compound intentionally added to the product, commodity, or  
26 chemical in order to provide a specific characteristic, appearance, or  
27 quality, or to perform a specific function, or for any other reason.  
28 Mercury-added products include, but are not limited to, those products  
29 listed in the interstate mercury education and reduction clearinghouse  
30 mercury-added products database, mercury thermometers, mercury  
31 thermostats, button-cell batteries, mercury barometers, and mercury  
32 switches ~~((in motor vehicles))~~ or relays.

33 ~~((+9))~~ (10) "Mercury manometer" means a mercury-added product that  
34 is used for measuring blood pressure.

35 ~~((+10))~~ (11) "Mercury thermometer" means a mercury-added product  
36 that is used for measuring temperature.

37 ~~((+11))~~ (12) "Retailer" means a retailer of a mercury-added  
38 product.

1       (13) "Switch" means any device, which may be referred to as a  
2 switch, sensor, valve, probe, control, transponder, or any other  
3 apparatus, that directly regulates or controls the flow of electricity,  
4 gas, or other compounds, such as relays or transponders. "Switch"  
5 includes all components of the unit necessary to perform its flow  
6 control function. The term "automotive mercury switch" includes a  
7 convenience switch, such as a switch for a trunk or hood light, and a  
8 mercury switch in antilock brake systems. The term "utility switch"  
9 includes, but is not limited to, all devices that open or close an  
10 electrical circuit or a liquid or gas valve. The term "utility relay"  
11 includes, but is not limited to, all products or devices that open or  
12 close electrical contacts to control the operation of other devices in  
13 the same or another electrical circuit.

14       (14) "Wholesaler" means a wholesaler of a mercury-added product.

15       **Sec. 3.** RCW 70.95M.020 and 2003 c 260 s 3 are each amended to read  
16 as follows:

17       (1) Effective January 1, 2004, a manufacturer, wholesaler, or  
18 retailer may not knowingly sell at retail a fluorescent lamp if the  
19 fluorescent lamp contains mercury and was manufactured after November  
20 30, 2003, unless the fluorescent lamp is labeled in accordance with the  
21 guidelines listed under subsection (2) of this section. Primary  
22 responsibility for affixing labels required under this section is on  
23 the manufacturer, and not on the wholesaler or retailer.

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

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

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

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

1           (4) (~~The provisions of this section do not apply to products~~  
2 ~~containing mercury added~~) (a) Effective July 1, 2010, all state-funded  
3 public agency facilities, including but not limited to educational  
4 institutions, must recycle their fluorescent lamps. An exemption  
5 process may be established by the department to accommodate small local  
6 governments and educational institutions serving populations less than  
7 five thousand people.

8           (b) Effective January 1, 2011, all commercial, industrial, and  
9 retail facilities and office buildings must recycle their fluorescent  
10 lamps.

11           **Sec. 4.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read  
12 as follows:

13           (1) Effective January 1, 2006, no person may sell, offer for sale,  
14 or distribute for sale or use in this state a mercury-added novelty.  
15 A manufacturer of mercury-added novelties must notify all retailers  
16 that sell the product about the provisions of this section and how to  
17 properly dispose of any remaining mercury-added novelty inventory.

18           (2)(a) Effective January 1, 2006, no person may sell, offer for  
19 sale, or distribute for sale or use in this state a manometer used to  
20 measure blood pressure or a thermometer that contains mercury. This  
21 subsection (2)(a) does not apply to:

22           (i) An electronic thermometer with a button-cell battery containing  
23 mercury;

24           (ii) A thermometer that contains mercury and that is used for food  
25 research and development or food processing, including meat, dairy  
26 products, and pet food processing;

27           (iii) A thermometer that contains mercury and that is a component  
28 of an animal agriculture climate control system or industrial  
29 measurement system or for veterinary medicine until such a time as the  
30 system is replaced or a nonmercury component for the system or  
31 application is available;

32           (iv) A thermometer or manometer that contains mercury that is used  
33 for calibration of other thermometers, manometers, apparatus, or  
34 equipment, unless a nonmercury calibration standard is approved for the  
35 application by the national institute of standards and technology;

36           (v) A thermometer that is provided by prescription. A manufacturer

1 of a mercury thermometer shall supply clear instructions on the careful  
2 handling of the thermometer to avoid breakage and proper cleanup should  
3 a breakage occur; or

4 (vi) A manometer or thermometer sold or distributed to a hospital,  
5 or a health care facility controlled by a hospital, if the hospital has  
6 adopted a plan for mercury reduction consistent with the goals of the  
7 mercury chemical action plan developed by the department under section  
8 302, chapter 371, Laws of 2002.

9 (b) A manufacturer of thermometers that contain mercury must notify  
10 all retailers that sell the product about the provisions of this  
11 section and how to properly dispose of any remaining thermometer  
12 inventory.

13 (3) Effective January 1, 2006, no person may sell, install, or  
14 reinstall a commercial or residential thermostat that contains mercury  
15 unless the manufacturer of the thermostat conducts or participates in  
16 a thermostat recovery or recycling program designed to assist  
17 contractors in the proper disposal of thermostats that contain mercury  
18 in accordance with 42 U.S.C. Sec. 6901, et seq., the federal resource  
19 conservation and recovery act.

20 (4) No person may sell, offer for sale, or distribute for sale or  
21 use in this state a motor vehicle manufactured after January 1, 2006,  
22 if the motor vehicle contains an automotive mercury switch.

23 (5) Nothing in this section restricts the ability of a  
24 manufacturer, importer, or domestic distributor from transporting  
25 products through the state, or storing products in the state for later  
26 distribution outside the state.

27 (6) Effective June 30, 2009, the sale or purchase and delivery of  
28 bulk mercury is prohibited. However, the prohibition in this  
29 subsection does not apply to sales to research facilities or industrial  
30 facilities that provide products or services to entities exempted from  
31 this chapter. The facilities described in this subsection must submit  
32 an inventory of their purchase and use of bulk mercury to the  
33 department on an annual basis, as well as any mercury waste generated  
34 from such actions.

35 **NEW SECTION. Sec. 5.** A new section is added to chapter 70.95M RCW  
36 to read as follows:

37 (1) Effective January 1, 2012, a person may not dispose of mercury-

1 added products in a manner other than by recycling or disposal as  
2 dangerous waste or universal waste as determined appropriate by the  
3 department by rule, or in accordance with recommendations made in  
4 section 7(4) of this act, or with a memorandum of understanding  
5 executed with the department. This section does not apply to entities  
6 or individuals who are in the business of collecting, transporting, or  
7 disposing of solid waste.

8 (2) Effective January 1, 2012, a person may not discharge mercury  
9 into water, wastewater treatment, or wastewater disposal systems. This  
10 subsection applies, but is not limited to, reagents, medications,  
11 amalgam, and other mixtures that contain mercury. Dental offices that  
12 are in compliance with the department of ecology's mercury action plan  
13 regarding the discharge of wastewater from dental offices are exempt  
14 from this section.

15 (3) Owners and operators of solid waste management facilities are  
16 required to implement the following:

17 (a) Posting signs at the facility providing notice of the  
18 prohibition of the disposal and incineration of mercury-added products;  
19 and

20 (b) Written notification to or contractual agreements with the  
21 facility's customers on a frequency, determined by the department,  
22 providing notice of the prohibition on the disposal and incineration of  
23 mercury-added products.

24 (4) If a formulated mercury-added product is a cosmetic or  
25 pharmaceutical product subject to the regulatory requirements relating  
26 to mercury of the federal food and drug administration, or a device  
27 regulated by the federal food and drug administration, then the product  
28 is exempt from the requirements of this section.

29 **Sec. 6.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read  
30 as follows:

31 (1) In preparation for the full implementation of this chapter, the  
32 department shall make every effort to educate all persons regarding the  
33 requirements of this chapter, especially the necessity to reduce use of  
34 mercury and properly recycle mercury products. A violation of this  
35 chapter is punishable by a civil penalty not to exceed one thousand  
36 dollars for each violation in the case of a first violation. Repeat  
37 violators are liable for a civil penalty not to exceed five thousand

1 dollars for each repeat violation. Penalties collected under this  
2 section must be deposited in the state toxics control account created  
3 in RCW 70.105D.070.

4 (2) Households are exempt from the penalties under this section.

5 NEW SECTION. **Sec. 7.** (1) The department of ecology, in  
6 consultation with the solid waste advisory committee created under RCW  
7 70.95.040, shall conduct research and develop recommendations for the  
8 implementation and financing of a convenient and effective mercury-  
9 added general purpose lighting recycling program for residents, small  
10 businesses, small government agencies, charities, and schools  
11 throughout the state. The department and the solid waste advisory  
12 committee shall consult with stakeholders including persons who  
13 represent retailers of mercury-added general purpose lighting, waste  
14 haulers, mercury-added general purpose lighting recyclers, mercury-  
15 added general purpose lighting manufacturers, cities, counties,  
16 environmental organizations, public interest organizations, and other  
17 interested parties that have a role or interest in the recycling of  
18 mercury-added general purpose lighting.

19 (2) The department of ecology shall assess ways for a convenient  
20 and effective statewide recycling program for mercury-added general  
21 purpose lighting to be established and financed. Factors to be  
22 considered include:

23 (a) Urban versus rural recycling challenges and issues;

24 (b) The involvement of mercury-added general purpose lighting  
25 manufacturers;

26 (c) Different methods of financing the recycling programs for  
27 mercury-added general purpose lighting;

28 (d) Methods to encourage the return of mercury-added general  
29 purpose lighting for recycling;

30 (e) The impact of the approach on local governments, nonprofit  
31 organizations, waste haulers, and other stakeholders;

32 (f) Information obtained from existing mercury-adding general  
33 purpose lighting recycling programs, particularly those programs that  
34 exist in counties that prohibit the disposal of mercury-adding general  
35 purpose lighting in solid waste facilities, and information obtained  
36 from existing infrastructure for recycling of mercury-added general  
37 purpose lighting; and

1 (g) Environmentally sound options for managing the mercury.

2 (3) The department of ecology shall also develop a description of  
3 what could be accomplished voluntarily and what would require  
4 regulation or legislation if needed to implement the recommended  
5 statewide recycling program for mercury-added general purpose lighting.

6 (4) The department of ecology shall report its findings and  
7 recommendations for implementing and financing a recycling program for  
8 mercury-added general purpose lighting to the appropriate committees of  
9 the legislature by December 1, 2008.

10 (5) This section expires September 1, 2009.

11 NEW SECTION. **Sec. 8.** By July 1, 2009, the department of ecology,  
12 in consultation with the United States environmental protection agency,  
13 shall study the feasibility of the development of a national repository  
14 for mercury. The department of ecology shall develop recommendations  
15 and provide its findings to the appropriate committees of the  
16 legislature by December 1, 2009.

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