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HOUSE BILL 1809

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State of Washington                      61st Legislature                      2009 Regular Session

By Representatives Chase and Moeller

Read first time 01/29/09. Referred to Committee on Environmental Health.

1            AN ACT Relating to mercury reduction; amending RCW 70.95M.010,  
2            70.95M.020, 70.95M.050, and 70.95M.080; adding a new section to chapter  
3            70.95M RCW; creating a new section; repealing RCW 70.95M.090; and  
4            providing an expiration date.

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

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

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

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

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

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

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

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

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

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

16 (8) "Mercury-added novelty" means a mercury-added product intended  
17 mainly for personal or household enjoyment or adornment. Mercury-added  
18 novelties include, but are not limited to, items intended for use as  
19 practical jokes, figurines, adornments, toys, games, cards, ornaments,  
20 yard statues and figures, candles, jewelry, holiday decorations, items  
21 of apparel, and other similar products. Mercury-added novelty does not  
22 include games, toys, or products that require a button-cell or lithium  
23 battery, liquid crystal display screens, or a lamp that contains  
24 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, mercury barometers, lamps, and mercury switches  
34 ~~((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 (~~(The provisions of this section do not apply to products~~  
5 ~~containing mercury added lamps.))~~ (a) Effective January 1, 2011, all  
6 state-funded public agency facilities including, but not limited to,  
7 learning institutions must recycle their end-of-life mercury-added  
8 general purpose lights. An exception process may be established by the  
9 department to accommodate small local governments and educational  
10 institutions serving populations less than five thousand people.

11 (b) Effective July 1, 2011, all commercial, industrial, and retail  
12 facilities and office buildings must recycle their end-of-life  
13 mercury-added general purpose lights.

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

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

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

25 (i) An electronic thermometer with a button-cell battery containing  
26 mercury;

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

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

35 (iv) A thermometer or manometer that contains mercury that is used  
36 for calibration of other thermometers, manometers, apparatus, or

1 equipment, unless a nonmercury calibration standard is approved for the  
2 application by the national institute of standards and technology;

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

7 (vi) A manometer or thermometer sold or distributed to a hospital,  
8 or a health care facility controlled by a hospital, if the hospital has  
9 adopted a plan for mercury reduction consistent with the goals of the  
10 mercury chemical action plan developed by the department under section  
11 302, chapter 371, Laws of 2002.

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

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

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

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

30 (6) Effective June 30, 2010, the sale or purchase and delivery of  
31 bulk mercury is prohibited, including sales through the internet or  
32 sales by private parties. However, the prohibition in this subsection  
33 does not apply to immediate dangerous waste recycling facilities or  
34 treatment, storage, and disposal facilities as approved by the  
35 department and sales to research facilities, or industrial facilities  
36 that provide products or services to entities exempted from this  
37 chapter. The facilities described in this subsection must submit an

1 inventory of their purchase and use of bulk mercury to the department  
2 on an annual basis, as well as any mercury waste generated from such  
3 actions.

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

6 (1) The department shall, to the extent practicable, make every  
7 effort to educate all persons regarding the requirements of this  
8 chapter, in preparation for its full implementation. A violation of  
9 this chapter is punishable by a civil penalty not to exceed one  
10 thousand dollars for each violation in the case of a first violation.  
11 Repeat violators are liable for a civil penalty not to exceed five  
12 thousand dollars for each repeat violation. Penalties collected under  
13 this section must be deposited in the state toxics control account  
14 created in RCW 70.105D.070.

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

16 NEW SECTION. **Sec. 5.** 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, 2010, 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, 2010.

26 NEW SECTION. **Sec. 6.** (1) The department of ecology, in  
27 consultation with the solid waste advisory committee created under RCW  
28 70.95.040, shall conduct research and develop recommendations for the  
29 implementation and financing of a convenient and effective  
30 mercury-added general purpose light recycling program for residents,  
31 small businesses, small government agencies, charities, and schools  
32 throughout the state. The department of ecology and the solid waste  
33 advisory committee shall consult with stakeholders including persons  
34 who represent retailers of mercury-added general purpose lights, waste  
35 haulers, mercury-added general purpose light recyclers, mercury-added

1 general purpose light manufacturers, cities, counties, environmental  
2 organizations, public interest organizations, and other interested  
3 parties that have a role or interest in the recycling of mercury-added  
4 general purpose lights.

5 (2) The department of ecology shall assess ways for a convenient  
6 and effective statewide recycling program for mercury-added general  
7 purpose lights to be established and financed. Factors to be  
8 considered include:

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

10 (b) The involvement of mercury-added general purpose light  
11 manufacturers;

12 (c) Different methods of financing the recycling programs for  
13 mercury-added general purpose lights;

14 (d) Methods to encourage the return of mercury-added general  
15 purpose lights for recycling;

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

18 (f) Information obtained from existing mercury-added general  
19 purpose light recycling programs, particularly those programs that  
20 exist in counties that prohibit the disposal of mercury-added general  
21 purpose lights in solid waste facilities, and information obtained from  
22 existing infrastructure for recycling of mercury-added general purpose  
23 lights; and

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

25 (3)(a) The department of ecology shall consider alternatives that  
26 utilize the infrastructure and system established in chapter 81.77 RCW  
27 when developing collection systems for general purpose mercury-added  
28 lights.

29 (b) Nothing in this act changes or limits the authority of the  
30 Washington utilities and transportation commission to regulate  
31 collection of solid waste in the state of Washington, including  
32 curbside collection or residential recyclable materials, nor does this  
33 act change or limit the authority of a city or town to provide such  
34 service itself or by contract under RCW 81.77.020.

35 (4) The department of ecology shall also develop a description of  
36 what could be accomplished voluntarily and what would require the  
37 adoption of rules or legislation if needed to implement the recommended  
38 statewide recycling program for mercury-added general purpose lights.

1 (5) The department of ecology shall report its findings and  
2 recommendations for implementing and financing a recycling program for  
3 mercury-added general purpose lights to the appropriate committees of  
4 the legislature by December 1, 2009.

5 (6) This section expires September 1, 2010.

6 NEW SECTION. **Sec. 7.** RCW 70.95M.090 (Crematories--  
7 Nonapplicability of chapter) and 2003 c 260 s 10 are each repealed.

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