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SENATE BILL 6502

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State of Washington

60th Legislature

2008 Regular Session

By Senators Oemig, Rasmussen, and Kline

Read first time 01/17/08. Referred to Committee on Water, Energy & Telecommunications.

1 AN ACT Relating to mercury reduction; amending RCW 70.95M.010,  
2 70.95M.020, 70.95M.050, and 70.95M.080; adding new sections to chapter  
3 70.95M RCW; and repealing RCW 70.95M.090.

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

5 **Sec. 1.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read  
6 as follows:

7 The definitions in this section apply throughout this chapter  
8 unless the context clearly requires otherwise.

9 (1) (~~"Automotive mercury switch" includes a convenience switch,~~  
10 ~~such as a switch for a trunk or hood light, and a mercury switch in~~  
11 ~~antilock brake systems)) "Bulk mercury" includes any elemental,  
12 nonamalgamated mercury, regardless of volume quantity or weight.~~

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

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

15 (4) "General purpose lights" means lamps, bulbs, tubes, or other  
16 devices that provide functional illumination in homes, offices, and  
17 outdoors.

18 (5) "Health care facility" includes a hospital, nursing home,

1 extended care facility, long-term care facility, clinical or medical  
2 laboratory, state or private health or mental institution, clinic,  
3 physician's office, or health maintenance organization.

4 ~~((+5))~~ (6) "Manufacturer" includes any person, firm, association,  
5 partnership, corporation, governmental entity, organization, or joint  
6 venture that produces or has previously produced a mercury-added  
7 product or an importer or domestic distributor of a mercury-added  
8 product produced in a foreign country. In the case of a multicomponent  
9 product containing mercury, the manufacturer is the last manufacturer  
10 to produce or assemble the product. If the multicomponent product or  
11 mercury-added product is produced in a foreign country, the  
12 manufacturer is the first importer or domestic distributor.

13 ~~((+6))~~ (7) "Mercury-added button-cell battery" means a button-cell  
14 battery to which the manufacturer intentionally introduces mercury for  
15 the operation of the battery.

16 ~~((+7))~~ (8) "Mercury-added novelty" means a mercury-added product  
17 intended mainly for personal or household enjoyment or adornment.  
18 Mercury-added novelties include, but are not limited to, items intended  
19 for use as practical jokes, figurines, adornments, toys, games, cards,  
20 ornaments, yard statues and figures, candles, jewelry, holiday  
21 decorations, items of apparel, and other similar products. Mercury-  
22 added novelty does not include games, toys, or products that require a  
23 button-cell or lithium battery, liquid crystal display screens, or a  
24 lamp that contains mercury.

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

35 ~~((+9))~~ (10) "Mercury manometer" means a mercury-added product that  
36 is used for measuring blood pressure.

37 ~~((+10))~~ (11) "Mercury thermometer" means a mercury-added product  
38 that is used for measuring temperature.

1       (~~(11)~~) (12) "Retailer" means a retailer of a mercury-added  
2 product.

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

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

17       **Sec. 2.** RCW 70.95M.020 and 2003 c 260 s 3 are each amended to read  
18 as follows:

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

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

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

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

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

4 ~~(4) ((The provisions of this section do not apply to products~~  
5 ~~containing mercury added lamps))~~ Effective January 1, 2010, all  
6 end-of-life fluorescent lamps from state-funded public agency  
7 facilities including, but not limited to, learning institutions must be  
8 recycled. Effective January 1, 2011, all end-of-life fluorescent lamps  
9 generated from commercial, industrial, and retail facilities and office  
10 buildings must be recycled.

11 (5) By January 1, 2010, every manufacturer of general purpose  
12 lights sold in this state and containing hazardous materials shall  
13 finance and implement at no additional cost to consumers a system  
14 capable of recovering eighty percent of these general purpose lights to  
15 provide for the collection, transportation, recycling, and processing  
16 of any end-of-life general purpose lights generated in this state from  
17 households and small businesses.

18 (a) All manufacturers of general purpose lights shall submit a plan  
19 to the department for the collection, transportation, recycling,  
20 processing, and proper management of end-of-life general purpose lights  
21 generated in this state. At a minimum, the plan must include all of  
22 the following:

23 (i) A description of the system to collect, transport, recycle,  
24 process, and manage end-of-life general purpose lights;

25 (ii) A description of how the system will provide service to  
26 households and small businesses;

27 (iii) A description of the collection services that will be  
28 provided throughout the state, including the number and frequency of  
29 collection opportunities; and

30 (iv) A consumer education program describing safe handling of  
31 general purpose lights containing hazardous materials and recycling  
32 opportunities presented in the plan.

33 (b) Manufacturers must provide collection opportunities as  
34 convenient as disposal opportunities within the communities in which  
35 the services are provided. Services must be provided in every city in  
36 the state with a population greater than ten thousand and at least one  
37 opportunity in every county within the state. Manufacturers must

1 fairly compensate collectors, transporters, and processors for  
2 providing services.

3 (c) Manufacturers are encouraged to collaborate with retailers,  
4 recyclers, consumers, electric utilities, trade organizations,  
5 nongovernmental organizations, and local governments in the development  
6 and implementation of a system that ensures proper management of end-  
7 of-life general purpose lights.

8 (d) Manufacturers may collaborate and submit a joint plan.

9 (e) Manufacturer plans must be submitted to the department for  
10 review and approval by June 30, 2009. When approving the plan, the  
11 department shall take into consideration the geographic and economic  
12 differences across the state to ensure that all households are equally  
13 provided an effective lamp recycling service. Manufacturers shall  
14 report to the department annually the amount of general purpose lights  
15 recovered for recycling.

16 (6)(a) The department shall assist manufacturers with developing  
17 their plans, as required under section 5 of this act, to recover and  
18 recycle general purpose lights.

19 (b) The department shall establish an annual process for local  
20 governments and local communities to report their satisfaction with the  
21 services provided for recovery and recycling general purpose lights.

22 **Sec. 3.** RCW 70.95M.050 and 2003 c 260 s 6 are each amended to read  
23 as follows:

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

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

33 (i) An electronic thermometer with a button-cell battery containing  
34 mercury;

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

1 (iii) A thermometer that contains mercury and that is a component  
2 of an animal agriculture climate control system or industrial  
3 measurement system or for veterinary medicine until such a time as the  
4 system is replaced or a nonmercury component for the system or  
5 application is available;

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

10 (v) A thermometer that is provided by prescription. A manufacturer  
11 of a mercury thermometer shall supply clear instructions on the careful  
12 handling of the thermometer to avoid breakage and proper cleanup should  
13 a breakage occur; or

14 (vi) A manometer or thermometer sold or distributed to a hospital,  
15 or a health care facility controlled by a hospital, if the hospital has  
16 adopted a plan for mercury reduction consistent with the goals of the  
17 mercury chemical action plan developed by the department under section  
18 302, chapter 371, Laws of 2002.

19 (b) A manufacturer of thermometers that contain mercury must notify  
20 all retailers that sell the product about the provisions of this  
21 section and how to properly dispose of any remaining thermometer  
22 inventory.

23 (3) Effective January 1, ~~((2006))~~ 2009, no person may sell,  
24 install, or reinstall a commercial or residential thermostat that  
25 contains mercury ~~((unless the))~~. Thermostat manufacturers ~~((of the~~  
26 ~~thermostat))~~ shall conduct~~((s))~~ or participate~~((s))~~ in a thermostat  
27 recovery or recycling program designed to assist contractors and  
28 homeowners in the proper disposal of currently installed thermostats  
29 that contain mercury in accordance with 42 U.S.C. Sec. 6901, et seq.,  
30 the federal resource conservation and recovery act.

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

34 (5) Nothing in this section restricts the ability of a  
35 manufacturer, importer, or domestic distributor from transporting  
36 products through the state~~((, or storing products in the state for~~  
37 ~~later distribution outside the state))~~.

1       (6) Effective June 30, 2009, the sale or purchase of bulk mercury  
2 is prohibited, including sales through the internet or sales by private  
3 parties, except sales to research facilities, or industrial facilities  
4 that provide products or services to entities exempted from this  
5 chapter. The facilities described in this subsection must submit an  
6 inventory of their purchase and use of bulk mercury to the department  
7 annually until 2015, as well as any mercury waste generated from such  
8 actions.

9       (7) Effective January 1, 2009, the manufacture, wholesale, or  
10 retail of any mercury-added product is prohibited if a safer and  
11 environmentally benign alternative, as identified by the interstate  
12 mercury education and reduction clearinghouse, exists.

13       **Sec. 4.** RCW 70.95M.080 and 2003 c 260 s 9 are each amended to read  
14 as follows:

15       (1) The department shall, to the extent practicable, make every  
16 effort to educate all persons regarding the requirements of this  
17 chapter, in preparation for its full implementation. A violation of  
18 this chapter is punishable by a civil penalty not to exceed one  
19 thousand dollars for each violation in the case of a first violation.  
20 Repeat violators are liable for a civil penalty not to exceed five  
21 thousand dollars for each repeat violation. Penalties collected under  
22 this section must be deposited in the state toxics control account  
23 created in RCW 70.105D.070.

24       (2) Households are exempt from penalties under this chapter.

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

27       (1) Effective January 1, 2012, no person shall dispose of mercury-  
28 added products in a manner other than by recycling or disposal as  
29 hazardous waste.

30       (2) Effective January 1, 2012, no person shall discharge mercury to  
31 water, wastewater treatment, or wastewater disposal systems. This  
32 subsection applies, but is not limited to, reagents, medications,  
33 amalgam and other mixtures that contain mercury.

34       (3) Effective January 1, 2012, mercury-added products may only be  
35 disposed of in a hazardous waste disposal or recycling facility  
36 approved by the department.

1 (4) At a minimum, owners and operators of solid waste management  
2 facilities are required to implement the following:

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

5 (b) Written notification to or contractual agreements with the  
6 facility's customers on a frequency, determined by the department,  
7 providing notice of the prohibition on the disposal and incineration of  
8 mercury-added products; and

9 (c) Implementation of a procedure approved by the department for  
10 periodically monitoring incoming wastes to detect the presence of  
11 mercury-added products at the facility.

12 (5) If a formulated mercury-added product is a cosmetic or  
13 pharmaceutical product subject to the regulatory requirements relating  
14 to mercury of the federal food and drug administration, then the  
15 product is exempt from the requirements of this section.

16 NEW SECTION. **Sec. 6.** A new section is added to chapter 70.95M RCW  
17 to read as follows:

18 (1) The department shall participate in national and global mercury  
19 forums to advocate reduction of global emissions and permanent  
20 isolation of elemental mercury.

21 (2) By July 1, 2009, the department, in consultation with the  
22 United States environmental protection agency, shall study the  
23 feasibility of the development of a national repository for mercury.  
24 The department shall develop recommendations and provide its findings  
25 to the appropriate committees of the legislature by December 1, 2009.

26 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.95M RCW  
27 to read as follows:

28 Authority is granted to public and private utilities to recover  
29 costs from ratepayers for mercury reduction activities associated with  
30 the replacement of switches and relays or other mercury-containing  
31 products resulting from their operations. Entities authorized to  
32 recover costs include the following: (1) Private entities, cities, or  
33 towns serving customers with water, electricity, or services for  
34 sewerage, storm water, surface water, or solid waste handling; (2)  
35 counties authorized to acquire and operate utilities, or conduct other



1 proprietary, user, or ratepayer funded activities; and (3) public  
2 utility districts.

3 NEW SECTION. **Sec. 8.** RCW 70.95M.090 (Crematories--  
4 Nonapplicability of chapter) and 2003 c 260 s 10 are each repealed.

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