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**SUBSTITUTE HOUSE BILL 1469**

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**State of Washington**

**61st Legislature**

**2009 Regular Session**

**By** House Environmental Health (originally sponsored by Representatives Hunt, Campbell, Dickerson, Anderson, Chase, Carlyle, Hudgins, Kagi, Darneille, Sells, Van De Wege, Appleton, Dunshee, Upthegrove, Rolfes, Nelson, Morrell, Wood, Lias, O'Brien, Goodman, Hasegawa, White, Conway, Kenney, and Pedersen)

READ FIRST TIME 02/23/09.

1       AN ACT Relating to establishing product stewardship recycling  
2 programs for mercury-containing lights; adding a new chapter to Title  
3 70 RCW; prescribing penalties; providing an effective date; and  
4 declaring an emergency.

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

6       NEW SECTION.   **Sec. 1.** The legislature finds that:

7       (1) Convenient and environmentally sound product stewardship  
8 programs for mercury-containing lights that include collecting,  
9 transporting, and recycling mercury-containing lights will help protect  
10 Washington's environment and the health of state residents;

11       (2) Product producers should finance and provide these programs.

12       NEW SECTION.   **Sec. 2.** The definitions in this section apply  
13 throughout this chapter unless the context clearly requires otherwise.

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

17       (2) "Covered entity" means the end user of a product, such as a

1 resident or small business, that can use a product stewardship program  
2 to discard an unwanted product.

3 (3) "Covered product" means a product designated by this chapter,  
4 either individually or as an item within a covered product category  
5 including all materials that make up the covered product.

6 (4) "Covered product category" means a group of similar products  
7 covered by this chapter.

8 (5) "Department" means the department of ecology.

9 (6) "Final disposition" means the point beyond which no further  
10 processing takes place and materials from a covered product have been  
11 transformed for direct use as a feedstock in producing new products or  
12 disposed of or managed in permitted facilities.

13 (7) "Hazardous substances" or "hazardous materials" means those  
14 substances or materials identified by rules adopted under chapter  
15 70.105 RCW.

16 (8) "Mercury-containing lights" means lamps, bulbs, tubes, or other  
17 devices that contain mercury and provide functional illumination in  
18 homes, businesses, and outdoors.

19 (9) "Orphan product" means a covered product that lacks a  
20 producer's brand, or for which the producer is no longer in business  
21 and has no successor in interest, or that bears a brand for which the  
22 department cannot identify an owner.

23 (10) "Person" means a sole proprietorship, partnership,  
24 corporation, nonprofit corporation or organization, limited liability  
25 company, firm, association, cooperative, or other legal entity located  
26 within or outside Washington state.

27 (11) "Processing" means recovering materials from unwanted products  
28 for use as feedstock in new products.

29 (12) "Producer" means a person that:

30 (a) Has or had legal ownership of the brand, brand name, or cobrand  
31 of a covered product sold in or into Washington state;

32 (b) Imports or has imported a covered product branded by a producer  
33 that meets the requirements of (a) of this subsection and where that  
34 producer has no physical presence in the United States;

35 (c) If (a) and (b) of this subsection do not apply, makes or made  
36 an unbranded product that is sold or has been sold in or into  
37 Washington state; or

1 (d)(i) Sells or sold at wholesale or retail a covered product, (ii)  
2 does not have legal ownership of the brand, and (iii) elects to fulfill  
3 the responsibilities of the producer for that product.

4 (13) "Product stewardship" means a requirement for a producer of a  
5 covered product to manage and reduce adverse safety, health, and  
6 environmental impacts of the covered product throughout its life cycle,  
7 including financing and providing for the collection, transporting,  
8 reusing, recycling, processing, and final disposition of their  
9 products.

10 (14) "Product stewardship plan" or "plan" means a detailed plan  
11 describing the manner in which a product stewardship program will be  
12 implemented.

13 (15) "Product stewardship program" or "program" means the methods,  
14 systems, and services financed and provided by producers of covered  
15 products that addresses product stewardship and includes collecting,  
16 transporting, reusing, recycling, processing, and final disposition of  
17 unwanted products, including a fair share of orphan products.

18 (16) "Recycling" means transforming or remanufacturing unwanted  
19 products into usable or marketable materials for use other than  
20 landfill disposal or incineration. Recycling does not include energy  
21 recovery or energy generation by means of combusting unwanted products  
22 with or without other waste.

23 (17) "Reporting period" means the period commencing January 1st and  
24 ending December 31st in the same calendar year.

25 (18) "Residuals" means nonrecyclable materials left over from  
26 processing an unwanted product.

27 (19) "Retailer" means a person who offers covered products for sale  
28 at retail through any means including, but not limited to, remote  
29 offerings such as sales outlets, catalogs, or the internet, but does  
30 not include a sale that is a wholesale transaction with a distributor  
31 or a retailer.

32 (20) "Reuse" means a change in ownership of a covered product or  
33 its components, parts, packaging, or shipping materials for use in the  
34 same manner and purpose for which it was originally purchased, or for  
35 use again, as in shipping materials, by the generator of the shipping  
36 materials. "Reuse" does not include dismantling of products for the  
37 purpose of recycling.

1 (21) "Small school district" means a school district with a student  
2 enrollment less than two thousand.

3 (22) "Stakeholder" means a person who may have an interest in or be  
4 affected by a product stewardship program.

5 (23) "Stewardship organization" means an organization designated by  
6 a group of producers to act as an agent on behalf of each producer to  
7 operate a product stewardship program.

8 (24) "Unwanted product" means a covered product no longer wanted by  
9 its owner or that has been abandoned, discarded, or is intended to be  
10 discarded by its owner.

11 NEW SECTION. **Sec. 3.** Covered product and covered product  
12 categories designated under this chapter are mercury-containing lights.

13 NEW SECTION. **Sec. 4.** (1) Covered entities are residents and small  
14 school districts located in Washington state and any person delivering  
15 fifteen or fewer mercury-containing lights to a collection site or  
16 service participating in a product stewardship program for mercury-  
17 containing lights.

18 (2)(a) All mercury-containing lights collected by product  
19 stewardship programs must be recycled. Mercury and mercury-bearing  
20 residuals from recycling of mercury-containing lights must be retorted  
21 at a facility that has the required permits and licenses.

22 (b) Mercury recovered from retorting must be recycled or placed in  
23 a properly permitted hazardous waste landfill. When a facility is  
24 available, mercury recovered from retorting must be placed in a  
25 properly permitted mercury repository.

26 (3) Product stewardship programs for mercury-containing lights must  
27 be fully implemented by January 1, 2011, and may be implemented prior  
28 to rule making by the department.

29 (4) Effective January 1, 2012, all government, commercial,  
30 industrial, and retail facilities and office buildings must recycle  
31 their end-of-life mercury-containing general purpose lights.

32 (5) Every producer, group of producers, or stewardship organization  
33 operating a product stewardship program for mercury-containing lights  
34 shall submit an annual report to the department in a format provided by  
35 the department, that includes the number and type of lights received in  
36 their respective stewardship program from generators in the state.

1        NEW SECTION.    **Sec. 5.**    (1) Every producer of a covered product sold  
2 in or into Washington state must participate in a product stewardship  
3 program for that product.

4        (2) Every such producer must:

5        (a) Operate, either individually or jointly with other producers,  
6 a product stewardship program approved by the department; or

7        (b) Enter into an agreement with a stewardship organization to  
8 operate, on the producer's behalf, a product stewardship program  
9 approved by the department.

10       (3) A producer, group of producers, or stewardship organization  
11 must pay all administrative and operational costs associated with their  
12 program.

13       (4) Product stewardship programs shall collect, free of charge,  
14 unwanted products from covered entities for reuse, recycling,  
15 processing, or final disposition.

16       (5) The department, or its designee, may inspect, audit, or review  
17 audits of processing and disposal facilities used to fulfill the  
18 requirements of a product stewardship program.

19       (6) No product stewardship program required under this chapter may  
20 use federal or state prison labor for processing unwanted products.

21       NEW SECTION.    **Sec. 6.**    (1) As of the implementation date  
22 established under this chapter for the covered product, no producer,  
23 wholesaler, retailer, or other person may sell or offer for sale that  
24 product to any person in this state unless the producer is  
25 participating in a product stewardship program under a plan approved by  
26 the department.

27       (2) Each product stewardship plan must be approved by the  
28 department.

29       (3) A person selling or offering for sale a covered product in the  
30 state shall receive from the producer of the covered product  
31 verification that the producer is participating in an approved product  
32 stewardship program prior to selling the product in or into the state.  
33 A person is considered to have complied with this subsection (3) if, on  
34 the date the person ordered a covered product from a producer or its  
35 agent, the producer was listed by the department as participating in an  
36 approved stewardship program or the producer provided written  
37 verification on the shipping documents or billing invoice.

1        NEW SECTION.    **Sec. 7.**    (1) The department shall periodically  
2 publish a notice on its web site, and in any other manner it deems  
3 appropriate, requesting that stakeholders who are interested in  
4 stewardship programs contact the department. The department shall  
5 maintain a list of interested stakeholders, including their mailing  
6 address, and make it available in writing upon request.

7        (2) A producer, group of producers, or stewardship organization  
8 operating or intending to operate a product stewardship program must,  
9 at least sixty days prior to submitting a product stewardship plan to  
10 the department pursuant to subsection (3)(h) of this section, provide  
11 public notice of the plan it is considering for submittal to the list  
12 of interested stakeholders maintained by the department under  
13 subsection (1) of this section. The producer, group of producers, or  
14 stewardship organization must solicit stakeholder comment and input  
15 during development of the plan and attempt to address any stakeholder  
16 concerns regarding the plan prior to submittal. Documentation of these  
17 actions must be submitted to the department at the time of plan  
18 submittal.

19        (3) A producer, group of producers, or stewardship organization  
20 operating or intending to operate a product stewardship program must  
21 submit a product stewardship plan to the department specifying:

22        (a) Information, including contact information, regarding:

23        (i) The organization submitting the plan;

24        (ii) A list of all participating producers and their brands  
25 including the trademark, if applicable; and

26        (iii) If the program is to be operated by a stewardship  
27 organization, a description of management, administration, and tasks to  
28 be performed by the stewardship organization.

29        (b) Recovery goals, including:

30        (i) Recovery goals for the first, second, and third years of the  
31 program, expressed as pounds per capita, and an explanation of how  
32 these goals reflect a significant percentage of an unwanted product  
33 relative to the quantity of the unwanted product that may be available  
34 for reuse or recycling; and

35        (ii) Plans to maximize reuse or recycling of packaging or shipping  
36 materials that may be collected.

37        (c) A collection system, including:

1 (i) Location of collection sites and other collection services to  
2 be used by the program;

3 (ii) A description of the consideration given to existing curbside  
4 collection infrastructure as an appropriate collection mechanism. If  
5 the curbside collection infrastructure is not utilized by the plan, a  
6 written explanation must be provided citing the reasons that curbside  
7 collection services are not included in the plan;

8 (iii) How unwanted products from all covered entities will be  
9 collected for all cities in the state with populations greater than ten  
10 thousand and in all counties of the state;

11 (iv) How the collection system will be convenient and adequate to  
12 serve the needs of all covered entities in both urban and rural areas;  
13 and

14 (v) How collected unwanted products will be transported to  
15 processing facilities.

16 (d) A processing and disposal system, including:

17 (i) Locations, permit status, and records of any penalties,  
18 violations, or regulatory orders received in the previous five years by  
19 processing and disposal facilities proposed to be used by the program,  
20 including all downstream processing and disposal facilities handling  
21 hazardous substances and hazardous materials through final disposition;

22 (ii) A third-party audit of each processing and disposal facility  
23 proposed to be used by the program for any unwanted product or  
24 residuals containing hazardous substances or hazardous materials,  
25 documenting compliance with all applicable laws, regulations, and  
26 rules;

27 (iii) Policies and procedures to be followed by persons collecting,  
28 transporting, processing, and disposing of unwanted products, including  
29 how the program will ensure compliance with all applicable laws,  
30 regulations, and rules;

31 (iv) A description of how unwanted products will be processed at  
32 each processing facility;

33 (v) How all residuals will be disposed of or managed in permitted  
34 facilities, including disposal or management of all hazardous  
35 substances and hazardous materials in permitted hazardous waste  
36 facilities;

37 (vi) How hazardous substances and hazardous materials will be  
38 safely and securely tracked and handled from collection to final

1 disposition in compliance with this chapter, any rules adopted by the  
2 department to implement this chapter, and all other applicable laws and  
3 rules; and

4 (vii) Management practices that will be used by first processors  
5 and their downstream vendors to ensure that hazardous substances and  
6 hazardous materials are not released into the environment and will not  
7 adversely impact human health.

8 (e) How the program will seek to use businesses within the state,  
9 including transportation services, retailers, collection sites and  
10 services, existing curbside collection services, and processing  
11 facilities.

12 (f) A financing system, including:

13 (i) How the entire product stewardship program will be financed,  
14 that may include how costs will be apportioned among and assessed upon  
15 producers participating in the program; and

16 (ii) How those providing services for the collection,  
17 transportation, and processing systems will be fairly compensated for  
18 their services.

19 (g) Education and outreach activities, including:

20 (i) An effective advertising campaign promoting the use of the  
21 program to all covered entities that includes a toll-free telephone  
22 number and web site, with market saturation sufficient to ensure  
23 meeting recovery goals;

24 (ii) A description of how and when information about the program  
25 will be provided to retailers, wholesalers, collectors, and other  
26 interested parties to disseminate to covered entities; and

27 (iii) The methodology for determining how the effectiveness of the  
28 outreach activities will be measured.

29 (h) The stakeholder process described under subsection (2) of this  
30 section, including:

31 (i) A description of the process used to solicit stakeholder input  
32 during development of the plan; and

33 (ii) A summary of stakeholder comments, and how any stakeholder  
34 concerns were addressed.

35 (4) All plans submitted to the department must be made available  
36 for public review on the department's web site and at the department's  
37 headquarters.



1        NEW SECTION.    **Sec. 8.**    (1) A producer, group of producers, or  
2        stewardship organization must submit a proposed product stewardship  
3        plan to the department at least one year prior to a covered product's  
4        implementation date established under this chapter.

5        (2) Within ninety days after receiving a proposed product  
6        stewardship plan, the department shall determine whether the plan  
7        complies with this chapter and any rules adopted to implement this  
8        chapter. If it approves a plan, the department shall notify the  
9        applicant of its approval. If it rejects a plan, the department shall  
10       notify the applicant of its decision and its reasons for rejecting the  
11       plan. An applicant whose plan has been rejected by the department may  
12       submit a revised plan to the department within sixty days after  
13       receiving notice of the rejection to maintain compliance with this  
14       chapter or may join another plan within sixty days after receiving  
15       notice of rejection.

16       (3) At least once every four years, a producer, group of producers,  
17       or stewardship organization operating a product stewardship program  
18       must update its product stewardship plan and submit the updated plan to  
19       the department for review. The department must determine the status of  
20       an updated plan within ninety days of its submittal. If the department  
21       rejects an updated plan, the department shall provide the reasons it  
22       rejected the updated plan. The producer or producers of a covered  
23       product participating in the product stewardship program shall continue  
24       to operate under the prior approved plan for not more than ninety days  
25       or another time period approved by the department and shall submit a  
26       revised updated plan for approval within that time period. The prior  
27       approved plan remains in effect until the department approves or  
28       rejects the revised plan. Failure of a product stewardship program to  
29       submit an updated plan within the time period provided under this  
30       subsection (3) is deemed to be out of compliance with this chapter,  
31       unless the producers in the product stewardship program notify the  
32       department of their intention to disband the plan and join an alternate  
33       approved plan.

34       NEW SECTION.    **Sec. 9.**    (1) Any proposed change to a product  
35       stewardship plan must have prior approval of the department except for  
36       the following:

1 (a) Additions or changes to collection locations for unwanted  
2 products; or

3 (b) Additions of producers to a product stewardship program.

4 (2) The product stewardship program must inform the department of  
5 changes in subsection (1)(a) and (b) of this section fifteen days prior  
6 to the changes occurring.

7 NEW SECTION. **Sec. 10.** (1) On or before April 1st of each year,  
8 every producer, group of producers, or stewardship organization  
9 operating a product stewardship program must prepare and submit to the  
10 department a report for the immediately preceding reporting period  
11 describing:

12 (a) Information, including contact information, regarding:

13 (i) The organization submitting the report; and

14 (ii) A list of all participating producers and their brands and  
15 trademarks, if applicable;

16 (b) Recovery rates, including:

17 (i) The amount, by weight, of unwanted products collected from  
18 covered entities in each county in the state, including documented  
19 collection and recycling or disposal of that material; and

20 (ii) How the program attained recovery rates established in the  
21 product stewardship plan or set by the department, and, if the program  
22 did not attain those recovery rates, what actions it will take during  
23 the next reporting period to do so, including how it will increase and  
24 improve effective, measurable outreach and education efforts;

25 (c) The collection system, including collection locations and  
26 services provided for all cities in the state with populations greater  
27 than ten thousand and in all counties in the state;

28 (d) The processing and disposal system, including:

29 (i) A list of processing and disposal facilities used and  
30 locations, the weight of unwanted products processed at each processing  
31 facility and disposed at each disposal facility, and a description of  
32 the methods used at each processing facility;

33 (ii) A list of subcontractors used through final disposition that  
34 processed or disposed of unwanted products containing hazardous  
35 substances or hazardous materials, and subcontractor facility  
36 locations;

1 (iii) Documentation and summary results of annual third-party  
2 audits conducted on each processing facility and disposal facility as  
3 required in section 7 of this act;

4 (iv) Final disposition of residuals;

5 (v) Any penalties, violations, or regulatory orders received during  
6 the reporting period by each processing facility or disposal facility  
7 that was used; and

8 (vi) Whether policies and procedures in the product stewardship  
9 plan for collecting, transporting, processing, and final disposition of  
10 unwanted products were followed during the reporting period, and a  
11 description of any noncompliance;

12 (e) The financing system, including a description of how the system  
13 met the requirements in section 7 of this act;

14 (f) The education and outreach activities implemented during the  
15 reporting period, including an analysis of the effectiveness of the  
16 education and outreach activities;

17 (g) How the product stewardship program complied with any other  
18 elements in the plan; and

19 (h) Any other information that the department may require.

20 (2) A producer, group of producers, or stewardship organization  
21 operating a product stewardship program that attains a ninety percent  
22 recovery rate and a recycling rate of eighty percent is only required  
23 to report to the department information specified in subsections  
24 (1)(a), (b), (c), (g), and (h) of this section.

25 (3) All reports submitted to the department must be made available  
26 to the public on the department's web site and at the department's  
27 headquarters.

28 NEW SECTION. **Sec. 11.** By June of the third program year for each  
29 product or product category, the plan operators shall establish  
30 required recovery rates for the fourth and subsequent program years,  
31 based on information gained in the first through third years, sales  
32 data, anticipated product obsolescence, and anticipated sales growth.  
33 Annual planned recovery rates shall be submitted to the department for  
34 approval by September 1st prior to the program year for which the rates  
35 are established. The submittal must include documentation of the  
36 calculations and data used to determine the recovery rate. The  
37 department shall approve, disapprove, or adjust in consultation with

1 the plan's operator, the submitted recovery rates based upon its  
2 assessment of prior year's data, sales data, and other available  
3 information that supports the decision. Sixty days after delivering a  
4 written warning, the department shall assess a penalty of up to ten  
5 thousand dollars for each violation on each plan operator.

6 NEW SECTION. **Sec. 12.** (1) The department shall send a written  
7 warning and a copy of this chapter and any rules adopted to implement  
8 this chapter to a producer who is not participating in a product  
9 stewardship program approved by the department and whose covered  
10 product is being sold in or into the state.

11 (2) A producer not participating in a product stewardship program  
12 approved by the department whose covered product continues to be sold  
13 in or into the state sixty days after receiving a written warning from  
14 the department shall be assessed a penalty of one thousand dollars for  
15 each violation. A violation is the sale of one covered product.

16 (3) If any producer fails to implement its approved plan, the  
17 department shall assess a penalty of up to five thousand dollars for  
18 the first violation along with notification that the producer must  
19 implement its plan within thirty days of the violation. After thirty  
20 days, any producer failing to implement their approved plan must be  
21 assessed a penalty of up to ten thousand dollars for the second and  
22 each subsequent violation. A subsequent violation occurs each  
23 thirty-day period that the producer fails to implement the approved  
24 plan.

25 (4) The department shall send a written warning to a producer that  
26 fails to submit a product stewardship plan, update or change the plan  
27 when required, or submit an annual report as required under this  
28 chapter. The written warning must include compliance requirements and  
29 notification that the requirements must be met within sixty days. If  
30 requirements are not met within sixty days, the producer will be  
31 assessed a ten thousand dollar penalty per day of noncompliance  
32 starting with the first day of notice of noncompliance.

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

36 (6) A producer may appeal penalties prescribed under this section  
37 to the pollution control hearings board.

1        NEW SECTION.    **Sec. 13.**    (1) The department shall provide, on its  
2 web site, a list of all producers participating in product stewardship  
3 programs it has approved and a list of all producers it has identified  
4 as noncompliant with this chapter and any rules adopted to implement  
5 this chapter.

6        (2) Product retailers must check the department's web site or  
7 producer-provided written verification to determine if producers of  
8 products they are selling in or into the state are in compliance with  
9 this chapter. If the retailer is unsure of the status of the producer  
10 or believes the producer is not in compliance with this chapter, the  
11 retailer shall contact the department to determine the producer's  
12 status.

13        (3) The department shall personally serve, or send with delivery  
14 confirmation, a written warning explaining the violation along with a  
15 copy of this chapter and any rules adopted to implement this chapter to  
16 a product retailer known to be selling a product in or into the state  
17 from producers who are not participating in a product stewardship  
18 program or who are not in compliance with this chapter and rules  
19 adopted under this chapter.

20        (4) A product retailer who continues to sell a covered product from  
21 a producer that is not participating in an approved product stewardship  
22 program sixty days after receiving a written warning from the  
23 department, may be assessed a penalty two times the value of the  
24 products sold in violation of this chapter or five hundred dollars,  
25 whichever is greater. This penalty must be waived if the retailer  
26 verifies that it has discontinued sale of the covered product within  
27 thirty days of the date of the penalty assessment. A retailer may  
28 appeal penalties assessed under this section to the pollution control  
29 hearings board.

30        (5) A sale or purchase of a used covered product as a casual or  
31 isolated sale as defined in RCW 82.04.040 is not subject to the  
32 provisions of this section.

33        (6) A person primarily engaged in the business of reuse and resale  
34 of used product is not subject to the provisions of this section when  
35 selling used working covered product, for use in the same manner and  
36 purpose for which it was originally purchased.

37        (7) In-state retailers in possession of a covered product on the

1 date that restrictions on the sale of the covered product become  
2 effective may exhaust their existing stock through sales to the public.

3 NEW SECTION. **Sec. 14.** All producers whose products are included  
4 in this chapter shall pay the department ten thousand dollars annually  
5 no later than January 1st of each year for each covered product  
6 category sold in or into the state. Producers solely engaged in the  
7 retail sales of the covered product shall pay the department one  
8 thousand dollars annually. Funds collected under this section must be  
9 used to pay for the administration of this chapter.

10 NEW SECTION. **Sec. 15.** The product stewardship programs account is  
11 created in the custody of the state treasurer. All funds received from  
12 producers under section 14 of this act and penalties collected under  
13 this chapter must be deposited in the account. Expenditures from the  
14 account may be used only for administering this chapter. Only the  
15 director of the department or the director's designee may authorize  
16 expenditures from the account. The account is subject to the allotment  
17 procedures under chapter 43.88 RCW, but an appropriation is not  
18 required for expenditures.

19 NEW SECTION. **Sec. 16.** (1) The department may adopt rules  
20 necessary to implement, administer, and enforce this chapter.

21 (2) The department may adopt rules to establish performance  
22 standards for product stewardship programs and may establish  
23 administrative penalties for failure to meet the standards.

24 (3) By December 31, 2011, the department shall report to the  
25 appropriate committees of the legislature concerning the status of the  
26 product stewardship program and recommendations for changes to the  
27 provisions of this chapter.

28 (4) Beginning October 1, 2011, the department shall annually invite  
29 comments from local governments, communities, and citizens to report  
30 their satisfaction with services provided by product stewardship  
31 programs. This information must be used by the department to determine  
32 if the plan operator is meeting convenience requirements and in  
33 reviewing proposed updates or changes to product stewardship plans.

34 (5) Beginning October 1, 2011, the department shall annually invite  
35 comments from retailers, consumer groups, electric utilities, the

1 Northwest power and conservation council, and other interested parties  
2 regarding the impacts of the requirements of this chapter on the  
3 availability or purchase of energy efficient lighting within the state.  
4 If the department determines that evidence shows the requirements of  
5 this chapter have resulted in negative impacts on the availability or  
6 purchase of energy efficient lighting in the state, the department  
7 shall report this information by December 31st of each year to the  
8 appropriate committees of the legislature with recommendations for  
9 changes to the provisions of this chapter.

10 (6) Beginning October 1, 2011, the department shall annually invite  
11 comments from retailers, consumer groups, electric utilities, the  
12 Northwest power and conservation council, and other interested parties  
13 regarding the availability of energy efficient nonmercury lighting to  
14 replace mercury-containing lighting within the state. If the  
15 department determines that evidence shows that energy efficient  
16 nonmercury lighting is available and achieves similar energy savings as  
17 mercury lighting at similar cost, the department shall report this  
18 information by December 31st of each year to the appropriate committees  
19 of the legislature with recommendations for legislative changes to  
20 reduce mercury use in lighting.

21 NEW SECTION. **Sec. 17.** Nothing in this chapter changes or limits  
22 the authority of the Washington utilities and transportation commission  
23 to regulate collection of solid waste, including curbside collection of  
24 residential recyclable materials, nor does this chapter change or limit  
25 the authority of a city or town to provide such service itself or by  
26 contract under RCW 81.77.020.

27 NEW SECTION. **Sec. 18.** Nothing in this chapter changes the  
28 requirements of any entity regulated under chapter 70.105 RCW to comply  
29 with the requirements under that chapter.

30 NEW SECTION. **Sec. 19.** This act may be known and cited as the  
31 product stewardship recycling act for mercury-containing lights.

32 NEW SECTION. **Sec. 20.** This chapter must be liberally construed to  
33 carry out its purposes and objectives.

1        NEW SECTION.    **Sec. 21.**    Sections 1 through 20, 22, and 23 of this  
2    act constitute a new chapter in Title 70 RCW.

3        NEW SECTION.    **Sec. 22.**    If any provision of this act or its  
4    application to any person or circumstance is held invalid, the  
5    remainder of the act or the application of the provision to other  
6    persons or circumstances is not affected.

7        NEW SECTION.    **Sec. 23.**    This act is necessary for the immediate  
8    preservation of the public peace, health, or safety, or support of the  
9    state government and its existing public institutions, and takes effect  
10    July 1, 2009.

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