H-0655.1

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**HOUSE BILL 1276**

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**State of Washington 66th Legislature 2019 Regular Session**

**By** Representatives Shea, Young, DeBolt, McCaslin, and Eslick

AN ACT Relating to preventing human and environmental exposure to mercury; amending RCW 70.95M.100 and 70.95M.115; creating a new section; and repealing 2006 c 231 s 1 (uncodified).

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

NEW SECTION. **Sec.**  (1) The legislature finds that:

(a) All forms of mercury are neurotoxic, nephrotoxic, and immunotoxic and there is no known safe level of human exposure. Reduction of human exposure to all sources of mercury is a global goal being undertaken by many organizations, including the United Nations, the world health organization, and the children's health defense;

(b) Consumers are being exposed to mercury in certain products even when mercury-free versions are available, and it is in the best interest of human and environmental health to restrict such sources and eliminate them whenever possible. The production, manufacturing, use, and consumption of mercury-containing products ultimately leads to the accumulation and recirculation of mercury in the environment;

(c) Contrary to earlier assertions, substantial credible evidence exists that ethylmercury, the form in the preservative thimerosal found in many products, including pharmaceuticals, biologicals, over-the-counter medicines, antiseptics, and cosmetics, is as toxic to humans as methylmercury, the form that contaminates fish. Ethylmercury rapidly leaves the blood, but not the body, and it accumulates in the brain;

(d) Ethylmercury is toxic at very low exposures, has been shown to be destructive to cell mitochondria, and metabolizes into highly neurotoxic forms. Current research has raised concerns that when exposure in the presence of the neurotoxin aluminum, such as is found in vaccine adjuvants and ingredients in other products, synergistic effects increase toxicity; and

(e) The difference in cost between a mercury-free and mercury-containing vaccine is less than one dollar. For any individual, the potential risks associated with increased mercury exposure far outweigh the relatively insignificant savings. The financial consequences to public health in terms of medical care, lost productivity, education, and support services for even a small number of mercury-injured individuals far outweigh any savings afforded from purchasing mercury-containing products.

(2) The legislature intends to eliminate or restrict mercury from certain products to protect humans and the environment.

**Sec.**  RCW 70.95M.100 and 2012 c 119 s 3 are each amended to read as follows:

((~~Nothing in this chapter applies to~~)) (1) Persons in Washington state responsible for purchasing, distributing, prescribing, or selling prescription drugs and devices regulated by the food and drug administration under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.), ((~~to~~)) biological products regulated by the food and drug administration under the public health service act (42 U.S.C. Sec. 262 et seq.), or ((~~to~~)) any substance that may be lawfully sold over-the-counter without a prescription under the federal food, drug, and cosmetic act (21 U.S.C. Sec. 301 et seq.) must give priority and preference to the purchase of products that contain no mercury-added compounds or components, unless there is no economically feasible nonmercury-added alternative that performs a similar function. In circumstances in which a nonmercury-added product is not available, preference must be given to the purchase of products that contain the least amount of mercury added to the product necessary for the required performance.

(2) Persons who may be exposed to a mercury-containing product as described in subsection (1) of this section must be notified and warned prior to exposure and given the opportunity to avoid the exposure.

(3) All products referenced under this section must meet food and drug administration licensing requirements.

**Sec.**  RCW 70.95M.115 and 2007 c 268 s 1 are each amended to read as follows:

(1) Beginning ((~~July 1, 2007~~)) September 1, 2019, a person who is known to be pregnant or who is under ((~~three~~)) eighteen years of age ((~~shall~~)) may not be vaccinated ((~~with a mercury-containing vaccine or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose~~)) or injected with any product that contains or was manufactured with mercury in any amount.

(2) ((~~Notwithstanding subsection (1) of this section, an influenza vaccine may contain up to 1.0 micrograms of mercury per 0.5 milliliter dose~~)) Beginning September 1, 2019, except for a person who is known to be pregnant and covered by subsection (1) of this section, a person who is eighteen years of age and older may not be vaccinated with or injected with a mercury-containing product that contains more than 0.5 micrograms of mercury per 0.5 milliliter dose. A person must be informed of the presence of mercury in the product prior to accepting or declining vaccination.

(3) An employer may not require vaccination or administration of any product that contains mercury in any amount as a condition of employment.

(4) The secretary of the department of health may, upon the secretary's or local public health officer's declaration of ((~~an outbreak of vaccine-preventable disease or of~~)) a shortage of vaccine that complies with subsection ((~~(1) or~~)) (2) of this section, suspend the requirements of subsection (2) of this section for the duration of the ((~~outbreak or~~)) shortage. In the event of any suspension, a mercury warning must be issued to health care providers and the general public. The mercury warning must be posted visibly where the mercury-containing products are available. In addition, the department of health must widely distribute information about alternative prevention measures for the targeted infection, such as good hygienic practices and healthy lifestyle choices, to health care providers and the public. A person who is ((~~known to be pregnant or lactating or a parent or legal guardian of a child under eighteen years of age shall be informed if the person or child is to be vaccinated or injected with~~)) offered or prescribed any mercury-containing product that contains more than the mercury limits per dose in ((~~subsections (1) and~~)) subsection (2) of this section shall be informed of the amount and the potential health consequences prior to accepting or declining vaccination.

((~~(4)~~)) (5) All vaccines and products referenced under this section must meet food and drug administration licensing requirements.

NEW SECTION. **Sec.**  2006 c 231 s 1 (uncodified) is repealed.

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