H-0327.1

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**HOUSE BILL 1185**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Hackney, Duerr, Berry, Ramel, Fitzgibbon, Doglio, and Pollet

AN ACT Relating to reducing environmental impacts associated with lighting products; amending RCW 70A.230.020, 70A.505.010, 70A.505.020, 70A.505.030, 70A.505.040, 70A.505.050, 70A.505.060, 70A.505.070, 70A.505.100, 70A.505.110, 70A.505.120, 70A.505.130, 70A.505.160, 82.04.660, 43.21B.110, and 70A.230.080; adding a new section to chapter 70A.505 RCW; creating a new section; repealing RCW 70A.505.090, 43.131.421, 43.131.422, and 70A.230.150; prescribing penalties; and providing effective dates.

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

NEW SECTION. **Sec.**  (1) The legislature finds that in 2025 the state's stewardship program for the end-of-life management of mercury-containing lights is statutorily scheduled to undergo review, termination, and possible extension under chapter 43.131 RCW, the sunset act. If the mercury-containing lights product stewardship program were allowed to sunset as scheduled, Washington residents would lack a consistent, convenient, and safe way to return unwanted mercury-containing lights, which will remain in use for years, even as the lighting industry has moved away from mercury-containing lights. Mercury-containing lights present such a significant health risk that other states have recently restricted their sale, which represents a solution to reduce the public health impacts of new lighting products, but which does not address the end-of-life management issues associated with the existing light bulbs currently in use. Lights other than mercury-containing lights also contain valuable and recyclable components whose end-of-life management would improve as a result of their inclusion in the existing stewardship program.

(2) The state's existing mercury-containing lights program, which was first enacted over a decade ago, contains policy provisions, including the establishment of a per-bulb fee attached to the sale of mercury-containing lights, that are now recognized as not representing the best practices for the design of stewardship programs.

(3) Therefore, it is the intent of the legislature to:

(a) Restrict the sale of some mercury-containing lights;

(b) Include other types of lights in the state's stewardship program; and

(c) Modernize key elements of the state's stewardship program for lighting products.

**Sec.**  RCW 70A.230.020 and 2003 c 260 s 3 are each amended to read as follows:

(1) Effective January 1, ((~~2004~~)) 2026, a manufacturer, wholesaler, or retailer may not knowingly sell at retail a ((~~fluorescent lamp~~)) light, as defined in RCW 70A.505.020 if the ((~~fluorescent lamp~~)) light contains mercury ((~~and was manufactured after November 30, 2003, unless the fluorescent lamp is labeled in accordance with the guidelines listed under subsection (2) of this section. Primary responsibility for affixing labels required under this section is on the manufacturer, and not on the wholesaler or retailer~~)).

(2) ((~~Except as provided in subsection (3) of this section, a lamp is considered labeled pursuant to subsection (1) of this section if the lamp has all of the following:~~

~~(a) A label affixed to the lamp that displays the internationally recognized symbol for the element mercury; and~~

~~(b) A label on the lamp's packaging that: (i) Clearly informs the purchaser that mercury is present in the item; (ii) explains that the fluorescent lamp should be disposed of according to applicable federal, state, and local laws; and (iii) provides a toll-free telephone number, and a uniform resource locator internet address to a website, that contains information on applicable disposal laws.~~

~~(3) The manufacturer of a mercury-added lamp is in compliance with the requirements of this section if the manufacturer is in compliance with the labeling requirements of another state.~~

~~(4) The provisions of this section do not apply to products containing mercury-added lamps~~)) The provisions of subsection (1) of this section do not apply to:

(a) A special purpose mercury-containing light, as defined in RCW 70A.505.020;

(b) The products specified in RCW 70A.230.110; or

(c) The sale or purchase of mercury-containing lights as a casual or isolated sale as defined in RCW 82.04.040.

(3) A violation of this section is punishable by a civil penalty not to exceed $1,000 for each violation in the case of a first violation. Repeat violators are liable for a civil penalty not to exceed $5,000 for each repeat violation. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180. Penalties imposed under this section are appealable to the pollution control hearings board established in chapter 43.21B RCW.

(4) The department may adopt rules to implement, administer, and enforce the requirements of this section.

NEW SECTION. **Sec.**  A new section is added to chapter 70A.505 RCW to read as follows:

(1) As of January 1, 2026, no producer, wholesaler, retailer, electric utility, or other person may distribute, sell, or offer for sale lights to any person in this state unless the producer is participating in a product stewardship program under a plan approved by the department.

(2) Subsection (1) of this section does not apply to mercury-containing lights other than special purpose mercury-containing lights. Mercury-containing lights other than special purpose mercury-containing lights are subject to the provisions of RCW 70A.505.090 until December 31, 2025, after which they are instead subject to the provisions of RCW 70A.230.020 beginning January 1, 2026.

**Sec.**  RCW 70A.505.010 and 2010 c 130 s 1 are each amended to read as follows:

The legislature finds that:

(1) Mercury is an essential component of many energy efficient lights. Improper disposal methods will lead to mercury releases that threaten the environment and harm human health. Spent mercury lighting is a hard to collect waste product that is appropriate for product stewardship;

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

(3)(a) The purpose of chapter 130, Laws of 2010 is to achieve a statewide goal of recycling all end-of-life mercury-containing lights by 2020 through expanded public education, a uniform statewide requirement to recycle all mercury-containing lights, and the development of a comprehensive, safe, and convenient collection system that includes use of residential curbside collection programs, mail-back containers, increased support for household hazardous waste facilities, and a network of additional collection locations;

(b) The purpose of this act is to reduce exposure to mercury by phasing out the sale of most mercury-containing lights, and by transitioning the stewardship program established under this chapter to one that is focused on the improved end-of-life management of all types of lights;

(4) Product producers must play a significant role in financing no-cost collection and processing programs for ((~~mercury-containing~~)) lights; and

(5) Providers of premium collection services such as residential curbside and mail-back programs may charge a fee to cover the collection costs for these more convenient forms of collection.

**Sec.**  RCW 70A.505.020 and 2020 c 20 s 1414 are each amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

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

(2) "Collection" or "collect" means, except for persons involved in mail-back programs:

(a) The activity of accumulating any amount of ((~~mercury-containing~~)) lights at a location other than the location where the lights are used by covered entities, and includes curbside collection activities, household hazardous waste facilities, and other registered drop-off locations; and

(b) The activity of transporting ((~~mercury-containing~~)) lights in the state, where the transporter is not a generator of unwanted ((~~mercury-containing~~)) lights, to a location for purposes of accumulation.

(3) "Covered entities" means:

(a) A household generator or other person who purchases ((~~mercury-containing~~)) lights ((~~at retail~~)) and delivers ((~~no more than ten mercury-containing~~)) lights to registered collectors for a product stewardship program on any given day; and

(b) A household generator or other person who purchases ((~~mercury-containing~~)) lights at retail and utilizes a registered residential curbside collection program or a mail-back program for collection of ((~~mercury-containing~~)) lights ((~~and discards no more than fifteen mercury-containing lights into those programs on any given day~~)).

(4) "Department" means the department of ecology.

(5) ((~~"Environmental handling charge" or "charge" means the charge approved by the department to be applied to each mercury-containing light to be sold at retail in or into Washington state. The environmental handling charge must cover all administrative and operational costs associated with the product stewardship program, including the fee for the department's administration and enforcement.~~

~~(6)~~)) "Final disposition" means the point beyond which no further processing takes place and materials from ((~~mercury-containing~~)) lights have been transformed for direct use as a feedstock in producing new products, or disposed of or managed in permitted facilities.

((~~(7)~~)) (6) "Hazardous substances" or "hazardous materials" means those substances or materials identified by rules adopted under chapter 70A.300 RCW.

((~~(8)~~)) (7) "Lights" includes:

(a) Lamps, bulbs, tubes, or other devices that provide functional illumination in homes, businesses, and outdoor stationary fixtures; and

(b) Special purpose mercury-containing lights.

(8) "Mail-back program" means the use of a prepaid postage container, with mercury vapor barrier packaging when such a container is intended for mercury-containing lights, that is used for the collection and recycling of ((~~mercury-containing~~)) lights from covered entities as part of a product stewardship program and is transported by the United States postal service or a common carrier.

(9) "Mercury-containing lights" means ((~~lamps, bulbs, tubes, or other devices~~)) lights that contain mercury and provide functional illumination or serve other purposes in homes, businesses, and outdoor stationary fixtures.

(10) "Mercury vapor barrier packaging" means sealable containers that are specifically designed for the storage, handling, and transport of mercury-containing lights in order to prevent the escape of mercury into the environment by volatilization or any other means, and that meet the requirements for transporting by the United States postal service or a common carrier.

(11) "Orphan product" means a ((~~mercury-containing~~)) light that lacks a producer's brand, or for which the producer is no longer in business and has no successor in interest, or that bears a brand for which the department cannot identify an owner.

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

(13) "Processing" means recovering materials from unwanted products for use as feedstock in new products. ((~~Processing must occur at permitted facilities.~~))

(14) "Producer" means a person that:

(a) Has or had legal ownership of the brand, brand name, or cobrand of a ((~~mercury-containing~~)) light sold in or into Washington state, unless the brand owner is a retailer whose ((~~mercury-containing~~)) light was supplied by another producer participating in a stewardship program under this chapter;

(b) Imports or has imported ((~~mercury-containing~~)) lights branded by a producer that meets the requirements of (a) of this subsection and where that producer has no physical presence in the United States;

(c) If (a) and (b) of this subsection do not apply, makes or made a ((~~mercury-containing~~)) light that is sold or has been sold in or into Washington state; or

(d)(i) Sells or sold at wholesale or retail a ((~~mercury-containing~~)) light; (ii) does not have legal ownership of the brand; and (iii) elects to fulfill the responsibilities of the producer for that product.

(15) "Product stewardship" means a requirement for a producer of ((~~mercury-containing~~)) lights to manage and reduce adverse safety, health, and environmental impacts of the product throughout its life cycle, including financing and providing for the collection, transporting, reusing, recycling, processing, and final disposition of their products.

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

(17) "Product stewardship program" or "program" means the methods, systems, and services financed in the manner provided for under RCW 70A.505.050 and provided by producers of ((~~mercury-containing~~)) lights generated by covered entities that addresses product stewardship and includes arranging for the collection, transportation, recycling, processing, and final disposition of unwanted ((~~mercury-containing~~)) lights, including orphan products.

(18) "Recovery" means the collection and transportation of unwanted ((~~mercury-containing~~)) lights under this chapter.

(19)(a) "Recycling" means transforming or remanufacturing unwanted products into usable or marketable materials for use other than landfill disposal or incineration.

(b) "Recycling" does not include energy recovery or energy generation by means of combusting unwanted products with or without other waste.

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

(21) "Residuals" means nonrecyclable materials left over from processing an unwanted product.

(22) "Retailer" means a person who offers ((~~mercury-containing~~)) lights for sale at retail through any means including, but not limited to, remote offerings such as sales outlets, catalogs, or the internet, but does not include a sale that is a wholesale transaction with a distributor or a retailer.

(23)(a) "Reuse" means a change in ownership of a ((~~mercury-containing~~)) light or its components, parts, packaging, or shipping materials for use in the same manner and purpose for which it was originally purchased, or for use again, as in shipping materials, by the generator of the shipping materials.

(b) "Reuse" does not include dismantling of products for the purpose of recycling.

(24) "Special purpose mercury-containing light" includes any of the following lights that contain mercury:

(a) A lamp used for image capture and projection, including photocopying, printing, either directly or in preprocessing, lithography, film and video projection, and holography; or

(b) A lamp that has a high proportion of ultraviolet light emission and is one of the following:

(i) A lamp with high ultraviolet content that has ultraviolet power greater than two milliwatts per kilolumen (mW/klm);

(ii) A lamp for germicidal use, such as the destruction of DNA, that emits a peak radiation of approximately 253.7 nanometers;

(iii) A lamp used for disinfection or fly trapping from which either the radiation power emitted between 250 and 315 nanometers represents at least five percent of, or the radiation power emitted between 315 and 400 nanometers represents at least 20 percent of, the total radiation power emitted between 250 and 800 nanometers;

(iv) A lamp used for the generation of ozone where the primary purpose is to emit radiation at approximately 185.1 nanometers;

(v) A lamp used for coral zooxanthellae symbiosis from which the radiation power emitted between 400 and 480 nanometers represents at least 40 percent of the total radiation power emitted between 250 and 800 nanometers; or

(vi) Any lamp used in a sunlamp product, defined as any electronic product designed to incorporate one or more ultraviolet lamps and intended for irradiation of any part of the living human body, by ultraviolet radiation.

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

((~~(25)~~)) (26) "Stewardship organization" means an organization designated by a producer or group of producers to act as an agent on behalf of each producer to operate a product stewardship program.

((~~(26)~~)) (27) "Unwanted product" means a ((~~mercury-containing~~)) light no longer wanted by its owner or that has been abandoned, discarded, or is intended to be discarded by its owner.

(28) "Urban cluster" has the same meaning as defined in RCW 70A.515.020.

(29) "Urbanized area" has the same meaning as in RCW 70A.515.020.

**Sec.**  RCW 70A.505.030 and 2020 c 20 s 1415 are each amended to read as follows:

(1) Every producer of ((~~mercury-containing~~)) lights sold, made available for sale, or distributed in or into Washington state for ((~~retail sale~~)) use in Washington state must participate in a product stewardship program for those products, operated by a stewardship organization and financed in the manner provided by RCW 70A.505.050. Every such producer must inform the department of the producer's participation in a product stewardship program by including the producer's name in a plan submitted to the department by a stewardship organization as required by RCW 70A.505.040. Producers must satisfy these participation obligations individually or may do so jointly with other producers.

(2) A stewardship organization operating a product stewardship program must pay all administrative and operational costs associated with its program with revenues received from ((~~the environmental handling charge described in RCW 70A.505.050. The stewardship organization's administrative and operational costs are not required to include a collection location's cost of receiving, accumulating and storing, and packaging mercury-containing lights. However, a~~)) participating producers. A stewardship organization may offer incentives or payments to collectors. The stewardship organization's administrative and operational costs do not include the collection costs associated with curbside and mail-back collection programs. The stewardship organization must arrange for collection service at locations described in subsection (4) of this section, which may include household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations. No such entity is required to provide collection services at their location. For curbside and mail-back programs, a stewardship organization must pay the costs of transporting ((~~mercury-containing~~)) lights from accumulation points and for processing ((~~mercury-containing~~)) lights collected by curbside and mail-back programs. For collection locations, including household hazardous waste facilities, charities, retailers, government recycling sites, or other suitable private locations, a stewardship organization must pay the costs of packaging and shipping materials as required under RCW 70A.505.070 or must compensate collectors for the costs of those materials, and must pay the costs of transportation and processing of ((~~mercury-containing~~)) lights collected from the collection locations.

(3) Product stewardship programs shall collect unwanted ((~~mercury-containing~~)) lights delivered from covered entities for recycling, processing, or final disposition, and ((~~not charge~~)) are prohibited from charging a fee when lights are sold at retail, dropped off, or delivered into the program.

(4)(a) Product stewardship programs shall provide, at a minimum, ((~~no cost services in all cities in the state with populations greater than ten thousand and all counties of the state on an ongoing, year-round basis~~)) statewide collection of unwanted lights from covered entities in urban and rural areas of the state, including island communities and geographically isolated areas.

(b) To ensure adequate collection coverage, the program must use geographic information modeling to determine the number and distribution of collection sites based on the following criteria: At least 90 percent of Washington residents must have a permanent collection site within a 15-mile radius; and unless otherwise approved by the department, one additional permanent site must be established for every 30,000 residents of an urbanized area and for every urban cluster of at least 30,000 residents distributed to provide convenient and reasonably equitable access for residents within each.

(c) For the portion of the population that does not have a permanent collection location within a 15-mile radius, the program must provide residents a reasonable opportunity to drop off unwanted lights at collection events. The stewardship organization, in consultation with the department and the local community, must determine a reasonable frequency and location of these collection events, to be held in underserved areas.

(5) Product stewardship programs shall promote the safe handling and recycling of ((~~mercury-containing~~)) lights to the public, including producing and offering point-of-sale educational materials to retailers of ((~~mercury-containing~~)) lights and point-of-return educational materials to collection locations.

(6) All product stewardship programs operated under approved plans must recover their fair share of unwanted covered products as determined by the department.

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

(8) No product stewardship program required under this chapter may use federal or state prison labor for processing unwanted products. All processing must occur at permitted facilities.

(9)(a) Product stewardship programs for mercury-containing lights must be fully implemented by January 1, 2015.

(b) Product stewardship programs must begin collecting and managing other lights not subject to the requirements of (a) of this subsection by January 1, 2026.

**Sec.**  RCW 70A.505.040 and 2020 c 20 s 1416 are each amended to read as follows:

(1)(a) On June 1st of the year prior to implementation, each producer must ensure that a stewardship organization submits a proposed product stewardship plan on the producer's behalf to the department for approval. Plans approved by the department must be implemented by January 1st of the following calendar year.

(b) A stewardship organization that plans to implement a stewardship plan for calendar year 2026 must submit a new or updated plan by June 1, 2025. The new or updated plan under this subsection (1)(b) must address the inclusion of lights other than mercury-containing lights under the program and other changes required of program operations by this act.

(2) The department shall establish rules for plan content. Plans must include but are not limited to:

(a) All necessary information to inform the department about the plan operator and participating producers and their brands;

(b) The management and organization of the product stewardship program that will oversee the collection, transportation, and processing services;

(c) The identity of collection, transportation, and processing service providers, including a description of the consideration given to existing residential curbside collection infrastructure and mail-back systems as an appropriate collection mechanism and a list of all collection sites to be used by the program;

(d) How the product stewardship program will seek to use businesses within the state, including transportation services, retailers, collection sites and services, existing curbside collection services, existing mail-back services, and processing facilities;

(e) A description of how the public will be informed about the product stewardship program, including how consumers will be provided with information describing collection opportunities for unwanted ((~~mercury-containing~~)) lights from covered entities and safe handling of mercury-containing lights, waste prevention, and recycling. ((~~The description must also include information to make consumers aware that an environmental handling charge has been added to the purchase price of mercury-containing lights sold at retail to fund the mercury-containing light stewardship programs in the state. The environmental handling charge may not be described as a department recycling fee or charge at the point of retail sale~~)) These efforts must include the development:

(i) And maintenance of a website;

(ii) And distribution of periodic press releases and articles;

(iii) And placement of public service announcements and graphic advertisements for use on social media or other relevant media platforms;

(iv) Of promotional materials about the program and the restriction on the disposal of mercury-containing lights in RCW 70A.505.080 to be used by retailers, government agencies, and nonprofit organizations;

(v) And distribution of the collection site safety training procedures procedural manual approved by the department to collection sites to help ensure proper management of unwanted lights at collection locations;

(vi) And implementation of outreach and educational resources targeted to overburdened communities and vulnerable populations identified by the department under chapter 70A.02 RCW that are conceptually, linguistically, and culturally accurate for the communities served and reach the state's diverse ethnic populations, including through meaningful consultation with communities that bear disproportionately higher levels of adverse environmental and social justice impacts;

(vii) And distribution of consumer-focused educational promotional materials to each collection location used by the program and accessible by customers of retailers that sell lights;

(viii) And distribution of safety information related to light collection activities to the operator of each collection site; and

(ix) And implementation of a periodic survey of public awareness regarding the requirements of the program established under this chapter, carried out at least every five years and the results of which must be shared with the department;

(f) A description of the financing system required under RCW 70A.505.050;

(g) How mercury and other hazardous substances will be handled for collection through final disposition, including:

(i) Mercury spill and release response plans for use by collection locations that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light; and

(ii) Worker safety plans for use by collection locations that describes the handling of the unwanted lights, including unwanted mercury-containing lights, at the collection location and measures that will be taken to protect worker health and safety;

(h) How management of materials other than mercury in lights collected by the product stewardship program will prioritize the recycling of materials as a first priority, to the greatest extent practicable consistent with best environmental management and waste reduction practices;

((~~(h)~~)) (i) A public review and comment process; and

((~~(i)~~)) (j) Any other information deemed necessary by the department to ensure an effective ((~~mercury~~)) light product stewardship program that is in compliance with all applicable laws and rules.

(3) All plans submitted to the department must be made available for public review on the department's website ((~~and at the department's headquarters~~)).

(4) ((~~At least two years from the start of the product stewardship program and once every four~~)) No less often than three years from the dates specified in subsection (1) of this section and once every five years thereafter, each stewardship organization operating a product stewardship program must update its product stewardship plan and submit the updated plan to the department for review and approval according to rules adopted by the department.

(5) By June 1, 2016, and each June 1st thereafter, each stewardship organization must submit an annual report to the department describing the results of implementing the stewardship organization's plan for the prior calendar year, including an independent financial audit once every two years. The department may adopt rules for reporting requirements. Financial information included in the annual report must include but is not limited to:

(a) ((~~The amount of the environmental handling charge assessed on mercury-containing lights and the revenue generated;~~

~~(b)~~)) Identification of confidential information pursuant to RCW 43.21A.160 submitted in the annual report; and

((~~(c)~~)) (b) The cost of the ((~~mercury-containing~~)) lights product stewardship program, including line item costs for:

(i) Program operations;

(ii) Communications, including media, printing and fulfillment, public relations, and other education and outreach projects;

(iii) Administration, including administrative personnel costs, travel, compliance and auditing, legal services, banking services, insurance, and other administrative services and supplies, and stewardship organization corporate expenses; and

(iv) Amount of unallocated reserve funds.

(6) Beginning in 2023 every stewardship organization must include in its annual report ((~~an~~)):

(a) A list of all collection sites anticipated to be used by the program in the upcoming year; and

(b) An analysis of the percent of total sales of lights sold at retail to covered entities in Washington that mercury-containing lights constitute, the estimated number of mercury-containing lights in use by covered entities in the state, and the projected number of unwanted mercury-containing lights to be recycled in future years.

(7) As a component of all new or updated plans under this chapter submitted by a stewardship organization after June 1, 2025, the stewardship organization must submit a contingency plan demonstrating how the activities in the plan will continue to be carried out by some other entity, such as an escrow company:

(a) Until such time as a new plan is submitted and approved by the department;

(b) Upon the expiration of an approved plan;

(c) In the event that the stewardship organization has been notified by the department that they must transfer implementation responsibility for the program to a different stewardship organization;

(d) In the event that the stewardship organization notifies the department that it will cease to implement an approved plan; or

(e) In any other event that the stewardship organization can no longer carry out plan implementation.

(8) All plans and reports submitted to the department must be made available for public review, excluding sections determined to be confidential pursuant to RCW 43.21A.160, on the department's website ((~~and at the department's headquarters~~)).

**Sec.**  RCW 70A.505.050 and 2020 c 20 s 1417 are each amended to read as follows:

(1)(a) Each stewardship organization must ((~~recommend to the department an environmental handling charge to be added to the price of each mercury-containing light sold in or into the state of Washington for sale at retail. The environmental handling charge must be designed to provide revenue necessary and sufficient to cover all administrative and operational costs associated with the stewardship program described in the department-approved product stewardship plan for that organization, including the department's annual fee required by subsection (5) of this section, and a prudent reserve. The stewardship organization must consult with collectors, retailers, recyclers, and each of its participating producers in developing its recommended environmental handling charge. The environmental handling charge may, but is not required to, vary by the type of mercury-containing light. In developing its recommended environmental handling charge, the stewardship organization must take into consideration and report to the department:~~

~~(a) The anticipated number of mercury-containing lights that will be sold to covered entities in the state at retail during the relevant period;~~

~~(b) The number of unwanted mercury-containing lights delivered from covered entities expected to be recycled during the relevant period;~~

~~(c) The operational costs of the stewardship organization as described in RCW 70A.505.030(2);~~

~~(d) The administrative costs of the stewardship organization including the department's annual fee, described in subsection (5) of this section; and~~

~~(e) The cost of other stewardship program elements including public outreach.~~

~~(2) The department must review, adjust if necessary, and approve the stewardship organization's recommended environmental handling charge within sixty days of submittal. In making its determination, the department shall review the product stewardship plan and may consult with the producers, the stewardship organization, retailers, collectors, recyclers, and other entities.~~

~~(3) No sooner than January 1, 2015:~~

~~(a) The mercury-containing light environmental handling charge must be added to the purchase price of all mercury-containing lights sold to Washington retailers for sale at retail, and each Washington retailer shall add the charge to the purchase price of all mercury-containing lights sold at retail in this state, and the producer shall remit the environmental handling charge to the stewardship organization in the manner provided for in the stewardship plan; or~~

~~(b) Each Washington retailer must add the mercury-containing light environmental handling charge to the purchase price of all mercury-containing lights sold at retail in this state, where the retailer, by voluntary binding agreement with the producer, arranges to remit the environmental handling charge to the stewardship organization on behalf of the producer in the manner provided for in the stewardship plan. Producers may not require retailers to opt for this provision via contract, marketing practice, or any other means. The stewardship organization must allow retailers to retain a portion of the environmental handling charge as reimbursement for any costs associated with the collection and remittance of the charge.~~

~~(4) At any time, a stewardship organization may submit to the department a recommendation for an adjusted environmental handling charge for the department's review, adjustment, if necessary, and approval under subsection (2) of this section to ensure that there is sufficient revenue to fund the cost of the program, current deficits, or projected needed reserves for the next year. The department must review the stewardship organization's recommended environmental handling charge and must adjust or approve the recommended charge within thirty days of submittal if the department determines that the charge is reasonably designed to meet the criteria described in subsection (1) of this section.~~

~~(5)~~)) develop, and continually improve over the years of program implementation, a system to collect charges from participating producers to cover the costs of plan implementation in an environmentally sound and socially just manner that encourages the use of design attributes that reduce the environmental impacts of lights, such as by:

(i) Encouraging the use of recycling content; and

(ii) Discourage the use of hazardous, toxic, or difficult-to-recycle materials.

(b) The amendments to the method of financing the program described in this act must be implemented by a stewardship organization by January 1, 2026.

(2) Each stewardship organization is responsible for all costs of participating covered light collection, transportation, processing, education, administration, agency reimbursement, recycling, and end-of-life management in accordance with environmentally sound management practices.

(3)(a) A stewardship organization must reimburse local governments for demonstrable costs incurred as a result of a local government facility or solid waste handling facility serving as a collection location for a program including, but not limited to, associated labor costs and other costs associated with accessibility and collection site standards, such as storage.

(b) A stewardship organization must include in its plan, and provide upon request, a template of the service agreement and any other forms, contracts, or other documents for use in distribution of reimbursements. The service agreement template must be developed with local government input. The entities seeking or receiving reimbursement from the stewardship organization are not required to use the template agreement included in the program plan and are not limited to the terms of the template agreement included in the program plan.

(4) Beginning March 1, ((~~2015~~)) 2024, and each year thereafter, each stewardship organization shall pay to the department an annual fee ((~~equivalent to three thousand dollars for each participating producer~~)) to cover the department's administrative and enforcement costs. The amount paid under this section must be deposited into the light product stewardship programs account created in RCW 70A.505.120.

**Sec.**  RCW 70A.505.060 and 2010 c 130 s 6 are each amended to read as follows:

(1) All ((~~mercury-containing~~)) lights collected in the state by product stewardship programs or other collection programs must be recycled and any process residuals must be managed in compliance with applicable laws.

(2) Mercury recovered from retorting and other hazardous materials must be recycled or placed in a properly permitted hazardous waste landfill, or placed in a properly permitted mercury repository.

**Sec.**  RCW 70A.505.070 and 2010 c 130 s 7 are each amended to read as follows:

(1) Except for persons involved in registered mail-back programs, a person who collects unwanted ((~~mercury-containing~~)) lights in the state, receives funding through a product stewardship program for ((~~mercury-containing~~)) lights, and who is not a generator of unwanted ((~~mercury-containing~~)) lights must((~~:~~

~~(a) Register with the department as a collector of unwanted mercury-containing lights. Until the department adopts rules for collectors, the collector must provide to the department the legal name of the person or entity owning and operating the collection location, the address and phone number of the collection location, and the name, address, and phone number of the individual responsible for operating the collection location and update any changes in this information within thirty days of the change;~~

~~(b) Maintain a spill and release response plan at the collection location that describes the materials, equipment, and procedures that will be used to respond to any mercury release from an unwanted mercury-containing light;~~

~~(c) Maintain a worker safety plan at the collection location that describes the handling of the unwanted mercury-containing lights at the collection location and measures that will be taken to protect worker health and safety; and~~

~~(d) Use~~)) use packaging and shipping material for mercury-containing lights that will minimize the release of mercury into the environment and minimize breakage and use mercury vapor barrier packaging if mercury-containing lights are transported by the United States postal service or a common carrier.

(2) A person who operates a curbside collection program or owns or operates a mail-back business participating in a product stewardship program for ((~~mercury-containing~~)) lights and uses the United States postal service or a common carrier for transport of mercury-containing lights must register with the department and use mercury vapor barrier packaging for curbside collection and mail-back containers.

**Sec.**  RCW 70A.505.100 and 2010 c 130 s 10 are each amended to read as follows:

(1)(a) The department ((~~shall send a written warning and a copy of this chapter and any rules adopted to implement this chapter to a producer who is not participating in a product stewardship program approved by the department and whose mercury-containing lights are being sold in or into the state.~~

~~(2) A producer not participating in a product stewardship program approved by the department whose mercury-containing lights continue to be sold in or into the state sixty days after receiving a written warning from the department shall be assessed a penalty of up to one thousand dollars for each violation. A violation is one day of sales.~~

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

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

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

~~(6) A producer may appeal penalties prescribed under this section to the pollution control hearings board created under chapter 43.21B RCW~~)) may administratively impose a civil penalty on a person who violates this chapter in an amount of up to $1,000 per violation per day.

(b) The department may administratively impose a civil penalty of up to $10,000 per violation per day on a person for repeated violations of this chapter or failure to comply with an order issued under (c) of this subsection.

(c) Whenever on the basis of any information the department determines that a person has violated or is in violation of this chapter, the department may issue an order requiring compliance. A person who fails to take corrective action as specified in a compliance order is liable for a civil penalty as provided in (b) of this subsection, without receiving a written warning prescribed in (e) of this subsection.

(d) A person who is issued an order or incurs a penalty under this section may appeal the order or penalty to the pollution control hearings board established by chapter 43.21B RCW.

(e) Prior to imposing penalties under this section, the department must provide a producer, retailer, or battery stewardship organization with a written warning for the first violation by the producer, retailer, or battery stewardship organization of the requirements of this chapter. The written warning must inform a producer, retailer, or battery stewardship organization that it must participate in an approved plan or otherwise come into compliance with the requirements of this chapter within 30 days of the notice. A producer, retailer, or battery stewardship organization that violates a provision of this chapter after the initial written warning may be assessed a penalty as provided in this subsection.

(2)(a) Upon the department notifying a stewardship organization that it has not met a significant requirement of this chapter, the department may, in addition to assessing the penalties provided in this section, take any combination of the following actions:

(i) Issue corrective action orders to a producer or stewardship organization;

(ii) Issue orders to a stewardship organization to provide for the continued implementation of the program in the absence of an approved plan;

(iii) Revoke the stewardship organization's plan approval and require the stewardship organization to implement its contingency plan under RCW 70A.505.040;

(iv) Require a stewardship organization to revise or resubmit a plan within a specified time frame; or

(v) Require additional reporting related to compliance with the significant requirement of this chapter that was not met.

(b) Prior to taking the actions described in (a)(iii) of this subsection, the department must provide the stewardship organization or a producer an opportunity to respond to or rebut the written finding upon which the action is predicated.

**Sec.**  RCW 70A.505.110 and 2010 c 130 s 11 are each amended to read as follows:

(1) The department shall provide on its website a list of all producers participating in a product stewardship plan that the department has approved and a list of all producers the department has identified as noncompliant with this chapter and any rules adopted to implement this chapter.

(2) Product wholesalers, retailers, distributors, and electric utilities must check the department's website or producer-provided written verification to determine if producers of products they are selling in or into the state are in compliance with this chapter.

(3) No one may distribute or sell ((~~mercury-containing~~)) lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(4)(a) The department shall serve, or send with delivery confirmation, a written warning explaining the violation to any person known to be distributing or selling ((~~mercury-containing~~)) lights in or into the state from producers who are not participating in a product stewardship program or who are not in compliance with this chapter and rules adopted under this chapter.

(b) The department must review new, updated, and revised plans submitted by stewardship organizations. The department must:

(i) Review new, updated, and revised stewardship organization plans within 120 days of receipt of a complete plan;

(ii) Make a determination as to whether or not to approve a plan, plan update, or plan revision and notify the stewardship organization of the:

(A) Determination of approval if a plan provides for a program that meets the requirements of this chapter; or

(B) Reasons for not approving a plan. The stewardship organization must submit a new or revised plan within 60 days after receipt of the letter of disapproval. In the event that a new or revised plan submitted by a stewardship organization does not sufficiently meet the requirements of this chapter, including any deficiencies identified in the initial letter of disapproval, the department may:

(I) Use the enforcement powers specified in this chapter; or

(II) Amend the contents of the insufficient new or revised plan in a manner that ensures that the plan meets the requirements of this chapter and the department may require the stewardship organization to implement the plan as amended by the department.

(c) The approval of a plan by the department does not relieve producers participating in the plan from responsibility for fulfilling the requirements of this chapter.

(5) ((~~Any person who continues to distribute or sell mercury-containing lights from a producer that is not participating in an approved product stewardship program sixty days after receiving a written warning from the department may be assessed a penalty two times the value of the products sold in violation of this chapter or five hundred dollars, whichever is greater. The penalty must be waived if the person verifies that the person has discontinued distribution or sales of mercury-containing lights within thirty days of the date the penalty is assessed. A retailer may appeal penalties to the pollution control hearings board.~~

~~(6)~~)) The department shall adopt rules to implement this ((~~section~~)) chapter.

((~~(7)~~)) (6) A sale or purchase of ((~~mercury-containing~~)) lights as a casual or isolated sale as defined in RCW 82.04.040 is not subject to the provisions of this section.

((~~(8)~~)) (7) A person primarily engaged in the business of reuse and resale of ((~~a~~)) used ((~~mercury-containing~~)) lights is not subject to the provisions of this section when selling used working ((~~mercury-containing~~)) lights, for use in the same manner and purpose for which ((~~it was~~)) the lights were originally purchased.

((~~(9) In-state distributors, wholesalers, and retailers in possession of mercury-containing lights on the date that restrictions on the sale of the product become effective may exhaust their existing stock through sales to the public.~~))

**Sec.**  RCW 70A.505.120 and 2017 c 254 s 3 are each amended to read as follows:

The light product stewardship programs account is created in the custody of the state treasurer. All funds received from producers and stewardship organizations under this chapter and penalties collected under this chapter must be deposited in the account. Expenditures from the account may be used only for administering this chapter. The department may not retain fees in excess of the estimated amount necessary to cover the agency's administrative costs over the coming year related to the ((~~mercury~~)) light stewardship program under this chapter. Beginning with the state fiscal year 2018, by October 1st after the closing of each state fiscal year, the department shall refund any fees collected in excess of its estimated administrative costs to any approved stewardship organization under this chapter. Only the director of the department or the director's designee may authorize expenditures from the account. The account is subject to the allotment procedures under chapter 43.88 RCW, but an appropriation is not required for expenditures.

**Sec.**  RCW 70A.505.130 and 2010 c 130 s 14 are each amended to read as follows:

(1) The department may adopt rules necessary to implement, administer, and enforce this chapter.

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

(3) By ((~~December 31, 2010~~)) November 1, 2028, and annually thereafter until December 31, 2014, the department shall report to the appropriate committees of the legislature concerning the status of the product stewardship program and recommendations for changes to the provisions of this chapter.

(4) ((~~Beginning October 1, 2014, the~~)) The department shall annually invite comments from local governments, communities, and ((~~citizens~~)) residents to report their satisfaction with services provided by product stewardship programs created under this chapter. This information ((~~must~~)) may be used by the department to determine if the plan operator is meeting convenience requirements and in reviewing proposed updates or changes to product stewardship plans.

(5) ((~~Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the impacts of the requirements of this chapter on the availability or purchase of energy efficient lighting within the state. If the department determines that evidence shows the requirements of this chapter have resulted in negative impacts on the availability or purchase of energy efficient lighting in the state, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for changes to the provisions of this chapter.~~

~~(6) Beginning October 1, 2014, the department shall annually invite comments from retailers, consumer groups, electric utilities, the Northwest power and conservation council, and other interested parties regarding the availability of energy efficient nonmercury lighting to replace mercury-containing lighting within the state. If the department determines that evidence shows that energy efficient nonmercury-containing lighting is available and achieves similar energy savings as mercury lighting at similar cost, the department shall report this information by December 31st of each year to the appropriate committees of the legislature with recommendations for legislative changes to reduce mercury use in lighting.~~

~~(7)~~)) Beginning October 1, 2014, the department shall annually estimate the overall statewide recycling rate for mercury-containing lights and, beginning October 1, 2026, for other lights covered by the requirements of this chapter and calculate that portion of the recycling rate attributable to the product stewardship program. The department may require a stewardship organization to submit data as needed for the department to make the estimations required by this subsection.

((~~(8)~~)) (6) The department may require submission of independent performance evaluations and report evaluations documenting the effectiveness of mercury vapor barrier packaging in preventing the escape of mercury into the environment. The department may restrict the use of packaging for which adequate documentation has not been provided. Restricted packaging may not be used in any product stewardship program required under this chapter.

**Sec.**  RCW 70A.505.160 and 2014 c 119 s 6 are each amended to read as follows:

(1) It is the intent of the legislature that a producer, group of producers, stewardship organization preparing, submitting, and implementing a ((~~mercury-containing~~)) light product stewardship program pursuant to this chapter, as well as participating entities in the distribution chain, including retailers and distributors, are granted immunity, individually and jointly, from federal and state antitrust liability that might otherwise apply to the activities reasonably necessary for implementation and compliance with this chapter. It is further the intent of the legislature that the activities of the producer, group of producers, stewardship organization, and entities in the distribution chain, including retailers and distributors, in implementing and complying with the provisions of this chapter may not be considered to be in restraint of trade, a conspiracy, or combination thereof, or any other unlawful activity in violation of any provisions of federal or state antitrust laws.

(2) The department shall actively supervise the conduct of the stewardship organization, the producers of ((~~mercury-containing~~)) lights, and entities in the distribution chain ((~~in determination and implementation of the environmental handling charge authorized by this chapter~~)).

**Sec.**  RCW 82.04.660 and 2020 c 20 s 1469 are each amended to read as follows:

(1) ((~~An exemption from the taxes imposed in this chapter is provided for:~~

~~(a) Producers, with respect to environmental handling charges added to the purchase price of mercury-containing lights either by the producer or a retailer pursuant to an agreement with the producer;~~

~~(b) Retailers, with respect to environmental handling charges added to the purchase price of mercury-containing lights sold at retail, including the portion of environmental handling charges retained as reimbursement for any costs associated with the collection and remittance of the charges; and~~

~~(c) Stewardship organizations, with respect to environmental handling charges received from producers and retailers~~)) This chapter does not apply to the receipts of a stewardship organization formed under chapter 70A.505 RCW from charges to participating producers under a stewardship program as provided in RCW 70A.505.050.

(2) This section is not subject to the requirements of RCW 82.32.805 and 82.32.808.

(3) For purposes of this section, the definitions in RCW 70A.505.020 apply.

**Sec.**  RCW 43.21B.110 and 2022 c 180 s 812 are each amended to read as follows:

(1) The hearings board shall only have jurisdiction to hear and decide appeals from the following decisions of the department, the director, local conservation districts, the air pollution control boards or authorities as established pursuant to chapter 70A.15 RCW, local health departments, the department of natural resources, the department of fish and wildlife, the parks and recreation commission, and authorized public entities described in chapter 79.100 RCW:

(a) Civil penalties imposed pursuant to RCW 18.104.155, 70A.15.3160, 70A.300.090, 70A.20.050, 70A.230.020, 70A.505.100, 70A.530.040, 70A.350.070, 70A.515.060, 70A.245.040, 70A.245.050, 70A.245.070, 70A.245.080, 70A.65.200, 70A.455.090, 76.09.170, 77.55.440, 78.44.250, 88.46.090, 90.03.600, 90.46.270, 90.48.144, 90.56.310, 90.56.330, and 90.64.102.

(b) Orders issued pursuant to RCW 18.104.043, 18.104.060, 43.27A.190, 70A.15.2520, 70A.15.3010, 70A.300.120, 70A.350.070, 70A.245.020, 70A.65.200, 70A.505.100, 86.16.020, 88.46.070, 90.14.130, 90.46.250, 90.48.120, and 90.56.330.

(c) Except as provided in RCW 90.03.210(2), the issuance, modification, or termination of any permit, certificate, or license by the department or any air authority in the exercise of its jurisdiction, including the issuance or termination of a waste disposal permit, the denial of an application for a waste disposal permit, the modification of the conditions or the terms of a waste disposal permit, or a decision to approve or deny an application for a solid waste permit exemption under RCW 70A.205.260.

(d) Decisions of local health departments regarding the grant or denial of solid waste permits pursuant to chapter 70A.205 RCW.

(e) Decisions of local health departments regarding the issuance and enforcement of permits to use or dispose of biosolids under RCW 70A.226.090.

(f) Decisions of the department regarding waste-derived fertilizer or micronutrient fertilizer under RCW 15.54.820, and decisions of the department regarding waste-derived soil amendments under RCW 70A.205.145.

(g) Decisions of local conservation districts related to the denial of approval or denial of certification of a dairy nutrient management plan; conditions contained in a plan; application of any dairy nutrient management practices, standards, methods, and technologies to a particular dairy farm; and failure to adhere to the plan review and approval timelines in RCW 90.64.026.

(h) Any other decision by the department or an air authority which pursuant to law must be decided as an adjudicative proceeding under chapter 34.05 RCW.

(i) Decisions of the department of natural resources, the department of fish and wildlife, and the department that are reviewable under chapter 76.09 RCW, and the department of natural resources' appeals of county, city, or town objections under RCW 76.09.050(7).

(j) Forest health hazard orders issued by the commissioner of public lands under RCW 76.06.180.

(k) Decisions of the department of fish and wildlife to issue, deny, condition, or modify a hydraulic project approval permit under chapter 77.55 RCW, to issue a stop work order, to issue a notice to comply, to issue a civil penalty, or to issue a notice of intent to disapprove applications.

(l) Decisions of the department of natural resources that are reviewable under RCW 78.44.270.

(m) Decisions of an authorized public entity under RCW 79.100.010 to take temporary possession or custody of a vessel or to contest the amount of reimbursement owed that are reviewable by the hearings board under RCW 79.100.120.

(n) Decisions of the department of ecology that are appealable under RCW 70A.245.020 to set recycled minimum postconsumer content for covered products or to temporarily exclude types of covered products in plastic containers from minimum postconsumer recycled content requirements.

(o) Orders by the department of ecology under RCW 70A.455.080.

(2) The following hearings shall not be conducted by the hearings board:

(a) Hearings required by law to be conducted by the shorelines hearings board pursuant to chapter 90.58 RCW.

(b) Hearings conducted by the department pursuant to RCW 70A.15.3010, 70A.15.3070, 70A.15.3080, 70A.15.3090, 70A.15.3100, 70A.15.3110, and 90.44.180.

(c) Appeals of decisions by the department under RCW 90.03.110 and 90.44.220.

(d) Hearings conducted by the department to adopt, modify, or repeal rules.

(3) Review of rules and regulations adopted by the hearings board shall be subject to review in accordance with the provisions of the administrative procedure act, chapter 34.05 RCW.

**Sec.**  RCW 70A.230.080 and 2020 c 20 s 1245 are each amended to read as follows:

A violation of this chapter, other than a violation of RCW 70A.230.020, is punishable by a civil penalty not to exceed ((~~one thousand dollars~~)) $1,000 for each violation in the case of a first violation. Repeat violators are liable for a civil penalty not to exceed ((~~five thousand dollars~~)) $5,000 for each repeat violation. Penalties collected under this section must be deposited in the model toxics control operating account created in RCW 70A.305.180.

NEW SECTION. **Sec.**  Sections 2, 16, and 18 of this act take effect January 1, 2026.

NEW SECTION. **Sec.**  Effective January 1, 2026, RCW 70A.505.090 (Producers must participate in an approved product stewardship program) and 2010 c 130 s 9 are each repealed.

NEW SECTION. **Sec.**  The following acts or parts of acts are each repealed:

(1) RCW 43.131.421 (Mercury-containing lights product stewardship program—Termination) and 2021 c 65 s 47 & 2014 c 119 s 7;

(2) RCW 43.131.422 (Mercury-containing lights product stewardship program—Repeal) and 2021 c 65 s 48, 2017 c 254 s 4, & 2014 c 119 s 8; and

(3) RCW 70A.230.150 (Requirement to recycle end-of-life mercury-containing lights) and 2010 c 130 s 8.

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

**--- END ---**