

2SHB 1469 - H AMD 365

By Representative Rolfes

NOT CONSIDERED 04/26/2009

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

3 "NEW SECTION. **Sec. 1.** (1) The department of ecology shall develop
4 recommendations, including legislation, for a convenient and effective
5 mercury-containing light recycling program for residents, small
6 businesses, and small school districts throughout the state that is
7 funded and operated by producers of mercury-containing lights.

8 (2) The department of ecology shall involve and consult with
9 stakeholders including persons who represent retailers of mercury-
10 containing lights, waste haulers, mercury-containing light recyclers,
11 mercury-containing light manufacturers, cities, counties, environmental
12 organizations, public interest organizations, and other interested
13 parties that have a role or interest in the recycling of mercury-
14 containing lights.

15 (3) The department must consider the following factors in
16 developing recommendations:

- 17 (a) Urban versus rural recycling challenges and issues;
- 18 (b) Involvement of mercury-containing light manufacturers;
- 19 (c) Methods to encourage the return of mercury-containing lights
20 for recycling;
- 21 (d) The impact of the approach on local governments, nonprofit
22 organizations, waste haulers, and other stakeholders;
- 23 (e) Environmentally sound options for managing the mercury; and
- 24 (f) Alternatives that consider the curbside collection
25 infrastructure and system established in chapter 81.77 RCW when
26 developing collection systems for mercury-containing lights.

27 (4) The department of ecology must include the following elements
28 in a mercury-containing light recycling program:

- 29 (a) A method to establish recovery goals;

1 (b) A convenient collection system for residents, small businesses,
2 and small school districts;

3 (c) A processing and disposal system;

4 (d) Education and outreach activities, including consumer education
5 programs;

6 (e) Monitoring and reporting activities;

7 (f) Enforcement responsibilities and penalty assessments;

8 (g) A requirement that all producers of mercury-containing lights
9 must participate in a program to recycle mercury-containing lights.
10 Any producer not participating in a recycling program may not sell its
11 product in the state; and

12 (h) A requirement that a mercury-containing light recycling program
13 for residents, small businesses, or small school districts not charge
14 a fee when the lights are collected or delivered into the program.

15 (5) For the purposes of this section, the following definitions
16 apply:

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

20 (b) "Producer" means a person that:

21 (i) Has, on or after January 1, 2008, legal ownership of the brand,
22 brand name, or cobrand of mercury-containing lights sold in or into
23 Washington state;

24 (ii) Imports, on or after January 1, 2008, mercury-containing
25 lights branded by a producer that meets the requirements of (b)(i) of
26 this subsection and where that producer has no physical presence in the
27 United States;

28 (iii) If (b)(i) and (ii) of this subsection do not apply, makes or
29 made an unbranded mercury-containing light that is sold or has been
30 sold in or into Washington state; or

31 (iv)(A) Sells, on or after January 1, 2008, at wholesale or retail
32 mercury-containing lights; (B) does not have legal ownership of the
33 brand; and (C) elects to fulfill the responsibilities of the producer
34 for that product.

35 (6) The department of ecology shall report its findings and
36 recommendations for a recycling program for mercury-containing lights
37 to the appropriate committees of the legislature by December 1, 2009.

38 (7) This section expires September 1, 2010.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 70.95M RCW
2 to read as follows:

3 Effective January 1, 2012, all government, commercial, industrial,
4 and retail facilities and office buildings, including public schools
5 serving K-12, must recycle their end-of-life mercury-containing lights.
6 The department must exempt public schools serving K-12 that are not
7 large quantity generators from this requirement until a program is
8 established that provides free recycling for mercury-containing lights.

9 **Sec. 3.** RCW 70.95M.010 and 2003 c 260 s 2 are each amended to read
10 as follows:

11 The definitions in this section apply throughout this chapter
12 unless the context clearly requires otherwise.

13 (1) "Automotive mercury switch" includes a convenience switch, such
14 as a switch for a trunk or hood light, and a mercury switch in antilock
15 brake systems.

16 (2) "Bulk mercury" includes any elemental, nonamalgamated mercury,
17 regardless of volume quantity or weight.

18 (3) "Department" means the department of ecology.

19 ((+3)) (4) "Director" means the director of the department of
20 ecology.

21 ((+4)) (5) "Health care facility" includes a hospital, nursing
22 home, extended care facility, long-term care facility, clinical or
23 medical laboratory, state or private health or mental institution,
24 clinic, physician's office, or health maintenance organization.

25 ((+5)) (6) "Manufacturer" includes any person, firm, association,
26 partnership, corporation, governmental entity, organization, or joint
27 venture that produces a mercury-added product or an importer or
28 domestic distributor of a mercury-added product produced in a foreign
29 country. In the case of a multicomponent product containing mercury,
30 the manufacturer is the last manufacturer to produce or assemble the
31 product. If the multicomponent product or mercury-added product is
32 produced in a foreign country, the manufacturer is the first importer
33 or domestic distributor.

34 ((+6)) (7) "Mercury-added button-cell battery" means a button-cell
35 battery to which the manufacturer intentionally introduces mercury for
36 the operation of the battery.

1 (~~(7)~~) (8) "Mercury-added novelty" means a mercury-added product
2 intended mainly for personal or household enjoyment or adornment.
3 Mercury-added novelties include, but are not limited to, items intended
4 for use as practical jokes, figurines, adornments, toys, games, cards,
5 ornaments, yard statues and figures, candles, jewelry, holiday
6 decorations, items of apparel, and other similar products. Mercury-
7 added novelty does not include games, toys, or products that require a
8 button-cell or lithium battery, liquid crystal display screens, or a
9 lamp that contains mercury.

10 (~~(8)~~) (9) "Mercury-added product" means a product, commodity, or
11 chemical, or a product with a component that contains mercury or a
12 mercury compound intentionally added to the product, commodity, or
13 chemical in order to provide a specific characteristic, appearance, or
14 quality, or to perform a specific function, or for any other reason.
15 Mercury-added products include, but are not limited to, mercury
16 thermometers, mercury thermostats, and mercury switches in motor
17 vehicles.

18 (~~(9)~~) (10) "Mercury manometer" means a mercury-added product that
19 is used for measuring blood pressure.

20 (~~(10)~~) (11) "Mercury thermometer" means a mercury-added product
21 that is used for measuring temperature.

22 (~~(11)~~) (12) "Retailer" means a retailer of a mercury-added
23 product.

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

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

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

35 (i) An electronic thermometer with a button-cell battery containing
36 mercury;

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

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

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

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

17 (vi) A manometer or thermometer sold or distributed to a hospital,
18 or a health care facility controlled by a hospital, if the hospital has
19 adopted a plan for mercury reduction consistent with the goals of the
20 mercury chemical action plan developed by the department under section
21 302, chapter 371, Laws of 2002.

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

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

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

36 (5) Nothing in this section restricts the ability of a
37 manufacturer, importer, or domestic distributor from transporting

1 products through the state, or storing products in the state for later
2 distribution outside the state.

3 (6) Effective June 30, 2011, the sale or purchase and delivery of
4 bulk mercury is prohibited, including sales through the internet or
5 sales by private parties. However, the prohibition in this subsection
6 does not apply to immediate dangerous waste recycling facilities or
7 treatment, storage, and disposal facilities as approved by the
8 department and sales to research facilities or industrial facilities
9 that provide products or services to entities exempted from this
10 chapter. The facilities described in this subsection must submit an
11 inventory of their purchase and use of bulk mercury to the department
12 on an annual basis, as well as any mercury waste generated from such
13 actions.

14 NEW SECTION. Sec. 5. A new section is added to chapter 70.95M RCW
15 to read as follows:

16 (1) All mercury-added products, including mercury-containing
17 lights, collected for recycling must be recycled. Mercury and mercury-
18 bearing residuals from recycling of mercury-added products must be
19 retorted at a facility that has the required permits and licenses.

20 (2) Mercury recovered from retorting must be recycled or placed in
21 a properly permitted hazardous waste landfill."

22 Correct the title.

EFFECT: Strikes all provisions of the underlying bill and adds provisions that do the following:

Directs the department of ecology (DOE) to develop recommendations, including legislation, for a convenient and effective mercury-containing light recycling program for residents, small businesses, and small school districts that is funded and operated by producers of mercury-containing lights and report its recommendations to the legislature by December 1, 2009.

Requires that government, commercial, industrial, and retail facilities and office buildings, including public schools serving K-12, to recycle mercury-containing lights. DOE must provide an exception for schools that are not large quantity hazardous waste generators until a free recycling program is available to them.

Prohibits the sale and purchase of bulk mercury as of June 30, 2011.

Requires that all mercury-added products that are collected for recycling must be recycled. Mercury recovered from the recycling process must be recycled or placed in a hazardous waste landfill.

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