
**Fisheries, Ecology & Parks
Committee**

HB 1002

Brief Description: Reducing the release of mercury into the environment.

Sponsors: Representative Hunt.

Brief Summary of Bill

- Requires certain manufacturers to develop and finance a plan for the collection and disposal of mercury-containing products
- Requires specific labeling for lamps that contain mercury.
- Prohibits the sale of certain mercury-containing novelties, thermometers, motor vehicles, and thermostats.
- Directs the Department of General Administration as to how mercury-containing products should be prioritized for state purchase.

Hearing Date: 1/17/03

Staff: Jason Callahan (786-7117).

Background:

Mercury has been identified by the United States Environmental Protection Agency (EPA) as being included in a group of chemicals known as persistent bioaccumulative toxins (PBT's). Individuals within this family of toxins are known to break down very slowly when released into the environment and increase in concentration as they move up the food chain.

The 2000 Legislature directed the Department of Ecology (department) to develop a proposed long-term strategy to address PBT's in Washington, which was presented to the Legislature in 2001. The 2001 Legislature directly appropriated \$800,000 from the state toxics control account specifically for the implementation of the strategy. Both the department and the EPA has identified mercury as the number one PBT priority.

During the 2002 session, the Legislature earmarked the \$800,000 for the department to

develop a chemical action plan for mercury. In doing, the Legislature provided the department with specific directions as to how the plan should be developed. These directions were intended to serve as a model for the future development of chemical action plans for other PBT's. The mercury action plan is required to, at a minimum:

- Identify current uses of mercury in Washington;
- Analyze current state and federal regulations and voluntary measures that can be used to reduce mercury;
- Identify mercury reduction and elimination options; and
- Implement actions to reduce or eliminate mercury uses and releases.

The final mercury action plan was scheduled to be completed in December 2002, with implementation set to begin no later than February 1, 2003. As of January 17, 2003, only a draft plan has been released. The final plan was directed to outline the actions that the department will take, including the development of any new rules or legislative recommendations.

In developing the plan, the department was required to form and consult an advisory committee of up to twelve members representing various stakeholder groups. The advisory committee eventually grew beyond twelve members, and included representatives of local governments, public health agencies, community groups, environmental groups, agriculture organizations, and business organizations.

The draft mercury chemical action plan made a series of short and long term recommendations. Some of the recommendations included for the 2003-2005 biennium include:

- The development of a memorandum of understanding between the department and the Washington State Dental Association to encourage the installation of amalgam separators.
- Adoption of a Universal Waste Rule for the largest feasible number of mercury-added products.
- Working with medical waste facilities and the Washington State Hospital Association on mercury management and disposal practices.
- Working with the Department of General Administration to ensure state compliance with the Universal Waste Rule.
- Working with the Legislature and stakeholders on eliminating non-essential uses of mercury and improvements on recycling the remaining mercury.

Other recommendations in the action plan are tied to specific use groups and products containing mercury. The draft action plan does not include draft legislation for immediate action.

Summary of Bill:

A new chapter is created in the Revised Code of Washington to regulate mercury and mercury-added products. The Department of Ecology (department) is authorized to adopt rules to implement the new chapter. The new regulations deal with the collection of mercury

wastes, labeling of certain mercury-added products, prohibitions on the sale of certain mercury-added products, and directions to the Department of General Administration (GA) regarding the purchase of mercury-added products.

Waste Collection

The manufacturers of thermostats, motor vehicles that contain mercury switches, and lamps that contain mercury, must develop and implement a plan for the collection, disposal, and recycling of their products. The plan must be completed and submitted to the department for approval within one year.

The plan must identify an existing or a new collection system for recycling and disposing of mercury. The effected manufacturers are financially responsible for the collection systems developed in the plan, and must identify funding mechanisms in the plan. All collection systems must include:

- A targeted capture rate;
- A description of performance measures;
- Documentation of the willingness of all necessary parties to comply;
- A plan for implementing and financing the system;
- A description of alternative actions that will be taken if performance measures are not met; and
- A public education component.

Labeling

As of January 1, 2004, all lamps manufactured after November 20, 2003 must be specifically labeled if they contain mercury. The label must clearly inform the consumer that the lamp contains mercury and that the lamp can not be disposed of until after the mercury has been removed. To be deemed adequate, the lamp must have a durable label with the chemical symbol for mercury, "Hg", written in no less than a 10-point font. In addition, a label on the package and a product insert must contain the words "Hg- LAMP CONTAINS MERCURY" in a similar font. The product insert must also provide the website address of the department and a toll-free phone number designed to provide information on the proper disposal of mercury-containing lamps.

The primary responsibility for labeling a mercury-added lamp belongs to the manufacturer. The manufacturers of mercury-added lamps must also fund a public education campaign to educate consumers about the label and proper disposal methods.

Sale Prohibitions

In addition to improperly labeled lamps, the sale of certain other mercury-containing products is prohibited. As of January 1, 2004, the sale of mercury-added novelties and mercury-containing thermometers is prohibited. The manufacturers of these products are required to notify all retailers about the prohibition and provide information about the proper disposal of remaining inventory.

Mercury-added novelties are products intended mainly for personal or household enjoyment or adornment. They include figurines, toys, games, cards, ornaments, jewelry, apparel, and other items.

The prohibition on the sale of thermometers that include mercury does not apply to certain types of thermometers. The exempt items include thermometers with a button-cell battery, thermometers used for food research or food processing, thermometers that are used in an animal agricultural climate control system, veterinary medicine, or an industrial measurement system, and thermometers used for the calibration of other thermometers or equipment.

A prohibition on the sale and installation of mercury-containing thermostats and motor vehicles containing an automotive mercury switch takes effect on January 1, 2006. As of January 1, 2004, health care facilities will be prohibited from purchasing mercury manometers.

Items that are prohibited from sale are still allowed to be transported through the state or stored within the state for later distribution elsewhere.

State Agency Directions

By January 1, 2004, the GA must revise its rules and policies to give preference and priority to the purchase of items that do not contain mercury. The GA may only purchase mercury-containing products if there is no economically feasible non-mercury alternative or if the mercury-containing product is engineered to reduce electricity consumption by at least 40 percent. If there is not a substitute to a mercury-containing product available, the GA must give preference to products that contain the least amount of mercury necessary for the required performance.

The department is authorized to participate in clearinghouses to assist it in implementing the mercury regulations. These clearinghouses may also be used for examining label requirements, developing public education, and maintaining a list of all mercury-added products.

Penalties

A violation of this act is punishable by a civil penalty not to exceed \$1000 for each violation. Repeat violators may be assessed a fine of up to \$5000. All fees collected are deposited into the state toxics account.

Appropriation: None.

Fiscal Note: Requested on January 2, 2003.

Effective Date: Ninety days after adjournment of session in which bill is passed.