

SENATE BILL REPORT

SB 5658

As Passed Senate, March 13, 2013

Title: An act relating to mercury-containing lights.

Brief Description: Concerning mercury-containing lights.

Sponsors: Senators Ericksen, McAuliffe and Hobbs.

Brief History:

Committee Activity: Energy, Environment & Telecommunications: 2/19/13, 2/21/13 [DP, DNP, w/oRec].

Passed Senate: 3/13/13, 26-23.

SENATE COMMITTEE ON ENERGY, ENVIRONMENT & TELECOMMUNICATIONS

Majority Report: Do pass.

Signed by Senators Ericksen, Chair; Sheldon, Vice Chair; Brown, Honeyford and Litzow.

Minority Report: Do not pass.

Signed by Senator Chase.

Minority Report: That it be referred without recommendation.

Signed by Senators Ranker, Ranking Member; Billig and Cleveland.

Staff: Jan Odano (786-7486)

Background: All mercury-containing lights must be recycled beginning January 1, 2013. Mercury-containing lights may not be disposed of in waste incinerators or landfills. Every producer of mercury-containing lights sold in or into Washington for residential use must fully finance and participate in a product stewardship program; financing includes the Department of Ecology's (DOE's) costs for administering and enforcing the program.

A producer, wholesaler, retailer, or distributor may not offer for sale or distribute mercury-containing lights – lamps, bulbs, tubes, or other devices containing mercury and providing illumination – unless the producer is participating in an approved product stewardship program. All product stewardship organizations must be approved and contracted by DOE but the product stewardship program is operated by a product stewardship organization. Product stewardship programs must be fully implemented by January 1, 2013.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

In November 2012, DOE adopted rules to implement the mercury-containing lights stewardship program. The rules became effective in December 2012. The rules set forth responsibilities of producers, wholesalers, retailers, and distributors of mercury-containing lights. It also provided requirements for product stewardship plans, outreach and education, and annual reporting. The rules also provided information on producers' responsibilities for funding the product stewardship program.

In December 2012, the National Electrical Manufacturers Association (NEMA) filed suit, challenging DOE rules. The suit, in part, challenges the establishment of the funding mechanism for the mercury-containing light stewardship program.

Summary of Bill: The mercury-containing light product stewardship program and requirements for stewardship plans, financing and fees, and the program account are repealed.

Every producer of mercury-containing lights sold in Washington must individually pay a registration fee, not to exceed \$10,000 to reimburse DOE for the costs of recycling and transporting unwanted product from single or multifamily households. Every producer must pay an administration fee not to exceed \$5,000 for DOE's administration and enforcement costs. The fees expire December 31, 2025.

Beginning January 1, 2014, a producer, wholesaler, retailer, or distributor may not offer for sale or distribute mercury-containing lights unless the producer has paid the registration and administration fees.

A retailer of fluorescent lamps may provide an informational notice about the benefits and the proper disposal of fluorescent lights. At the request of a retailer, producers must provide free of charge the informational notice for use at the retail establishment.

DOE may adopt rules to equitably scale the registration and administration fees.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: Mercury-containing light recycling is very complicated and complex. Costs of recycling can approach the cost of the lights. The original objective was to create a framework for cost-free, convenient, and accessible recycling for households. It needed to make businesses sense and be financially sustainable. It was to cost the manufacturers \$15,000 per year for DOE to run a state-contracted program. It was a compromise to placing unlimited financial responsibility on the manufacturers. DOE developed rules that are a clear departure from what was established in legislation. Manufacturers would be required to fully fund the program. This bill would implement the existing agreement.

CON: The rules for the program were promulgated per the statute. The agreements made were from negotiations on the legislation. The product stewardship program is ready to go, and fully funded. There is a request for proposal for a contractor to implement the program. The product stewardship organization determines how the program will be funded. This will shift the burden of recycling to local governments which is exactly what the original program was intended to prevent. Local governments and the local rate payers will bear the costs. Product stewardship laws are beneficial to the residents of the state by requiring manufacturers to take responsibility for the proper disposal of their products. This bill would dismantle the current program and place an unfair burden on others. There is no other adequate solution for a statewide program.

Persons Testifying: PRO: Mark Kohorst, NEMA; Ric Erdheim, Philips Electronics.

CON: Suellen Mele, Zero Waste WA; Margaret Shield, Local Hazardous Waste Management Program, King County; Laurie Davies, DOE; Emily Phillips, WA State Recycling Assn.