

HOUSE BILL REPORT

SB 5762

As Reported by House Committee On:
Environment

Title: An act relating to financing of the mercury-containing light stewardship program.

Brief Description: Concerning financing of the mercury-containing light stewardship program.

Sponsors: Senators Hunt, Short and Sheldon.

Brief History:

Committee Activity:

Environment: 3/20/17, 3/27/17 [DPA].

Brief Summary of Bill
(As Amended by Committee)

- Lowers the administrative fee paid by the Department of Ecology for their oversight of the mercury-containing lights stewardship program from \$5,000 per light producer participating in the program to \$3,000 per light producer participating in the program.
- Requires an independent financial audit of the mercury-containing lights stewardship program to occur once every two years, rather than annually.

HOUSE COMMITTEE ON ENVIRONMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Fitzgibbon, Chair; Peterson, Vice Chair; Taylor, Ranking Minority Member; Maycumber, Assistant Ranking Minority Member; Buys, Dye, Fey, Kagi and McBride.

Staff: Jacob Lipson (786-7196).

Background:

In 2010 the Legislature passed a law requiring producers of mercury-containing lights to create a stewardship program responsible for the collection, recycling, and disposal of mercury-containing lights, including compact fluorescent lights. The program must operate pursuant to either an independent plan or plans developed by producers, or a state-developed

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plan that contracts with a stewardship organization. Mercury-containing light producers who do not participate in a stewardship plan approved by the Department of Ecology (ECY) are prohibited from selling mercury-containing lights. A producer is a person:

- with legal ownership of a mercury-containing light brand, except owners of retailer brand owners whose mercury-containing lights were supplied by another participating producer;
- that imports mercury-containing lights sold in Washington;
- who makes a mercury-containing light sold in Washington, if there is not an applicable brand owner or importer; or
- who sells mercury-containing lights at retail or wholesale, if the person does not have legal brand ownership but elects to fulfill the responsibilities of a producer.

The ECY is responsible for reviewing and approving plans for the stewardship program submitted by a stewardship program on behalf of producers and for ensuring the program's compliance with the submitted plan. The LightRecycle Washington program has been operating in Washington since January 1, 2015.

After July 1, 2025, the stewardship law and program will undergo a sunset review by the Joint Legislative Audit and Review Committee. Without legislative action to extend the program, the law will be repealed effective July 1, 2026. In the event that the stewardship program is repealed, state law would retain the requirement to recycle mercury-containing lights. State law would also retain the prohibition on mercury-containing light disposal via incineration, waste-to-energy, or via landfills.

Mercury-Containing Light Program and Administrative Oversight Funding.

To finance the operations of the stewardship program, an environmental handling charge is applied to each mercury-containing light sold in the state. The handling charge:

- must cover the stewardship program's operational and administrative costs, plus a reserve;
- must be added to the price of mercury-containing lights sold at retail;
- may, but is not required to, vary by the type of mercury-containing light; and
- must be added to the price of mercury-light sales from producers to retailers, who must add the handling charge to the cost of the products they sell at retail.

The handling charge applied to sales of mercury-containing lights participating in the LightRecycle Washington program is currently 25 cents per bulb.

The stewardship organization must pay \$5,000 per participating producer to the ECY. As of December, 2016, there were 34 mercury-containing light producers participating in the stewardship program. The stewardship organization's per-producer administrative payment to the ECY is deposited in the Product Stewardship Programs Account (Account) in the State Treasury, which must be used for only the ECY's mercury lights program administrative oversight and enforcement costs. The Account is not an appropriated account and expenditures from the Account may be authorized by the ECY.

Program Reporting Requirements.

A mercury-containing lights stewardship program must submit an annual report to the ECY that includes an independent financial audit and other information on program finances and

outreach activities. The ECY must make annual reports available for public review, with the exception of any confidential portions of the reports.

Summary of Amended Bill:

The annual payment by mercury-containing light stewardship organizations to the ECY to cover their administrative and enforcement costs is lowered from \$5,000 per mercury light producer participating in that stewardship program to \$3,000 per participating producer. In addition, the ECY is prohibited from retaining fees in the Account in excess of estimated amounts necessary to cover the ECY's administrative costs. The ECY must refund to stewardship organizations any fees that have been collected that exceed those administrative costs by October 1 after the beginning of each new state fiscal year, beginning after fiscal year 2018.

An independent financial audit must only be completed and included once every two years as part of the mercury-containing light stewardship programs' annual reports to the ECY.

Amended Bill Compared to Original Bill:

The annual administrative fee paid to the ECY by the mercury-containing lights stewardship organization is increased from \$2,500 per light producer to \$3,000 per light producer. The stewardship organization must undergo an independent financial audit once every two years, rather than once every three years. The ECY must refund any excess administrative fees to the stewardship organization within the first three months after the end of each fiscal year, beginning after fiscal year 2018.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Amended Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is the latest in a long line of bills addressing efforts to reduce mercury in the environment. The mercury lights stewardship program is successful at collecting and recycling lights that contain mercury. In the last few years, the amount of money paid to the ECY by the stewardship organization for the ECY's administrative oversight has exceeded the amount needed for ECY's administration. The stewardship organization sends twice as much money to the ECY each year as ECY needs to administer the program, so this bill accordingly cuts the annual administrative fee in half. The stewardship organization expects to get a payment of around \$135,000 in April from the ECY for these overpayments as authorized by a budget proviso; however, in order for such refunds to be authorized in future

years, it is necessary to pass this bill or new budget provisos every two years. It is excessive to require the stewardship organization to conduct an annual independent financial audit, which costs \$30,000. This bill will increase the amount of money available to the stewardship organization to collect and recycle mercury-containing lights.

(Opposed) None.

(Other) The concept of returning excess funds to the mercury-containing lights stewardship organization makes sense, but the reduction in the annual administrative payment to the ECY is not sustainable. Manufacturers of mercury-containing lights are expected to drop out of the program over time, in conjunction with reduced overall sales of mercury-containing lights. The stewardship organization should be subject to an annual financial audit.

Persons Testifying: (In support) Senator Hunt, prime sponsor; and Charlie Brown, National Electrical Manufacturers Association.

(Other) Laurie Davies, Department of Ecology.

Persons Signed In To Testify But Not Testifying: None.